

UCOTA – VESSELS

Title Branding Proposals

The provisions below are based on the draft prepared for the March, 2010 meeting of the Drafting Committee. Every existing and proposed reference to title branding is included. Underlining represents proposed additions to the March draft. Text struck through represents proposed deletions.

SECTION 2. DEFINITIONS.

(a) In this [act]:

(x) “Damaged” means:

(i) not salvaged; and

(iii) the cost of repair due to casualty or theft equals or exceeds 65% of the fair market value of the vessel upon completion of such repair.

(y) “Salvaged” means an insurer has paid or has agreed to pay at least 65% of the insured value of the vessel.

(24) “Title brand” means a designation of previous damage, use, or condition that [this [act] or] law other than this [act] requires to be indicated on a certificate of title created by a governmental agency of any jurisdiction.

SECTION 6. APPLICATION FOR CERTIFICATE OF TITLE.

(a) Except as otherwise provided in Sections 13, 18 and 19, only the owner of a vessel may apply for a certificate of title covering the vessel.

(b) An application for a certificate of title must be signed by the applicant and contain:

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(8) any title brand known to the applicant and, if known, the jurisdiction under whose law the title brand was created;

(9) if the vessel is damaged or salvaged, a statement indicating that the vessel is damaged or salvaged, whichever applies; and

~~(9)~~ (10) if the application is made in connection with a transfer of ownership, the transferor's name, street address and, if different, address for receiving first class mail delivered by the United States Postal Service, the sales price if any, and the date of the transfer.

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SECTION 8. CONTENTS OF CERTIFICATE OF TITLE.

(a) A certificate of title must contain:

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(7) all title brands covering the vessel, including brands indicated on a certificate of title created by a governmental agency of another jurisdiction and delivered to the office.

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(c) An indication of a title brand on a certificate of title may consist of an abbreviation, but not a symbol, and must identify the jurisdiction that under whose law the title brand was created or the jurisdiction that created a certificate of title on which the title brand was indicated. If the meaning of a title brand is not easily ascertainable or cannot be accommodated on the certificate of title, the certificate of title may state: “Previously branded in [insert the particular jurisdiction under whose law the title brand was created or whose certificate of title previously indicated the title brand].”

SECTION 9. MAINTENANCE OF AND ACCESS TO FILES.

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(c) The office shall maintain in its files, for each vessel for which it has created a certificate of title, all title brands known to the office, the name of each secured party known to the office, the name of each claimant to ownership of the vessel known to the office, and all stolen-property reports the office has received relating to the vessel.

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SECTION x. TITLE BRAND

(a) Within [x] days of when a vessel covered by a certificate of title created by the office becomes damaged, the owner of record shall deliver to the office an application to have the certificate amended by adding the title brand designation “Damaged.” Within a reasonable time, not to exceed [15] business days, after delivery of the application to the office. the office shall create a new certificate of title that prominently indicates the vessel is branded “Damaged.” The office shall deliver the new certificate pursuant to Section 10.

(b) Within [x] days of when a vessel covered by a certificate of title created by the office becomes salvaged, the insurer shall deliver to the office:

(1) if the insurer has become the owner of the vessel, an application for a new certificate of title pursuant to Section 6; or

(2) an application to have the certificate amended by adding the title brand designation “Salvaged.”

(c) Within a reasonable time, not to exceed [15] business days, after delivery to the office of an application pursuant to paragraph (b)(1). the office shall create a new certificate of title that prominently indicates the vessel is branded “Salvaged.” The office shall deliver the new certificate pursuant to Section 10.

(d) A person who transfers an ownership interest in a damaged or salvaged vessel to a purchaser for value warrants [to the purchaser] [and to all subsequent transferees] that the vessel is merchantable within the meaning of [Uniform Commercial Code Section 2-314] [and seaworthy] unless, before the purchaser gives value:

(1) a certificate of title covering the vessel and indicating a title brand has been provided to the purchaser; or

(2) a record signed by the person and indicating that the vessel is damaged or salvaged is provided to the purchaser.

(e) An insurer who fails to comply with subsection (b) warrants to a purchaser of the vessel for value [and to all subsequent transferees] that the vessel is merchantable within the meaning of [Uniform Commercial Code Section 2-314] [and seaworthy] unless, before the purchaser gives value:

(1) a certificate of title covering the vessel and indicating that the vessel is salvaged has been provided to the purchaser; or

(2) a record signed by the person and indicating that the vessel is salvaged is provided to the purchaser.