

House Bill 1000 (RULES COMMITTEE SUBSTITUTE)

By: Representatives Heard of the 104th, Parsons of the 42nd, Harbin of the 118th, and Forster of the 3rd

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 52 of the Official Code of Georgia Annotated, relating to waters of the state,
2 ports, and watercraft, so as to provide for the titling of certain watercraft; to provide for
3 related matters; to repeal conflicting laws; and for other purposes.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

5 style="text-align:center">**SECTION 1.**

6 Title 52 of the Official Code of Georgia Annotated, relating to waters of the state, ports, and
7 watercraft, is amended by adding a new Chapter 7A to read as follows:

8 style="text-align:center">"CHAPTER 7A

9 52-7A-1.

10 This chapter shall be known and may be cited as the 'Watercraft Certificate of Title Act.'

11 52-7A-2.

12 As used in this chapter, the term:

13 (1) 'Commissioner' means the state revenue commissioner.

14 (2) 'Dealer' means any person engaged in the business of manufacturing vessels or
15 selling new or used vessels at an established place of business.

16 (3) 'Homemade vessel' means any vessel that is built by an individual for personal use
17 from raw materials that does not require the assignment of a federal hull identification
18 number by a manufacturer pursuant to federal law. A person furnishing raw materials
19 under a contract may be considered the builder of a homemade vessel. Antique boats,
20 boats reconstructed from existing boat hulls, and rebuilt or reconstructed vessels shall not
21 be considered homemade vessels.

22 (4) 'Hull identification number' or 'HIN' means a number assigned to vessels by the
23 manufacturer of the vessel or by the issuing authority of a state as required by the United
24 States Coast Guard in accordance with federal law.

1 (5) 'Lien' means any lien created by operation of law and not by contract or agreement
2 with respect to a vessel and includes all liens established in Code Section 44-14-320,
3 other than liens in favor of mortgages, and all liens for taxes due the United States of
4 America, constructive notice of which is given by filing notice thereof in the office
5 designated by state law.

6 (6) 'Lienholder' means a person holding a lien created by operation of law on a vessel.

7 (7) To 'mail' means to deposit in the United States mail, properly addressed and with
8 postage paid.

9 (8) 'Natural person' means an individual human being and does not include any firm,
10 partnership, association, corporation, or trust.

11 (9) 'Security agreement' means a written agreement which reserves or creates a security
12 interest.

13 (10) 'Security interest' means an interest in a vessel reserved or created by agreement
14 which secures the payment or performance of an obligation, such as a conditional sales
15 contract, chattel mortgage, bill of sale to secure debt, deed of trust, and the like. This
16 term includes the interest of a lessor under a lease intended as security.

17 (11) 'Security interest holder' means the holder of a security interest in a vessel reserved
18 or created by agreement and which secures payment or performance of an obligation.

19 (12) 'Vessel' means every description of watercraft, other than a seaplane on the water
20 or a sailboard, used or capable of being used as a means of transportation on water and
21 specifically includes, but is not limited to, inflatable rafts and homemade vessels.

22 52-7A-3.

23 (a) The commissioner is responsible for the administration of this chapter and may employ
24 such clerical assistants and agents as may be necessary from time to time to enable the
25 commissioner to speedily, completely, and efficiently perform the duties conferred on the
26 commissioner by this chapter. The commissioner shall be authorized to delegate any
27 administrative responsibility for retention of applications, certificates of title, notices of
28 security interest, and any other forms or documents relating to the application and
29 registration process to the appropriate authorized tag agent for the county in which the
30 application is made or the registration is issued.

31 (b) The commissioner shall prescribe and provide suitable forms of applications,
32 certificates of title, notices of security interest, and all other notices and forms necessary
33 to carry out the provisions of this chapter.

34 (c) The commissioner may:

35 (1) Make necessary investigation to procure information required to carry out the
36 provisions of this chapter; and

1 (2) Adopt and enforce reasonable rules and regulations to carry out the provisions of this
2 chapter.

3 52-7A-4.

4 No certificate of title shall be obtained for:

5 (1) A vessel owned by the United States unless it is registered in this state;

6 (2) A vessel owned by a manufacturer of or dealer in vessels and held for sale, even
7 though incidentally used on state waters or used for testing or demonstration; or a vessel
8 used by a manufacturer solely for testing; except that all dealers acquiring new vessels
9 after July 1, 2008, from a manufacturer for resale shall obtain such evidence of origin of
10 title from the manufacturer as the commissioner shall by rule and regulation prescribe;

11 (3) A vessel owned by a nonresident of this state and not required by law to be registered
12 in this state;

13 (4) A vessel regularly engaged in the interstate transportation of persons or property for
14 which a currently effective certificate of title has been issued in another state;

15 (5) A vessel not motor propelled except for sailboats 12 feet or more in length;

16 (6) A vessel propelled by a motor rated at not more than ten horsepower;

17 (7) A boat trailer;

18 (8) A homemade trailer;

19 (9) A vessel which is not sold for the purpose of lawful use on the waters of this state;

20 or

21 (10) A vessel with a model year prior to 2008.

22 52-7A-5.

23 (a) A peace officer who learns of the theft of a vessel not since recovered shall report the
24 theft to the commissioner. A peace officer who learns of the recovery of a vessel whose
25 theft or conversion he or she knows or has reason to believe has been reported to the
26 commissioner shall forthwith report the recovery to the commissioner.

27 (b) An owner or a security interest holder or lienholder shall report the theft of a vessel,
28 or its conversion if a crime, to the commissioner. A person who has so reported the theft
29 or conversion of a vessel shall, after learning of its recovery, immediately report the
30 recovery to the commissioner.

31 (c) The commissioner shall maintain appropriately indexed weekly and cumulative public
32 records of stolen, converted, and recovered vessels reported pursuant to this Code section.
33 The commissioner may make and distribute copies of the weekly records so maintained to
34 peace officers upon request without fee and to others for the fee, if any, the commissioner
35 prescribes.

1 (d) The commissioner may suspend the registration of a vessel whose theft or conversion
2 is reported pursuant to this Code section; and until the commissioner learns of its recovery
3 or that the report of its theft or conversion was erroneous, the commissioner shall not issue
4 a certificate of title for the vessel.

5 52-7A-6.

6 (a) A person aggrieved by an act or omission to act of the commissioner under this chapter
7 is entitled, upon request, to a hearing. The commissioner shall establish a board to hear
8 complaints of persons aggrieved by an act or omission to act of the commissioner or any
9 employee of the department pertaining to the administration of this chapter. The procedure
10 established in this chapter for the handling of complaints and grievances shall be exclusive,
11 and these procedures shall apply to all such complaints and grievances. The commissioner
12 shall promulgate rules and regulations governing the membership of the board and the
13 organization thereof.

14 (b) Hearings conducted under subsection (a) of this Code section shall be conducted under
15 the terms and conditions of Chapter 13 of Title 50, the 'Georgia Administrative Procedure
16 Act,' and court review of such hearings shall be as provided by that chapter.

17 52-7A-7.

18 (a) Except as provided in Code Section 52-7A-4, every owner of a vessel which is required
19 by law to be registered in this state and for which no certificate of title has been issued by
20 the commissioner shall make application to the commissioner or to the tag agent in the
21 county wherein the owner resides for a certificate of title to the vessel. If a vessel is owned
22 by and used in connection with an established business, application shall be made to the
23 commissioner or to the tag agent in the county in which the business is located. All 2008
24 model vessels and all successive model vessels shall have a certificate of title.

25 (b) When the owner of a vessel is required to have a certificate of title, the Department of
26 Natural Resources shall not register, transfer, or renew the registration of such vessel until
27 a certificate of title has been issued or applied for.

28 (c) No application for a certificate of title for a vessel purchased outside the State of
29 Georgia shall be accepted or processed unless the applicant shows, by a valid bill of sale
30 or contract of purchase or by such other documentation satisfactory to the commissioner,
31 that state and local sales and use tax has been paid or is not due. If state and local sales and
32 use tax is owed on such vessel but has not been paid, the county tag agent shall return the
33 unprocessed application to the applicant informing him or her of the requirements of this
34 Code section.

1 52-7A-8.

2 (a) The application for the first certificate of title of a vessel in this state shall be made by
3 the owner to the commissioner or the commissioner's duly authorized county tag agent on
4 the prescribed form. Except as provided in subsection (b) of this Code section, the
5 application must be submitted to the commissioner or the appropriate authorized county
6 tag agent by the owner of the vessel within 30 days from the date of purchase of the vessel
7 or from the date the owner is otherwise required by law to register the vessel in this state.
8 If the documents submitted in support of the title application are rejected, the party
9 submitting the documents shall have 60 days from the date of rejection to resubmit the
10 documents required by the commissioner or the authorized county tag agent for the
11 issuance of a certificate of title. Should the documents not be properly resubmitted within
12 the 60 day period, the owner of the vessel shall be required to remove immediately the
13 registration number of the vessel under Chapter 7 of this title. If the documents have not
14 been resubmitted as required under this subsection, the registration number shall be deemed
15 to have expired at 12:00 Midnight of the sixtieth day following the initial rejection of the
16 documents submitted. Such application shall contain:

- 17 (1) The full legal name, residence, and mailing address of the owner;
- 18 (2) A description of the vessel, including, so far as the following data exist, its make,
19 model, hull identification number, type of vessel, year built, length in feet and inches, and
20 whether new, used, or a demonstrator;
- 21 (3) The date of purchase by the applicant and, except as provided in paragraph (2) of
22 subsection (c) of this Code section, the name and address of the person from whom the
23 vessel was acquired and the names and addresses of the holders of all security interests
24 and liens in order of their priority; and
- 25 (4) Any further information the commissioner reasonably requires to identify the vessel
26 and to enable the commissioner or the authorized county tag agent to determine whether
27 the owner is entitled to a certificate of title and the existence or nonexistence of security
28 interests in the vessel and liens on the vessel.

29 (b)(1) As used in this subsection, the term 'digital signature' means a digital or electronic
30 method executed or adopted by a party with the intent to be bound by or to authenticate
31 a record, which is unique to the person using it, is capable of verification, is under the
32 sole control of the person using it, and is linked to data in such a manner that if the data
33 are changed the digital or electronic signature is invalidated.

34 (2) If the application refers to a vessel purchased from a dealer, it shall contain the name
35 and address of the holder of any security interest created or reserved at the time of the
36 sale by the dealer. The application shall be signed by the owner and, unless the dealer's
37 signature appears on the certificate of title or manufacturer's statement of origin

1 submitted in support of the title application, the dealer, provided that as an alternative to
2 a handwritten signature the commissioner may authorize use of a digital signature so long
3 as appropriate security measures are implemented which assure security and verification
4 of the digital signature process, in accordance with regulations promulgated by the
5 commissioner. The dealer shall promptly mail or deliver the application to the
6 commissioner or the county tag agent of the county in which the seller is located, of the
7 county in which the sale takes place, of the county in which the vessel is delivered, or of
8 the county wherein the vessel owner resides so as to have the application submitted to the
9 commissioner or such authorized county tag agent within 30 days from the date of the
10 sale of the vessel. If the documents submitted in support of the title application are
11 rejected, the dealer submitting the documents shall have 60 days from the date of initial
12 rejection to resubmit the documents required by the commissioner or authorized county
13 tag agent for the issuance of a certificate of title.

14 (c)(1) If the application refers to a vessel last previously registered in another state or
15 country, the application shall contain or be accompanied by:

16 (A) Any certificate of title issued by the other state or country; and

17 (B) Any other information and documents the commissioner or authorized county tag
18 agent reasonably requires to establish the ownership of the vessel and the existence or
19 nonexistence of security interests in it and liens against it.

20 (2) If the application refers to a vessel last previously registered in another state and if
21 the applicant is the last previously registered owner in such state, the application need not
22 contain the name and address of the person from whom the vessel was acquired.

23 52-7A-9.

24 (a) The commissioner or the commissioner's duly authorized county tag agent, upon
25 receiving application for a first certificate of title, shall check the hull identification number
26 of the vessel shown on the application against the records of vessels required to be
27 maintained by Code Section 52-7A-10 and against the record of stolen and converted
28 vessels required to be maintained by Code Section 52-7A-5.

29 (b) Subsection (a) of this Code section shall not be applicable to an application for the
30 first certificate of title of a new or demonstrator vessel when such application is
31 accompanied by a manufacturer's certificate of origin or similar document approved by the
32 commissioner by rule or regulation.

33 52-7A-10.

34 (a) The commissioner or the commissioner's duly authorized county tag agent shall file
35 each application received and, when satisfied as to its genuineness and regularity and that

1 the applicant is entitled to the issuance of a certificate of title, shall issue a certificate of
2 title for the vessel.

3 (b) The commissioner or the commissioner's duly authorized county tag agent shall
4 maintain a record of all certificates of title issued:

5 (1) Under a distinctive title number assigned to the vessel;

6 (2) Under the hull identification number of the vessel;

7 (3) Alphabetically, under the name of the owner;

8 (4) Under the vessel registration number; and

9 (5) In the discretion of the commissioner, in any other method the commissioner
10 determines.

11 (c) The commissioner or the commissioner's duly authorized county tag agent is
12 authorized and empowered to provide for photographic and photostatic recording of
13 certificate of title records in such manner as the commissioner or the commissioner's duly
14 authorized county tag agent may deem expedient. The photographic or photostatic copies
15 authorized in this subsection shall be sufficient as evidence in tracing of titles of the vessels
16 designated therein and shall also be admitted in evidence in all actions and proceedings to
17 the same extent that the originals would have been admitted.

18 (d) The vessel records which the commissioner or the commissioner's duly authorized
19 county tag agent is required to maintain under this Code section or any other provision are
20 exempt from the provisions of any law of this state requiring that such records be open for
21 public inspection; provided, however, that the records may be disclosed for use by the
22 following:

23 (1) Any licensed dealer of new or used vessels;

24 (2) Any tax collector, tax receiver, or tax commissioner; and

25 (3) The Department of Natural Resources.

26 (e) In addition to any public inspection of records authorized under subsection (d) of this
27 Code section, vessel records consisting of vessel description, title status, title brands,
28 recorded liens, or recorded security interests which the commissioner or the
29 commissioner's duly authorized county tag agent is required to maintain under this Code
30 section shall, in such manner and under such conditions as prescribed by the commissioner,
31 be furnished individually or in bulk to any person upon payment of a reasonable fee, for
32 any purpose not otherwise prohibited by law, including without limitation for the purpose
33 of providing information to allow for informed vessel purchase and safety decisions.
34 Records furnished in accordance with this subsection may be subsequently transferred to
35 third parties. Personal information of any registrant, including name, address, date of birth,
36 or social security number, shall not be furnished or transferred by or to any person pursuant
37 to this subsection.

1 (f) Personal information furnished under subsection (d) of this Code section shall be
2 limited to the natural person's name and address. The personal information obtained by
3 a business under this Code section shall not be resold or redisclosed for any purposes
4 without the written consent of the individual. Furnishing of information to a business
5 under this Code section shall be pursuant to a contract entered into by such business and
6 the state which specifies the consideration to be paid by such business to the state for such
7 information and the frequency of updates.

8 52-7A-11.

9 (a) Each certificate of title issued by the commissioner or the commissioner's duly
10 authorized county tag agent shall contain:

11 (1) The date issued;

12 (2) The name and address of the owner;

13 (3) The names and addresses of the holders of any security interest and of any lien as
14 shown on the application or, if the application is based on a certificate of title, as shown
15 on the certificate;

16 (4) The title number assigned to the vessel;

17 (5) A description of the vessel including, so far as the following data exist, its make,
18 model, hull identification number, type of vessel, year built, length in feet and inches,
19 whether new, used, or a demonstrator, and, if a new vessel or a demonstrator, the date of
20 the first sale of the vessel for use; and

21 (6) Any other data the commissioner prescribes.

22 (b) The certificate of title shall contain forms for assignment and warranty of title by the
23 owner, and for assignment and warranty of title by a dealer, and may contain forms for
24 applications for a certificate of title by a transferee or naming of a security interest holder
25 and of a lienholder and the assignment or release of the security interest and lien.

26 (c) A certificate of title issued by the commissioner or the commissioner's duly authorized
27 county tag agent is prima-facie evidence of the facts appearing on it.

28 (d) A certificate of title for a vessel is not subject to garnishment, attachment, execution,
29 or other judicial process, but this subsection does not prevent a lawful levy upon the vessel.

30 52-7A-12.

31 (a)(1) The certificate of title shall be mailed or delivered to the holder of the first security
32 interest or lien named in it. In the event there is no security interest holder or lienholder
33 named in such certificate, the certificate of title shall be mailed or delivered directly to
34 the owner.

1 (2) The commissioner may enter into agreements with any such security interest holder
2 or lienholder to provide a means of delivery by secure electronic measures of a notice of
3 the recording of such security interest or lien. Such security interest or lien shall remain
4 on the official records of the department until such time as the security interest or lien is
5 released by secure electronic measures or affidavit of lien or security interest release;
6 after which release or at the request of the lienholder or security interest holder, the
7 certificate of title may be printed and mailed or delivered to the next lienholder or
8 security interest holder or as otherwise provided by paragraph (1) of this subsection.

9 (b) If the certificate of title is mailed to a security interest holder or lienholder, such person
10 shall notify by mail all other security interest or lien holders that such person has received
11 the certificate of title. The notice shall inform the security interest holder or lienholder of
12 the contents and information reflected on such certificate of title. Such mailing or delivery
13 shall be within five days, exclusive of holidays, after the receipt of the certificate by the
14 holder of any security interest or lien.

15 (c) The security interest holder or lienholder may retain custody of the certificate of title
16 until such security interest holder's or lienholder's claim has been satisfied. The security
17 interest holder or lienholder having custody of a certificate of title must deliver the
18 certificate of title to the next lienholder or security interest holder within ten days after such
19 custodial security interest holder's or lienholder's security interest or lien has been satisfied
20 and, if there is no other security interest holder or lienholder, such custodial security
21 interest holder or lienholder must deliver the certificate of title to the owner.

22 (d) If a security interest or lien has been electronically recorded, the release of such
23 security interest or lien will require the security interest holder or lienholder to notify the
24 commissioner and the owner of the vessel, on a form prescribed by the commissioner, or
25 by electronic means approved by the commissioner, of the release of the security interest
26 or lien. Such notice shall inform the owner that such owner may request a title free of lien,
27 upon verification of such owner's current mailing address, from the commissioner as
28 provided in Code Section 52-7A-33.

29 52-7A-13.

30 (a) Whenever the certificate of title is in the possession of a security interest holder or
31 lienholder as allowed by this chapter and some other person, including the owner, who has
32 an interest in a transaction concerning a security interest or lien shown on the certificate
33 of title desires to have that transaction reflected on the certificate of title, such security
34 interest holder or lienholder may execute a notice of that transaction in the form prescribed
35 by the commissioner, setting forth the details of the transaction such security interest holder
36 or lienholder desires to be reflected on the certificate of title. The notice and the title

1 application shall be mailed by certified mail or statutory overnight delivery, return receipt
2 requested, by the person desiring the change to the first security interest holder or
3 lienholder having possession of the certificate of title. The notice shall contain on its face
4 instructions to the security interest holder or lienholder having custody of the certificate of
5 title directing such security interest holder or lienholder within ten days to forward the
6 notice, the title application, and the certificate of title to the commissioner or the
7 commissioner's duly authorized county tag agent. The first security interest holder or
8 lienholder having possession of the certificate of title shall comply with the instructions
9 contained in the notice. The commissioner or the authorized county tag agent, upon receipt
10 of such a notice and title application, together with the certificate of title, shall enter the
11 transaction shown on the notice on such commissioner's or authorized county tag agent's
12 records and on the certificate of title or issue a new certificate of title and shall then deliver
13 the certificate of title as provided for in this chapter. The person desiring the change shall
14 retain the return certified mail or statutory overnight delivery receipt as proof of such
15 person's compliance with this Code section.

16 (b) In the event the first security interest holder or lienholder holding the certificate of title
17 fails, refuses, or neglects to forward the title application, notice, and original certificate of
18 title to the commissioner or the commissioner's duly authorized county tag agent, as
19 required by this Code section, the person desiring the change may, on a form prescribed
20 by the commissioner, make direct application to the commissioner or the authorized county
21 tag agent. Such direct application to the commissioner or the authorized county tag agent
22 shall have attached to it the return registered or certified mail or statutory overnight
23 delivery receipt showing the previous mailing of the title application and notice to the first
24 security interest holder or lienholder. Upon receipt of such a direct application, the
25 commissioner or the authorized county tag agent shall order the first security interest holder
26 or lienholder having custody of the certificate of title to forward the certificate of title to
27 the commissioner or the authorized county tag agent for the purpose of having the
28 subsequent transaction entered thereon or a new certificate of title issued. If, after a direct
29 application to the commissioner or the authorized county tag agent and the order of the
30 commissioner or authorized county tag agent, the first security interest holder or lienholder
31 continues to fail, refuse, or neglect to forward the certificate of title as provided in this
32 Code section, the commissioner or authorized county tag agent may cancel the outstanding
33 certificate of title and issue a new certificate of title reflecting all security interests and
34 liens, including the subsequent security interest; and this new certificate of title shall be
35 delivered as provided for in this chapter.

36 (c) As an alternative to mailing notices of transactions concerning a security interest or lien
37 on the certificate of title to the commissioner or the commissioner's appropriate authorized

1 county tag agent in accordance with this Code section, the commissioner shall be
2 authorized to permit the transaction to be made by electronic means in accordance with
3 regulations promulgated by the commissioner.

4 (d) No first security interest holder or lienholder having possession of a certificate of title
5 shall have the validity of that security interest or lien affected by surrendering the
6 certificate of title as provided by this Code section.

7 52-7A-14.

8 If the commissioner or the commissioner's duly authorized county tag agent is not satisfied
9 as to the ownership of the vessel or that there are no undisclosed security interests in it, the
10 commissioner or authorized county tag agent shall either: (1) withhold issuance of a
11 certificate of title until the applicant presents documents reasonably sufficient to satisfy the
12 commissioner or authorized county tag agent as to the applicant's ownership of the vessel
13 and that there are no undisclosed security interests in it; or (2) as a condition of issuing a
14 certificate of title, require the applicant to file with the commissioner or authorized county
15 tag agent a bond in the form prescribed by the commissioner and executed by the applicant
16 and by a bonding, surety, or insurance company licensed to do business in Georgia. The
17 bond shall be in an amount equal to the value of the vessel as determined by the
18 commissioner or authorized county tag agent and payable to the commissioner for the
19 benefit of any prior owner, security interest holder, or lienholder and any subsequent
20 purchaser of the vessel or person acquiring any security interest or lien on it; and their
21 respective successors in interest against any expense, loss, or damage by reason of the
22 issuance of the certificate of title of the vessel or on account of any defect in or undisclosed
23 security interest upon the right, title, and interest of the applicant in and to the vessel. The
24 commissioner shall have a right of action to recover on the bond for any breach of its
25 conditions, but the aggregate liability of the surety to all persons shall not exceed the
26 amount of the bond. The bond shall expire at the end of four years unless the
27 commissioner or authorized county tag agent has been notified of a breach of a condition
28 of the bond.

29 52-7A-15.

30 (a) The commissioner or the commissioner's duly authorized county tag agent shall refuse
31 issuance of a certificate of title only if the commissioner or the commissioner's duly
32 authorized county tag agent has reasonable grounds to believe that:

- 33 (1) The applicant is not the owner of the vessel;
34 (2) The application contains a false or fraudulent statement;

1 (3) The applicant fails to furnish required information or documents or any additional
2 information the commissioner or authorized county tag agent reasonably requires; or

3 (4) The registration of the vessel stands suspended or revoked for any reason provided
4 in the laws of this state.

5 (b) If the application for first certificate of title is rejected, the application shall be returned
6 to the holder of the first security interest or lien named in the application or to the owner
7 if there is no security interest holder or lienholder.

8 52-7A-16.

9 If a certificate of title is lost, stolen, mutilated, or destroyed or becomes illegible, the owner
10 or the legal representative of the owner named in the certificate, as shown by the records
11 of the commissioner or the commissioner's duly authorized county tag agent, shall
12 promptly make application for and may obtain a replacement upon furnishing information
13 satisfactory to the commissioner or authorized county tag agent. The replacement shall be
14 issued on the following terms and conditions:

15 (1) If the replacement title is issued to the owner named in the lost, stolen, mutilated, or
16 destroyed certificate, as shown by the records of the commissioner or authorized county
17 tag agent, the replacement certificate of title shall contain the legend 'This is a
18 replacement certificate and may be subject to the rights of a person under the original
19 certificate.';

20 (2) When the vessel for which a replacement certificate of title has been issued is
21 transferred to a new owner, the certificate of title issued to the transferee shall continue
22 to contain the legend 'This is a replacement certificate and may be subject to the rights
23 of a person under the original certificate.' After a replacement certificate has been issued
24 and the records of the commissioner or authorized county tag agent show that the owner
25 has held record title continuously for a period of not less than six calendar months and
26 the record title of the owner has not been challenged, the commissioner or authorized
27 county tag agent may, upon proper application, issue a replacement title, which shall
28 simply contain the legend 'Replacement Title';

29 (3) A person recovering an original certificate of title for which a replacement has been
30 issued shall promptly surrender the original certificate to the commissioner or authorized
31 county tag agent. Where the owner named in a replacement certificate of title, or a
32 transferee, recovers the original certificate, such owner or transferee may surrender the
33 original certificate together with the replacement title and if such owner or transferee is
34 otherwise entitled to a certificate the commissioner or authorized county tag agent may
35 issue such owner or transferee a new certificate of title with no legend thereon;

1 (4) If two or more innocent persons are the victims of the fraud or mistake of another and
2 none of the victims could have reasonably taken steps to detect or prevent the fraud or
3 mistake, the victim who first acquired an interest in a vessel through any certificate of
4 title shall have such victim's interest protected; and

5 (5) A replacement title when the original has been lost in the mail prior to receipt by the
6 registered owner shall be issued by the commissioner without charge upon application
7 and completion of the form and affidavit prescribed by the commissioner setting forth the
8 circumstances of nonreceipt of the title. The owner shall report the nonreceipt or loss and
9 apply for replacement of the title to the commissioner within 60 days of the issuance of
10 such title by the commissioner. An applicant shall provide an affidavit of nonreceipt and
11 verify his or her current mailing address.

12 52-7A-17.

13 (a) If an owner transfers his or her interest in a vessel other than by the creation of a
14 security interest, such owner shall, at the time of delivery of the vessel, execute an
15 assignment and warranty of title to the transferee in the space provided therefor on the
16 certificate of title or as the commissioner prescribes and cause the certificate and
17 assignment to be delivered to the transferee. If the transferor willfully fails to deliver the
18 properly assigned certificate of title to the transferee, the transferor shall be guilty of a
19 misdemeanor. In addition, the transferor shall be civilly liable to the transferee for all
20 damages, including reasonable attorney's fees, occasioned by the transferor's failure to
21 comply with this subsection.

22 (b) Except as provided in Code Section 52-7A-18, the transferee, promptly after delivery
23 of the vessel and certificate of title, shall execute the application for a new certificate of
24 title on the form the commissioner prescribes and cause the application and the certificate
25 of title to be mailed or delivered to the commissioner or the appropriate authorized county
26 tag agent together with the application for change of registration for the vessel so that the
27 title application shall be received within 30 days from the date of the transfer of the vessel.
28 If the documents submitted in support of the title application are rejected, the party
29 submitting the documents shall have 60 days from the date of initial rejection to resubmit
30 the documents required by the commissioner for the issuance of title. If the documents are
31 not properly resubmitted within 60 days, the owner of the vessel shall be required to
32 remove immediately the registration number of the vessel under Chapter 7 of this title. If
33 the documents have not been resubmitted as required under this subsection, the registration
34 number shall be deemed to have expired at 12:00 Midnight of the sixtieth day following
35 the initial rejection of the documents.

1 (c) If a security interest is reserved or created at the time of the transfer, the certificate of
2 title shall be retained by or delivered to the person who becomes the security interest
3 holder, and the parties shall comply with Code Section 52-7A-28.

4 (d) Except as provided in Code Section 52-7A-18 and as between the parties, a transfer
5 by an owner is not effective until this Code section and Code Section 52-7A-18 have been
6 complied with; and no purchaser or transferee shall acquire any right, title, or interest in
7 and to a vessel purchased by him or her unless and until he or she shall obtain from the
8 transferor the certificate of title thereto, duly transferred in accordance with this Code
9 section.

10 (e) The commissioner shall promulgate procedures and provide forms whereby a
11 prospective purchaser may, if such prospective purchaser desires, have the commissioner's
12 or the commissioner's duly authorized county tag agent's records searched for undisclosed
13 certificates of title and security interests.

14 52-7A-18.

15 (a)(1) Except as provided in paragraph (2) of this subsection, a dealer who buys a vessel
16 and holds it for resale need not apply to the commissioner for a new certificate of title but
17 may retain the certificate delivered to him or her. Upon transferring the vessel to another
18 person other than by the creation of a security interest, such dealer shall promptly execute
19 the assignment and warranty of title by a dealer. Such assignment and warranty shall
20 show the names and addresses of the transferee and any holder of a security interest
21 created or reserved at the time of the resale and the date of his or her security agreement
22 in the spaces provided therefor on the certificate or as the commissioner prescribes.
23 Transfers of vessels under this Code section shall otherwise conform with Code
24 Section 52-7A-17. A dealer selling a previously registered vessel which under this
25 chapter need not have a certificate of title need not furnish a purchaser of such a vessel
26 a certificate of title. After a previously registered vessel has been brought under the terms
27 of this chapter, a dealer, when selling that vessel, shall conform to all provisions of this
28 chapter.

29 (2)(A) As used in this paragraph, the term 'franchise dealer' means a dealer who under
30 a contract or franchise agreement with a manufacturer, distributor, wholesaler, or
31 importer is authorized to sell new vessels of or for such manufacturer, distributor,
32 wholesaler, or importer and who is authorized to use trademarks or service marks
33 associated with one or more makes of vessels in connection with such sales.

34 (B) A dealer who is not a franchise dealer who acquires a vessel for which the original
35 certificate of title has not been issued and who holds such vessel for resale shall not be
36 exempt from the requirement to obtain a certificate of title in such dealer's name as

1 provided in paragraph (1) of this subsection. Such dealer shall, as provided in Code
2 Section 52-7A-17, obtain a certificate of title in such dealer's name prior to selling or
3 otherwise transferring said vessel to any other person or dealer.

4 (b) Every dealer shall maintain a record, in the form the commissioner prescribes, of every
5 vessel bought, sold, or exchanged by such dealer or received by such dealer for sale or
6 exchange. Such record shall be kept for three years and shall be open to inspection by a
7 representative of the commissioner during reasonable business hours.

8 (c) Except as otherwise provided for in subsection (c) of Code Section 52-7A-17, the
9 dealer shall submit a properly completed certificate of title application and proper
10 supporting documents to the commissioner or to the appropriate authorized county tag
11 agent so that the application and supporting documents shall be submitted to the
12 commissioner or the appropriate authorized county tag agent within 30 days from the date
13 of the transfer of the vessel. If the documents submitted in support of the title application
14 are rejected, the dealer submitting the documents shall have 60 days from the date of initial
15 rejection to resubmit the documents required by the commissioner for the issuance of title.

16 52-7A-19.

17 (a) If the interest of an owner in a vessel passes to another other than by voluntary transfer,
18 the transferee shall, except as provided in subsection (b) of this Code section, mail or
19 deliver to the commissioner or the appropriate authorized county tag agent the last
20 certificate of title, if available; proof of the transfer; and his or her application for a new
21 certificate in the form the commissioner prescribes, together with the application for
22 change of registration for the vessel so that the title application and other documents shall
23 be received by the commissioner or the appropriate authorized county tag agent no later
24 than 30 days from the date that the transferee acquired the interest in the vessel. If the
25 documents submitted in support of the title application are rejected, the party submitting
26 the documents shall have 60 days from the date of initial rejection to resubmit the
27 documents required by the commissioner for the issuance of title. Should the documents
28 not be properly resubmitted within the 60 day period, the owner of the vessel shall be
29 required to remove immediately the registration number of the vessel issued pursuant to
30 Chapter 7 of this title. If the documents have not been resubmitted as required in this
31 subsection, the registration number shall be deemed to have expired at 12:00 Midnight of
32 the sixtieth day following the initial rejection of the documents. If the last certificate of
33 title is not available for transfer under this Code section, then the transferee shall forward
34 such proof of transfer as the commissioner may by regulation prescribe.

35 (b) If the interest of the owner is terminated, whether the vessel is sold pursuant to a power
36 contained in a security agreement or by legal process at the instance of the holder either of

1 a security interest or a lien, the transferee shall promptly mail or deliver to the
2 commissioner or the appropriate authorized county tag agent the last certificate of title, if
3 available; proof of transfer; his or her application for a new certificate, in the form
4 prescribed by the commissioner; and an affidavit made by or on behalf of the holder of a
5 security interest in or lien on the vessel with respect to the termination of the interest of the
6 owner, so as to have the application and supporting documents submitted to the
7 commissioner or the appropriate authorized county tag agent within 30 days from the date
8 the transferee acquired the interest in the vessel. If the documents submitted in support of
9 the title application are rejected, the transferee submitting the documents shall have 60 days
10 from the date of initial rejection to resubmit the documents required by the commissioner
11 for the issuance of title. If the documents are not properly resubmitted within 60 days, the
12 owner of the vessel shall be required to remove immediately the registration number of the
13 vessel issued pursuant to Chapter 7 of this title. If the documents have not been
14 resubmitted as required under this subsection, the registration number shall be deemed to
15 have expired at 12:00 Midnight of the sixtieth day following the initial rejection of the
16 documents. If the holder of a security interest or lien succeeds to the interest of the owner
17 and holds the vessel for resale, such person need not secure a new certificate of title but,
18 upon transfer, shall promptly deliver to the transferee the last certificate of title, if
19 available, and such other documents as the commissioner may require by rule or regulation.

20 (c) A person holding a certificate of title whose interest in the vessel has been extinguished
21 or transferred other than by voluntary transfer shall mail or deliver the certificate to the
22 commissioner or the commissioner's duly authorized county tag agent upon request of the
23 commissioner or authorized county tag agent. The delivery of the certificate pursuant to
24 the request of the commissioner or authorized tag agent shall not affect the rights of the
25 person surrendering the certificate; and the action of the commissioner or authorized tag
26 agent in issuing a new certificate of title as provided in this chapter shall not be conclusive
27 upon the rights of an owner or lienholder named in the old certificate.

28 (d) In the event of transfer as upon inheritance, devise, or bequest, upon receipt of an
29 application for a new certificate of title, the last certificate of title, if available, and a
30 certified copy of a will or letters of administration or, if no administration is to be had on
31 the estate, an affidavit by the applicant to the effect that the estate is not indebted and the
32 surviving spouse, if any, and the heirs, if any, have amicably agreed among themselves
33 upon a division of the estate or a certificate from the judge of the probate court showing
34 that the vessel registered in the name of the decedent owner has been assigned to the
35 decedent's survivors as part of their year's support, the commissioner shall issue to the
36 person or persons shown by such evidence to be entitled thereto the certificate of title for
37 the vessel.

1 (e)(1) In the event of transfer under a will when the vessel was the decedent's only asset,
2 upon receipt of an application for a new certificate of title, the last certificate of title, if
3 available, and an affidavit by the applicant to the effect that the vessel was owned by the
4 decedent and was the decedent's only asset and was not encumbered, that under the will
5 the applicant is entitled to receive title to such vessel, that no application for the
6 administration of the estate of the deceased or the probate of such will is to be had, and
7 that the estate is not indebted and the surviving spouse, if any, and the heirs, if any, are
8 sui juris and have amicably agreed that title to said vessel be issued to the applicant, the
9 commissioner shall issue to the person or persons shown by such evidence to be entitled
10 thereto the certificate of title for the vessel.

11 (2) The commissioner shall prescribe the form of the affidavit to be used in paragraph (1)
12 of this subsection.

13 (f) A joint interest in a vessel with survivorship in two or more persons may be created in
14 the manner provided by subsection (a) of Code Section 44-6-190; and, if a certificate of
15 title has been issued to two or more persons having such a joint interest with survivorship,
16 then, in the event of the death of such a joint owner, the surviving such owner or owners,
17 if any, need not secure a new certificate of title.

18 52-7A-20.

19 (a) The commissioner or the commissioner's duly authorized county tag agent, upon
20 receipt of a properly assigned certificate of title, with an application for a new certificate
21 of title and any other documents required by law, shall issue a new certificate of title in the
22 name of the transferee as owner and mail the certificate to the first lienholder named in the
23 application or, if none, to the owner.

24 (b) The commissioner or the commissioner's duly authorized county tag agent, upon
25 receipt of an application for a new certificate of title by a transferee other than by voluntary
26 transfer, with proof of the transfer and any other documents required by law, shall issue a
27 new certificate of title in the name of the transferee as owner. If the outstanding certificate
28 of title is not delivered to the commissioner or the authorized county tag agent, the
29 commissioner or authorized county tag agent shall make demand for such title from the
30 title holder.

31 (c) The commissioner or the commissioner's duly authorized county tag agent shall file
32 and retain for five years every surrendered certificate of title, the file to be maintained so
33 as to permit the tracing of title of the vessel designated on such title.

1 52-7A-21.

2 (a)(1) Any registered owner or authorized agent of a registered owner who in any
3 manner sells or disposes of any vessel as scrap metal or parts only or who scraps,
4 dismantles, or demolishes a vessel shall within 72 hours mail or deliver the certificate of
5 title to the commissioner for cancellation.

6 (2) Notwithstanding any other provision of this chapter to the contrary, if the owner or
7 authorized agent of the owner has not obtained a title in his or her name for the vessel to
8 be transferred, or has lost the title for the vessel to be transferred, he or she may sign a
9 statement swearing that, in addition to the foregoing conditions, the vessel is worth
10 \$750.00 or less and is at least 12 years old. The department shall promulgate a form for
11 the statement which shall include, but not be limited to:

12 (A) A statement that the vessel shall never be titled again; it must be dismantled or
13 scrapped;

14 (B) A description of the vessel including the year, make, model, hull identification
15 number, and color;

16 (C) The name and address of the owner;

17 (D) A certification that the owner:

18 (i) Never obtained a title to the vessel in his or her name; or

19 (ii) Was issued a title for the vessel, but the title was lost or stolen;

20 (E) A certification that the vessel:

21 (i) Is worth \$750.00 or less;

22 (ii) Is at least 12 years old; and

23 (iii) Is not subject to any security interest or lien;

24 (F) An acknowledgment that the owner realizes the form will be filed with the
25 commissioner and that it is a felony, punishable by imprisonment for not fewer than one
26 nor more than three years or a fine of not less than \$1,000.00 nor more than \$5,000.00,
27 or both, to knowingly falsify any information on such statement;

28 (G) The owner's signature and the date of the transaction;

29 (H) The name and address of the business acquiring the vessel;

30 (I) A certification by the business that \$750.00 or less was paid to acquire the vessel;
31 and

32 (J) The business agent's signature and date along with a printed name and title if the
33 agent is signing on behalf of a corporation.

34 (3) The person taking possession of the vessel for scrap metal or parts only or to scrap,
35 dismantle, or demolish a vessel shall mail or otherwise deliver the statement required
36 under paragraph (2) of this subsection to the commissioner within 72 hours of the

1 completion of the transaction, requesting that the commissioner cancel the Georgia
2 certificate of title and registration.

3 (4) Any insurance company which acquires a damaged vessel by virtue of having paid
4 a total loss claim shall mail or deliver the certificate of title to the commissioner for
5 cancellation. In every case in which a total loss claim is paid and the insurance company
6 does not acquire such damaged vessel, the vessel owner shall mail or deliver the
7 certificate of title to the commissioner for cancellation. If the certificate of title has been
8 lost, destroyed, or misplaced, the vessel owner shall, prior to payment of the claim on
9 such vessel, obtain a replacement title. If the security interest holder or lienholder has
10 possession of the certificate of title, the insurance company shall thereafter mail or deliver
11 notification to the commissioner of the payment of the total loss claim and the name and
12 address of the security interest holder or lienholder in possession of the title. The
13 commissioner shall mail notice to the security interest holder or lienholder that a total loss
14 claim has been paid on the vessel and that the title to such vessel has been canceled,
15 provided that the validity of the security interest shall not be affected by issuance of a
16 salvage certificate of title. The security interest holder or lienholder shall, within ten days
17 after receipt of such notice of total loss claim and cancellation of the original certificate
18 of title, mail or deliver the canceled original certificate of title to the commissioner.

19 (b) Except as provided in subsection (a) of this Code section, any person, firm, or
20 corporation which purchases or otherwise acquires a salvage vessel shall apply to the
21 commissioner for a salvage certificate of title for such vessel within 30 days of the
22 purchase or acquisition of the vessel if the person, firm, or corporation intends to operate
23 or to sell, convey, or transfer the vessel for any purpose other than scrapping, dismantling,
24 or demolition; and no such person, firm, or corporation shall sell, transfer, or convey a
25 salvage vessel until such person, firm, or corporation has applied for and obtained a salvage
26 certificate of title. The application for a salvage certificate of title shall be made in a
27 manner to be prescribed by the commissioner. Any certificate of title which is issued to
28 a salvage vessel, as provided for in this Code section, shall contain the word 'salvage' on
29 the face of the certificate in such a manner as the commissioner may prescribe, so as to
30 indicate clearly that the vessel described is a salvage vessel.

31 (c) As an alternative to criminal or other civil enforcement, the commissioner, in order to
32 enforce this Code section or any orders, rules, and regulations promulgated pursuant to this
33 Code section, may issue an administrative fine not to exceed \$1,000.00 for each violation
34 whenever the commissioner, after a hearing, determines that any person has violated any
35 provisions of this Code section or any regulations or orders promulgated under this Code
36 section. The hearing and any administrative review thereof shall be conducted in
37 accordance with the procedure for contested cases under Chapter 13 of Title 50, the

1 'Georgia Administrative Procedure Act.' Any person who has exhausted all administrative
2 remedies available and who is aggrieved or adversely affected by a final order or action of
3 the commissioner shall have the right of judicial review thereof in accordance with
4 Chapter 13 of Title 50. All fines recovered under this subsection shall be paid into the state
5 treasury. The commissioner may file in the superior court (1) of the county wherein the
6 person under order resides; (2) if such person is a corporation, of the county wherein the
7 corporation maintains its principal place of business; or (3) of the county wherein the
8 violation occurred a certified copy of a final order of the commissioner, whether
9 unappealed from or affirmed upon appeal, whereupon the court shall render judgment in
10 accordance with the final order and notify the parties. Such judgment shall have the same
11 effect and proceedings in relation thereto shall thereafter be the same as though the
12 judgment had been rendered in an action duly heard and determined by the court. The
13 penalty prescribed in this Code section shall be concurrent, alternative, and cumulative
14 with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or
15 penalties provided, allowed, or available to the commissioner with respect to any violation
16 of this Code section or any order, rules, or regulations promulgated pursuant thereto.

17 (d) The Commissioner of Insurance is authorized to enforce the provisions of this Code
18 section to the extent such provisions are applicable to insurers under the jurisdiction of the
19 Insurance Department. The Commissioner of Insurance is also authorized to cooperate
20 with the commissioner in enforcing this Code section and to provide the commissioner with
21 any information acquired by the Commissioner of Insurance during any investigation or
22 proceeding involving this Code section. Nothing in this subsection shall be construed to
23 limit the powers and duties of the commissioner to enforce the provisions of this Code
24 section as such provisions apply to insurers.

25 (e) It shall be unlawful for any person, firm, or corporation to violate the provisions of
26 subsection (a) or (b) of this Code section; and any person, firm, or corporation convicted
27 of violating such provisions shall be guilty of a misdemeanor. Any owner of a salvage
28 vessel who transfers or attempts to transfer such vessel without obtaining a salvage
29 certificate of title for such vessel shall be guilty of a misdemeanor of a high and aggravated
30 nature, punishable by a fine not to exceed \$5,000.00. Any security interest holder or
31 lienholder who, after notice by the commissioner of payment of a total loss claim and
32 cancellation of the title of a vessel, fails or refuses to return the title to the commissioner
33 or who surrenders the title to anyone other than the commissioner shall be guilty of a
34 misdemeanor of a high and aggravated nature, punishable by a fine not to exceed
35 \$5,000.00.

36 (f) The registered owner who retains possession of a salvage vessel to whom a total loss
37 claim has been paid shall promptly remove the registration number from such vessel. An

1 insurer which pays a total loss claim shall, on a form prescribed by the commissioner,
2 notify the owner of the duty to remove such registration number.

3 52-7A-22.

4 The commissioner is authorized to utilize the services of persons appointed as county tag
5 agents under Code Section 40-2-23. Any applicant for a title shall have the right to mail
6 the application directly to the department.

7 52-7A-23.

8 (a) All county tag agents accepting and handling title applications shall endeavor to submit
9 such applications to the commissioner on a daily basis. All reports of title applications
10 handled must be submitted to the commissioner within seven calendar days from the close
11 of the business day during which such applications were handled.

12 (b) Failure to submit the reports within the seven-calendar-day period from the close of
13 the business day as required by this Code section shall result in the penalties imposed by
14 Code Section 48-2-44.

15 (c) Before the expiration of the time period within which a title report is required to be
16 filed with the commissioner, application may be made to the commissioner for an
17 extension. The commissioner is authorized, upon a showing of justifiable cause, to grant
18 up to a ten-day extension from the deadline provided for the performance of the above
19 duties. Only one such extension may be granted with regard to any reports due the
20 commissioner for a specific business day.

21 (d) Proof of mailing within the appropriate time period provided for in this Code section,
22 as evidenced by a United States Postal Service postmark, shall be prima-facie proof that
23 the county tag agent has complied in a timely manner with the duties enumerated by this
24 Code section.

25 52-7A-24.

26 (a) The commissioner shall suspend or revoke a certificate of title, upon notice and
27 reasonable opportunity to be heard in accordance with Code Section 52-7A-6, when
28 authorized by any other provision of law or if the commissioner finds:

29 (1) The certificate of title was fraudulently procured or erroneously issued; or

30 (2) The vessel has been scrapped, dismantled, or destroyed.

31 (b) Suspension or revocation of a certificate of title does not, in itself, affect the validity
32 of a security interest noted on it.

1 (c) When the commissioner suspends or revokes a certificate of title, the owner or person
2 in possession of it shall, immediately upon receiving notice of the suspension or revocation,
3 mail or deliver the certificate to the commissioner.

4 (d) The commissioner may seize and impound any certificate of title which has been
5 suspended or revoked.

6 52-7A-25.

7 In instances when an application for title is required to be submitted within a certain time
8 period, proof of mailing within the designated period allowed for submission of the
9 documents, as evidenced by a United States Postal Service postmark, shall be prima-facie
10 proof that the application was timely submitted.

11 52-7A-26.

12 (a) Any person, firm, or corporation which pays a total loss claim on a vessel as a result
13 of such vessel's being stolen shall within 15 days of the payment of such total loss claim
14 apply to the commissioner for a transfer of the certificate of title into such person's, firm's,
15 or corporation's name. No person, firm, or corporation shall sell, transfer, or convey such
16 vessel until the requirements of this Code section have been met.

17 (b) As an alternative to criminal or other civil enforcement, the commissioner, in order to
18 enforce this Code section or any orders, rules, and regulations promulgated pursuant to this
19 Code section, may issue an administrative fine not to exceed \$1,000.00 for each violation
20 whenever the commissioner, after a hearing, determines that any person has violated any
21 provisions of this Code section or any regulations or orders promulgated under this Code
22 section. The hearing and any administrative review thereof shall be conducted in
23 accordance with the procedure for contested cases under Chapter 13 of Title 50, the
24 'Georgia Administrative Procedure Act.' Any person who has exhausted all administrative
25 remedies available and who is aggrieved or adversely affected by a final order or action of
26 the commissioner shall have the right of judicial review thereof in accordance with
27 Chapter 13 of Title 50. All fines recovered under this subsection shall be paid into the state
28 treasury. The commissioner may file in the superior court (1) of the county wherein the
29 person under order resides; (2) if such person is a corporation, of the county wherein the
30 corporation maintains its principal place of business; or (3) of the county wherein the
31 violation occurred a certified copy of a final order of the commissioner, whether
32 unappealed from or affirmed upon appeal, whereupon the court shall render judgment in
33 accordance with the final order and notify the parties. Such judgment shall have the same
34 effect and proceedings in relation thereto shall thereafter be the same as though the
35 judgment had been rendered in an action duly heard and determined by the court. The

1 penalty prescribed in this Code section shall be concurrent, alternative, and cumulative
 2 with any and all other civil, criminal, or alternative rights, remedies, forfeitures, or
 3 penalties provided, allowed, or available to the commissioner with respect to any violation
 4 of this Code section or any order, rules, or regulations promulgated pursuant thereto.

5 (c) The Commissioner of Insurance is authorized to enforce the provisions of this Code
 6 section to the extent such provisions are applicable to insurers under the jurisdiction of the
 7 Insurance Department. The Commissioner of Insurance is also authorized to cooperate
 8 with the commissioner in enforcing this Code section and to provide the commissioner with
 9 any information acquired by the Commissioner of Insurance during any investigation or
 10 proceeding involving this Code section. Nothing in this subsection shall be construed to
 11 limit the powers and duties of the commissioner to enforce the provisions of this Code
 12 section as such provisions apply to insurers.

13 52-7A-27.

14 (a) Except as provided in Code Sections 11-9-303, 11-9-316, and 11-9-337, the security
 15 interest in a vessel of the type for which a certificate of title is required shall be perfected
 16 and shall be valid against subsequent creditors of the owner, subsequent transferees, and
 17 the holders of security interests and liens on the vessel by compliance with this chapter.

18 (b)(1) A security interest is perfected by delivery to the commissioner or to the county
 19 tag agent of the county in which the seller is located, the county in which the sale takes
 20 place, the county in which the vessel is delivered, or the county wherein the vessel owner
 21 resides of:

22 (A) The existing certificate of title, if any, and an application for a certificate of title
 23 containing the name and address of a security interest holder; or

24 (B) A notice of security interest on forms prescribed by the commissioner.

25 (2) The security interest is perfected as of the time of its creation if the initial delivery
 26 of the application or notice to the commissioner or local tag agent is completed within 20
 27 days thereafter, regardless of any subsequent rejection of the application or notice for
 28 errors; otherwise, as of the date of the delivery to the commissioner or local tag agent.
 29 The local tag agent shall issue a receipt or other evidence of the date of filing of such
 30 application or notice. When the security interest is perfected as provided for in this
 31 subsection, it shall constitute notice to everybody of the security interest of the holder.

32 52-7A-28.

33 If the owner creates a security interest in a vessel:

34 (1) The owner shall immediately execute the application in the space provided therefor
 35 on the certificate of title or on a separate form that the commissioner prescribes, showing

1 the name and address of the security interest holder, and shall deliver the certificate and
2 the application to the security interest holder;

3 (2) The security interest holder shall immediately mail or deliver the certificate of title
4 and application to the commissioner or the commissioner's appropriate authorized county
5 tag agent within 90 days of the date of creation of the security interest or lien. If the
6 documents submitted in support of the title application are rejected, the party submitting
7 the documents shall have 60 days from the date of initial rejection to resubmit the
8 documents required by the commissioner or the authorized county tag agent for the
9 issuance of title. If the documents are not properly resubmitted within the 60 day period,
10 the owner of the vessel shall be required to remove immediately the registration number
11 required pursuant to Chapter 7. If the documents have not been resubmitted as required
12 under this paragraph, the registration number shall be deemed to have expired at 12:00
13 Midnight of the sixtieth day following the initial rejection of the documents; and

14 (3) Upon receipt of the certificate of title and the application, the commissioner or the
15 commissioner's duly authorized county tag agent shall issue a new certificate containing
16 the name and address of the security interest holder and of holders of previous unreleased
17 security interests and liens, if any, and shall mail the certificate to the first holder on it.
18 If more than one holder is named on the certificate, the first holder shall comply with
19 subsection (b) of Code Section 52-7A-12 in regard to notifying other holders of the
20 content of the certificate.

21 52-7A-29.

22 (a) If the owner of a vessel desires to place a second or subsequent security interest against
23 the vessel and the certificate of title on that vessel is being held by a security interest holder
24 or lienholder, the owner shall, on the form prescribed by the commissioner, execute a title
25 application and a notice of the second or subsequent security interest; and the holder of the
26 second or subsequent security interest shall forward such notice and title application by
27 certified mail or statutory overnight delivery, return receipt requested, to the first holder
28 of a security interest or lien who has custody of the certificate of title. The notice of such
29 second or subsequent security interest shall contain on its face instructions to the security
30 interest holder or lienholder having custody of the certificate of title directing such
31 custodial security interest holder or lienholder within ten days to forward the notice and
32 title application, together with the certificate of title, to the commissioner or the
33 commissioner's duly authorized county tag agent in order that the commissioner or
34 authorized county tag agent may issue a new certificate of title and reflect on the certificate
35 of title the subsequent security interest. The first security interest holder or lienholder
36 having possession of the certificate of title shall comply with the instructions contained in

1 the notice. The commissioner or authorized county tag agent, upon receipt of a properly
2 executed application notice and the original certificate of title, shall enter the subsequent
3 security interest on such commissioner's or authorized county tag agent's records and shall
4 issue a new certificate of title and shall then deliver the certificate of title as provided for
5 in this chapter.

6 (b) If the holder of the second or subsequent security interest forwards by registered or
7 certified mail or statutory overnight delivery the title application and notice of the second
8 or subsequent security interest to the first security interest holder or lienholder who has
9 custody of the certificate of title within ten days of the execution of that second or
10 subsequent security interest, it shall be perfected as of the date it was executed; otherwise,
11 as of the date the notice was forwarded to the first security interest holder or lienholder
12 holding the certificate of title. The second or subsequent security interest holder shall
13 retain the return registered or certified mail or statutory overnight delivery receipt as proof
14 of perfection of the security interest under this Code section.

15 (c) In the event the first security interest holder or lienholder holding the certificate of the
16 title fails, refuses, or neglects to forward the title application, notice, and original certificate
17 of title to the commissioner or the commissioner's duly authorized county tag agent as
18 required by this Code section, the holder of the second or subsequent security interest may,
19 on a form prescribed by the commissioner, make direct application to the commissioner or
20 authorized county tag agent. Such direct application to the commissioner or authorized
21 county tag agent shall have attached to it the return registered or certified mail or statutory
22 overnight delivery receipt showing the previous mailing of the title application and notice
23 to the first security interest holder or lienholder. Upon receipt of such a direct application,
24 the commissioner or authorized county tag agent shall order the first security interest holder
25 or lienholder having custody of the certificate of title to forward the certificate of title to
26 the commissioner or the authorized county tag agent for the purpose of having the second
27 or subsequent security interest entered and a new certificate of title issued. If, after a direct
28 application to the commissioner or authorized county tag agent and the order of the
29 commissioner or authorized county tag agent the first security interest holder or lienholder
30 continues to fail, refuse, or neglect to forward the certificate of title as provided in this
31 Code section, the commissioner or authorized county tag agent may cancel the outstanding
32 certificate of title and issue a new certificate of title reflecting all security interests and
33 liens, including the second or subsequent security interest; and this new certificate of title
34 shall be delivered as provided for in this chapter.

35 (d) As an alternative to mailing notices concerning a second or subsequent security
36 interest; to the commissioner or the commissioner's duly authorized county tag agent in
37 accordance with this Code section, the commissioner shall be authorized to permit the

1 transaction to be made by electronic means in accordance with regulations promulgated by
2 the commissioner.

3 (e) No first security interest holder or lienholder having possession of the certificate of title
4 shall have the validity of that security interest or lien affected by surrendering the
5 certificate of title as provided for by this Code section.

6 52-7A-30.

7 (a) If the lienholder, except the holder of a mechanic's lien, perfection of which is
8 prescribed in Code Section 52-7A-31, desires to perfect such lien against a vessel, the
9 lienholder shall, on the form prescribed by the commissioner, execute a title application
10 and a notice of lien stating the type of lien and the specific vessel against which the lien is
11 claimed and shall forward such notice and title application, either personally or by certified
12 mail or statutory overnight delivery, return receipt requested, to the person who has custody
13 of the current certificate of title at the address shown on such certificate of title. If
14 someone other than the owner is holding the certificate of title, a copy of the notice shall
15 also be forwarded to the owner. The lien claimant shall retain the certified mail or statutory
16 overnight delivery receipt as proof of compliance with this Code section.

17 (b) After receipt of the notice of lien, as specified in this Code section, neither the owner
18 nor any other person shall take any action affecting the title other than as provided in this
19 Code section. After receipt of the notice of lien, the person holding the certificate of title
20 shall hold the notice of lien and attachments and the title for ten days. If, during the
21 ten-day period following receipt of the notice, the claimed lien is satisfied, the lien claimant
22 shall, on the form prescribed by the commissioner, notify the owner and the person holding
23 the certificate of title of such satisfaction. The notice of satisfaction shall serve as a release
24 and withdrawal of the pending notice of lien. If the owner or person holding the certificate
25 of title chooses to contest the claimed lien, such owner or person holding the certificate of
26 title shall so indicate on the notice of lien form and shall notify the other interested parties.
27 If the notice contesting the lien is given, or if ten days have elapsed without the lien being
28 satisfied, the person holding the certificate of title shall forward the certificate of title
29 together with the notice of lien and attachments thereto to the commissioner or the
30 commissioner's duly authorized county tag agent in order that the commissioner or
31 authorized county tag agent shall issue a new certificate of title and reflect on the new
32 certificate of title the lien on the vessel. The owner or the person who has custody of the
33 current certificate of title shall comply with the instructions contained in the notice; and in
34 the event such owner or person having custody of the current title cannot do so, such owner
35 or person having custody of the current title shall notify the lien claimant. The
36 commissioner or authorized county tag agent, upon receipt of a properly executed title

1 application, notice, and the current certificate of title, shall enter the lien on the
2 commissioner's or authorized county tag agent's records and shall issue a new certificate
3 of title reflecting the lien and shall then deliver the certificate of title as provided for in this
4 chapter. The lien shall be perfected at the time the lien notice, application for title, and
5 current certificate of title are received by the commissioner or authorized county tag agent.

6 (c) In the event that the person who has custody of the current certificate of title fails,
7 refuses, or neglects to forward the title application, notice, and current certificate of title
8 to the commissioner or the commissioner's duly authorized county tag agent as required
9 by this Code section, the lien claimant may, if such lien claimant's lien has not been
10 satisfied, on a form prescribed by the commissioner, make direct application to the
11 commissioner or authorized county tag agent. Such direct application to the commissioner
12 or authorized county tag agent shall have attached to it the return registered or certified
13 mail or statutory overnight delivery receipt showing the previous mailing of the title
14 application and notice to the person who has custody of the current certificate of title.
15 Upon receipt of such a direct application, the commissioner or authorized county tag agent
16 shall order the person who has custody of the current certificate of title to forward the
17 certificate of title to the commissioner or authorized county tag agent for the purpose of
18 having the lien entered and a new certificate of title reflecting the lien issued. If, after a
19 direct application to the commissioner or authorized county tag agent and after the order
20 of the commissioner or authorized county tag agent, the person who has custody of the
21 current certificate of title continues to fail, refuse, or neglect to forward the certificate of
22 title as provided in this Code section, the commissioner or authorized county tag agent may
23 cancel the current certificate of title and issue a new certificate of title reflecting all security
24 interests and liens; and this new certificate of title shall be delivered as provided for in this
25 chapter. In the event a direct application is made, the lien shall be perfected as of the date
26 the outstanding certificate of title is canceled.

27 (d) No security interest holder or lienholder having custody of the certificate of title shall
28 have the validity of such security interest holder's or lienholder's security interest or lien
29 affected by surrendering the certificate of title as provided by this Code section. The first
30 security interest holder or lienholder shall have the responsibility to advise a prospective
31 transferee or security interest holder, upon inquiry, that a notice of subsequent lien has been
32 received. Upon the issuing of a new certificate of title, the commissioner or the
33 commissioner's duly authorized county tag agent shall cancel the old certificate of title.

34 (e) A lien perfected under this Code section shall be a lien only against the specific vessel
35 identified in the application for a new certificate.

36 (f) A lien on a vessel for which a certificate of title is required shall be perfected and shall
37 be valid against subsequent transferees and holders of security interests and liens only

1 through compliance with this Code section. The procedure contained in this chapter shall
2 be the exclusive method for the perfection of liens on vessels required to have certificates
3 of title, and no lien shall be effective against such a vessel unless so perfected.

4 52-7A-31.

5 (a) All mechanics of every sort shall have a special lien on any vessel required to have a
6 certificate of title by Code Section 52-7A-7 for work done, for work done and materials
7 furnished, or for materials furnished in repairing or servicing such vessel. Perfection of the
8 lien by recording shall be as provided in Code Section 52-7A-30. The lien may be asserted
9 by retention of the vessel, and all contracts for repairs or service to vessels shall be deemed
10 to incorporate a right of retention by the mechanic to protect this lien until it is paid or
11 satisfied through foreclosure as provided in this Code section. The lien may also be
12 asserted by surrendering the vessel, giving credit, and foreclosing the lien claim in the
13 manner provided in this Code section. If the mechanic surrenders possession of the vessel
14 to the debtor, the mechanic shall record the claim of lien as provided in Code
15 Section 52-7A-30. Such special lien shall be superior to all liens except for taxes and such
16 other security interests and liens of which the mechanic had actual or constructive notice
17 before the work was done or material furnished. The validity of the lien against third
18 parties shall be determined in accordance with this chapter.

19 (b) If possession is retained or the lien recorded, the owner-debtor may contest the validity
20 of the amount claimed to be due by making written demand upon the lienholder. If upon
21 receipt of such demand the lienholder fails to institute foreclosure proceedings within ten
22 days where possession has been retained, or within 30 days where possession has been
23 surrendered, the lien is forfeited.

24 (c) The lien shall be foreclosed in the following manner:

25 (1) A person asserting the lien, either for himself or herself or as a guardian,
26 administrator, executor, or trustee, may move to foreclose it by making an affidavit to a
27 court of competent jurisdiction showing all the facts necessary to constitute a lien under
28 this Code section and the amount claimed to be due;

29 (2) Upon such affidavit being filed, the clerk or a judge of the court shall serve notice
30 upon the owner, the recorded security interest holders and lienholders, and the lessee, if
31 any, of the vessel of a right to a hearing to determine if reasonable cause exists to believe
32 that a valid debt exists, and that such hearing must be petitioned for within five days after
33 receipt of the notice and that, if no petition for such hearing is filed within the time
34 allowed, the lien will conclusively be deemed a valid one and foreclosure thereof
35 allowed;

1 (3) If a petition for a hearing is filed within the time allowed, the court shall set a
2 probable cause hearing within ten days of the filing of the petition. If, at the probable
3 cause hearing, the court determines that reasonable cause exists to believe that a valid
4 debt exists, the mechanic shall be given possession of the vessel or the court shall obtain
5 possession of the vessel, as ordered by the court; provided, however, the owner-debtor
6 may retain possession of the vessel by giving bond and security in the amount determined
7 to be probably due and the costs of the action;

8 (4) Within five days of the probable cause hearing, a defendant shall petition the court
9 for a full hearing on the validity of the debt if a further determination of the validity of
10 the debt is desired. If no such petition is filed, the lien on the amount determined
11 reasonably due shall be conclusively deemed valid and foreclosure allowed; if such a
12 petition is filed, the court shall set a full hearing thereon within 30 days of the filing of
13 the petition. Upon the filing of such petition by the defendant, neither the prosecuting
14 mechanic nor the court may sell the vessel, although possession of the vessel may be
15 retained;

16 (5) If, after a full hearing, the court finds that a valid debt exists, then the court shall
17 authorize foreclosure upon and sale of the vessel subject to the lien to satisfy the debt if
18 the debt is not otherwise immediately paid;

19 (6) If the court finds the actions of the mechanic in retaining or seeking possession of the
20 vessel were not taken in good faith, the court, in its discretion, may award damages to the
21 owner, the lessee, or any person deprived of the rightful use of the vessel due to the
22 deprivation of the use of the vessel; and

23 (7) Any proceeding to foreclose a mechanic's lien on a vessel must be instituted within
24 one year from the time the lien is recorded or is asserted by retention.

25 52-7A-32.

26 (a) The holder of any security interest in or lien on a vessel may assign, absolutely or
27 otherwise, such holder's security interest or lien to a person other than the owner without
28 affecting the interest of the owner or the validity of the security interest or lien; but any
29 person without notice of the assignment is protected in dealing with the holder of the
30 security interest or lien, and the holder of the security interest or lien remains liable for any
31 obligations as such holder until the assignee is named as the holder of the security interest
32 or lien on the certificate of title.

33 (b) The assignee may, but need not to perfect the assignment, have the certificate of title
34 endorsed or issued with the assignee named as holder of a security interest or lien upon
35 delivering to the commissioner or the commissioner's duly authorized county tag agent the
36 certificate and assignment by the holder of a security interest or lien named in the

1 certificate in the form the commissioner prescribes, provided that as an alternative to a
2 handwritten signature, the commissioner may authorize use of a digital signature so long
3 as appropriate security measures are implemented which assure security and verification
4 of the digital signature process, in accordance with regulations promulgated by the
5 commissioner. If the assignment refers to a security interest or lien which is reflected on
6 the certificate of title and the certificate of title is in the possession of the first security
7 interest holder or lienholder as provided by this chapter, the assignee may, but need not to
8 perfect the assignment, have the certificate of title endorsed, or a new certificate of title
9 issued, by complying with Code Section 52-7A-13.

10 52-7A-33.

11 (a)(1) If any security interest or lien listed on a certificate of title is satisfied, the holder
12 thereof shall, within ten days after demand, execute a release in the form the
13 commissioner prescribes and mail or deliver the release to the owner, provided that as an
14 alternative to a handwritten signature, the commissioner may authorize use of a digital
15 signature so long as appropriate security measures are implemented which assure security
16 and verification of the digital signature process, in accordance with regulations
17 promulgated by the commissioner. For the purposes of the release of a security interest
18 or lien, the 'holder' of the security interest or lien is the parent bank or other lending
19 institution; and any branch or office of the parent institution may execute such release.

20 (2) If the commissioner has entered into an agreement with such a security interest
21 holder or lienholder to provide a means of delivery by secure electronic measures of a
22 notice of the recording of such security interest or lien, at such time as the security
23 interest or lien is released, by secure electronic measures, the certificate of title may be
24 printed and mailed or delivered to the next security interest holder or lienholder or, if
25 there is no other security interest holder or lienholder, to the owner.

26 (b) The owner may then forward the certificate of title, the release, and the properly
27 executed title application to the commissioner or the commissioner's duly authorized
28 county tag agent, and the commissioner or authorized county tag agent shall release the
29 security interest or lien on the certificate or issue a new certificate and mail or deliver the
30 certificate to the owner. If the satisfied security interest or lien is one reflected on the
31 certificate of title but the certificate of title is in the custody of the first security interest
32 holder or lienholder as provided by this chapter, the release may be handled as provided
33 in Code Section 52-7A-13, and Code Section 52-7A-12 shall otherwise be complied with.
34 In the event that the security interest holder or lienholder is no longer in business, an
35 individual shall not be required to submit a release to secure a new certificate of title. The
36 owner shall be required to present to the commissioner or authorized county tag agent

1 certification from the appropriate regulatory agency that such security interest holder or
2 lienholder is no longer in business.

3 (c) Any lien or security interest shall be considered satisfied and release shall not be
4 required after ten years from the date of issuance of a title on which such security interest
5 or lien is listed. None of the provisions of this Code section shall preclude the perfection
6 of a new security agreement or lien, or the perfection of an extension of a security
7 agreement or lien beyond a period of ten years, by application for a new certificate of title
8 on which such security agreement or lien is listed. In order to provide for the continuous
9 perfection of a security interest or lien originally entered into for a period of more than ten
10 years, an application for a second title on which the security interest or lien is listed must
11 be submitted to the commissioner or the commissioner's duly authorized tag agent before
12 ten years from the date of the original title on which such security interest or lien is listed.
13 Otherwise the security interest or lien shall be perfected as of the date of receipt of the
14 application by the commissioner or the commissioner's duly authorized county tag agent.

15 52-7A-34.

16 The holder of any security interest or lien named in a certificate of title shall, on written
17 request of the owner, another holder of any security interest or lien named in the certificate,
18 an interested third party, or the commissioner, disclose any information pertinent to the
19 security interest, the security agreement, and the debt secured thereby and the lien and the
20 amount for which it is claimed.

21 52-7A-35.

22 The method provided in this chapter of perfecting and giving notice of security interests
23 and liens with respect to vessels for which certificates of title must be obtained under this
24 chapter is exclusive, and such security interests and liens are exempt from the provisions
25 of law which otherwise require or relate to the recording or filing of security interests or
26 liens, claims of lien executions, and other like instruments with respect to such vessels.

27 52-7A-36.

28 This chapter shall not apply to or affect a security interest in a vessel created by a
29 manufacturer or dealer who holds the vessel for sale. A buyer in the ordinary course of
30 trade with the manufacturer or dealer takes free of such security interest.

31 52-7A-37.

32 Notwithstanding any other provision of law, a transaction does not create a sales or security
33 interest merely because it provides that the rental price is permitted or required to be

1 adjusted under the agreement either upward or downward by reference to the amount
2 realized upon sale or other disposition of the vessel.

3 52-7A-38.

4 Notwithstanding any other provision of law to the contrary, in any claim involving the total
5 loss of a vessel which is subject to more than one perfected security interest or lien as
6 recorded on the title of the vessel, the proceeds of the insurance policy shall be first applied
7 to the debt owed to the first lienholder. In the event that there are proceeds remaining after
8 satisfying the first lienholder, the proceeds shall be then applied to the debt owed to the
9 second and subsequent lienholders in order of priority and any proceeds remaining after
10 the satisfaction of all such recorded liens shall be paid to the insured. If the amount of debt
11 secured by such security interests or liens or the seniority of such security interests or liens
12 is in doubt, any remaining funds shall be deposited with the court and a complaint for
13 interpleader shall be filed in accordance with Code Section 9-11-22.

14 52-7A-39.

15 A person who, with fraudulent intent:

16 (1) Alters, forges, or counterfeits a certificate of title under this chapter;

17 (2) Alters or forges an assignment of a certificate of title or an assignment or release of
18 a security interest on a certificate of title or a form the commissioner prescribed under
19 this chapter;

20 (3) Has possession of or uses a certificate of title under this chapter knowing it to have
21 been altered, forged, or counterfeited;

22 (4) Uses a false or fictitious name or address or makes a material false statement, fails
23 to disclose a security interest, or conceals any other material fact in an application for a
24 certificate of title under this chapter;

25 (5) Alters or forges a notice of a transaction concerning a security interest or lien
26 reflected on the certificate of title as provided by Code Section 52-7A-13; or

27 (6) Willfully violates any other provision of this chapter after having previously violated
28 the same or any other provision of this chapter and having been convicted of that act in
29 a court of competent jurisdiction

30 shall be guilty of a felony.

31 52-7A-40.

32 (a) A person who:

33 (1) With fraudulent intent permits another, not entitled thereto, to use or have possession
34 of a certificate of title under this chapter;

1 (2) Willfully fails to mail or deliver a certificate of title to the commissioner or to the
2 purchaser of the vessel or a release of security interest or lien to the owner within ten
3 days of the time required by this chapter, except as provided in Code Section 52-7A-39;

4 (3) Willfully fails or refuses to mail or deliver the certificate of title to the commissioner
5 within ten days after having received a notice, as provided for in Code Section 52-7A-13
6 or 52-7A-29; or

7 (4) Willfully violates any other provision of this chapter
8 shall be guilty of a misdemeanor.

9 (b) Any person, firm, or corporation which knowingly makes any false statement in any
10 title application concerning the date a vessel was sold or acquired or the date of creation
11 of a security interest or lien shall be guilty of a misdemeanor and, upon conviction thereof,
12 shall be fined not more than \$100.00 or imprisoned for a period not to exceed 30 days.

13 (c) Any person, firm, or corporation which delivers or accepts a certificate of title assigned
14 in blank shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not
15 more than \$100.00 or imprisoned for a period not to exceed 30 days for the acceptance or
16 delivery of each certificate of title assigned in blank.

17 52-7A-41.

18 A person who knowingly makes a false report to a peace officer or the commissioner of the
19 theft or conversion of a vessel shall be guilty of a misdemeanor of a high and aggravated
20 nature.

21 52-7A-42.

22 In a prosecution for a crime specified in this chapter, evidence that the defendant has
23 committed a prior act or acts of the same kind is admissible to prove criminal intent or
24 knowledge.

25 52-7A-43.

26 Unless another penalty is provided in this chapter:

27 (1) A person convicted of a felony for the violation of a provision of this chapter shall be
28 punished by a fine of not less than \$500.00 nor more than \$5,000.00, by imprisonment for
29 not less than one year nor more than five years, or by both such fine and imprisonment;
30 and

31 (2) A person convicted of a misdemeanor for the violation of a provision of this chapter
32 shall be punished as provided in Code Section 17-10-3.

1 52-7A-44.

2 The penal provisions of this chapter in no way repeal or modify any existing provision of
3 criminal law but are additional and supplementary thereto."

4 **SECTION 2.**

5 All laws and parts of laws in conflict with this Act are repealed.