

for those instruments described in section 428A.2, subsections 2 to 5, 7 to 13, and 16 to 18, or described in section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, or if a transfer is the result of acquisition of lands, whether by contract or condemnation, for public purposes through an exercise of the power of eminent domain. The declaration of value shall state the full consideration paid for the real property transferred. If agricultural land, as defined in section 172C.1, is purchased by a corporation, limited partnership, trust, alien or nonresident alien, the declaration of value shall include the name and address of the buyer, the name and address of the seller, a legal description of the agricultural land, and identify the buyer as a corporation, limited partnership, trust, alien, or nonresident alien. The county recorder shall not record the declaration of value, but shall enter on the declaration of value information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit all declarations of value to the city or county assessor in whose jurisdiction the property is located. The city or county assessor shall enter on the declaration of value the information the director of revenue and finance requires for the production of the sales/assessment ratio study and transmit one copy of each declaration of value to the director of revenue and finance, at times as directed by the director of revenue and finance. The assessor shall retain one copy of each declaration of value for three years from December 31 of the year in which the transfer of realty for which the declaration was filed took place. The director of revenue and finance shall, upon receipt of the information required to be filed under this chapter by the city or county assessor, send to the office of the secretary of state that part of the declaration of value which identifies a corporation, limited partnership, trust, alien, or nonresident alien as a purchaser of agricultural land as defined in section 172C.1.

Sec. 2. Section 428A.4, unnumbered paragraph 2, Code 1987, is amended to read as follows:

The county recorder shall refuse to record any deed, instrument, or writing by which any real property in this state shall be granted, assigned, transferred, or otherwise conveyed, except those transfers exempt from tax under section 428A.2, subsections 2 to 5, and 7 to 13, or under section 428A.2, subsection 6, except in the case of a federal agency or instrumentality, until the declaration of value has been submitted to the county recorder. A declaration of value shall not be required with a deed given in fulfillment of a recorded real estate contract provided the deed has a notation that it is given in fulfillment of a contract.

Approved May 15, 1987

CHAPTER 134

WATER VESSEL CERTIFICATES OF TITLE

H.F. 595

AN ACT to establish a system of certificates of title for vessels and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 106.2, Code 1987, is amended by adding the following new subsections:

NEW SUBSECTION. 29. "Certificate" means a certificate of title.

NEW SUBSECTION. 30. "Dealer" means a person who engages in whole or in part in the business of buying, selling, or exchanging vessels either outright or on conditional sale, bailment, lease, security interest, or otherwise, and who has an established place of business for sale, trade, and display of vessels. A yachtbroker is a dealer.

NEW SUBSECTION. 31. "Lienholder" means a person holding a security interest.

NEW SUBSECTION. 32. "Manufacturer" means a person engaged in the business of manufacturing or importing new and unused vessels, or new and unused outboard motors, for the purpose of sale or trade.

NEW SUBSECTION. 33. "Security interest" means an interest which is reserved or created by an agreement which secures payment or performance of an obligation and is valid against third parties generally.

NEW SUBSECTION. 34. "State of principal use" means the state on whose waters a vessel is used or to be used most during a calendar year.

NEW SUBSECTION. 35. "Use" means to operate, navigate, or employ a vessel. A vessel is in use whenever it is upon the water.

NEW SUBSECTION. 36. "Vessel" means every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water or ice. Ice boats are watercraft. The term includes the vessel's motor, spars, sails, and accessories.

NEW SUBSECTION. 37. "Proceeds" includes whatever is received when collateral or proceeds are sold, exchanged, collected, or otherwise disposed of. The term also includes the account arising when the right to payment is earned under a contract right. Money, checks, and the like are cash "proceeds". All other proceeds are "noncash proceeds".

Sec. 2. Section 106.2, subsections 1 and 16, Code 1987, are amended by striking the subsections.

Sec. 3. Section 106.5, Code 1987, is amended by adding the following new subsection:

NEW SUBSECTION. 8. The registration certificate shall indicate if the vessel is subject to the requirement of a certificate of title and the county from which the certificate of title is issued.

Sec. 4. NEW SECTION. 106.72 OWNER'S CERTIFICATE OF TITLE — IN GENERAL.

1. Except as provided in subsection 4, an owner of a vessel seventeen feet or longer in length principally used on the waters of the state and to be numbered pursuant to section 106.4 shall apply to the county recorder of the county in which the owner resides for a certificate of title for the vessel. The requirement of a certificate of title does not apply to canoes or inflatable vessels regardless of length.

2. Each certificate of title shall contain the information and shall be issued in a form the department prescribes.

3. A person who, on the effective date of this Act, is the owner of a vessel seventeen feet or longer in length with a valid certificate of number issued by the state is not required to file an application for a certificate of title for the vessel unless the person transfers an interest in the vessel.

4. Every owner of a vessel subject to titling under this chapter shall apply to the county recorder for issuance of a certificate of title for the vessel within thirty days after acquisition. The application shall be on forms the department prescribes, and accompanied by the required fee. The application shall be signed and sworn to before a notary public or other person who administers oaths, or shall include a certification signed in writing containing substantially the representation that statements made are true and correct to the best of the applicant's knowledge, information, and belief, under penalty of perjury. The application shall contain the date of sale and gross price of the vessel or the fair market value if no sale immediately preceded the transfer, and any additional information the department requires. If the application is made for a vessel last previously registered or titled in another state or foreign country, it shall contain this information and any other information the department requires.

5. If a dealer buys or acquires a used vessel for resale, the dealer shall report the acquisition to the county recorder on the forms the department provides, or the dealer may apply for and obtain a certificate of title as provided in this chapter. If a dealer buys or acquires a used unnumbered vessel, the dealer shall apply for a certificate of title in the dealer's name within fifteen days. If a dealer buys or acquires a new vessel for resale, the dealer may apply

for a certificate of title in the dealer's name.

6. Every dealer transferring a vessel requiring titling under this chapter shall assign the title to the new owner, or in the case of a new vessel assign the certificate of origin. Within fifteen days the dealer shall forward all moneys and applications to the county recorder.

7. The county recorder shall maintain a record of any certificate of title it issues.

8. A person shall not sell, assign, or transfer a vessel titled by the state without delivering to the purchaser or transferee a certificate of title with an assignment on it showing title in the purchaser or transferee. A person shall not purchase or otherwise acquire a vessel required to be titled by the state without obtaining a certificate of title for it in that person's name.

9. A person who owns a vessel which is not required to have a certificate of title may apply for and receive a certificate of title for the vessel and the vessel shall subsequently be subject to the requirements of this Act as though the vessel was required to be titled.

Sec. 5. NEW SECTION. 106.73 FEES — DUPLICATES.

1. The county recorder shall charge a five dollar fee to issue a certificate of title, a transfer of title, a duplicate, or a corrected certificate of title.

2. If a certificate of title is lost, stolen, mutilated, destroyed, or becomes illegible, the first lienholder or, if there is none, the owner named in the certificate, as shown by the county recorder's records, shall within thirty days obtain a duplicate by applying to the county recorder. The applicant shall furnish information the department requires concerning the original certificate and the circumstances of its loss, mutilation, or destruction. Mutilated or illegible certificates shall be returned to the department with the application for a duplicate.

3. The duplicate certificate of title shall be marked plainly "duplicate" across its face, and mailed or delivered to the applicant.

4. If a lost or stolen original certificate of title for which a duplicate has been issued is recovered, the original shall be surrendered promptly to the department for cancellation.

5. The funds collected under this section shall be placed in the general fund of the county and used for the expenses of the county conservation board if one exists in that county.

Sec. 6. NEW SECTION. 106.74 OBTAINING MANUFACTURER'S OR IMPORTER'S CERTIFICATE OF ORIGIN.

A manufacturer or dealer shall not transfer ownership of a new vessel without supplying the transferee with the manufacturer's or importer's certificate of origin signed by the manufacturer's or importer's authorized agent. The certificate shall contain information the department requires. The department may adopt rules providing for the issuance of a certificate of origin for a vessel by the department upon good cause shown by the owner.

Sec. 7. NEW SECTION. 106.75 HULL IDENTIFICATION NUMBER OF VESSEL.

1. Every vessel whose construction began after October 31, 1972, shall have a hull identification number assigned and affixed as required by the federal Boat Safety Act of 1971. The department shall determine the procedures for application and for issuance of the hull identification number for homebuilt boats.

2. A person shall not destroy, remove, alter, cover, or deface the manufacturer's hull identification number, the plate bearing it, or any hull identification number the department assigns to a vessel without the department's permission.

3. A person other than a manufacturer who constructs a vessel or uses an unconventional device as a vessel for navigation shall submit an affidavit which describes the vessel or device to the department. In cooperation with the county recorder, the department shall assign a hull identification number to the vessel or device. The applicant shall cause the number to be carved, burned, stamped, embossed, or otherwise permanently affixed to the outboard side of the transom or, if there is no transom, to the outermost starboard side at the end of the hull that bears the rudder or other steering mechanism, above the waterline of the vessel or device in such a way that alteration, removal, or replacement would be obvious and evident.

Sec. 8. NEW SECTION. 106.76 DEALER'S RECORD OF VESSELS BOUGHT, SOLD, OR TRANSFERRED.

Every dealer shall maintain for three years a record of any vessel bought, sold, exchanged, or received for sale or exchange. This record shall be open to inspection by department representatives during reasonable business hours.

Sec. 9. NEW SECTION. 106.77 TRANSFER OR REPOSSESSION OF VESSEL BY OPERATION OF LAW.

1. If ownership of a vessel is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, or execution sale, the transferee, within thirty days after acquiring the right to possession of the vessel by operation of law, shall mail or deliver to the county recorder satisfactory proof of ownership as the county recorder requires, together with an application for a new certificate of title, and the required fee. A title tax is not required on these transactions.

2. If a lienholder repossesses a vessel by operation of law and holds it for resale, the lienholder shall secure a new certificate of title and shall pay the required fee.

Sec. 10. NEW SECTION. 106.78 SECURITY INTEREST IN VESSELS — EXEMPTIONS.

Sections 106.72 through 106.77 and 106.79 through 106.85 do not apply to or affect any of the following:

1. A lien given by statute or rule of law to a supplier of services or materials for a vessel.
2. A lien given by statute to the United States, this state, or any political subdivision of this state.
3. A security interest in a vessel created by a manufacturer or dealer who holds the vessel for sale, but a buyer in the ordinary course of trade from the manufacturer or dealer takes free of the security interest.
4. A lien arising out of an attachment of a vessel.
5. A security interest claimed on proceeds if the original security interest did not have to be noted on the certificate of title in order to be perfected.
6. A vessel for which a certificate of title is not required under this chapter.
7. A security interest perfected under chapter 554 before the effective date of this Act.

Sec. 11. NEW SECTION. 106.79 PERFECTION AND TITLES.

1. In addition to the requirements of chapter 554, a security interest created in this state in a vessel required to have a certificate of title is not perfected unless and until the security interest is noted on the certificate of title.

2. The certificate of title shall be filed with the county recorder when the financing statement for that security interest or assigning the security interest is filed and a new or endorsed certificate of title shall be issued to the secured party with the name and address of the secured party upon it.

3. The secured party shall file the certificate of title with the county recorder when a termination or release statement is filed and a new or endorsed certificate shall be issued to the owner.

Sec. 12. NEW SECTION. 106.85 FORMS — INVESTIGATIONS.

1. The department shall prescribe and provide suitable forms for applications, certificates of title, notices of security interests, and all other notices and forms, other than those provided under chapter 554, necessary to carry out sections 106.72 through 106.79.

2. The department may make necessary investigations to procure information required to carry out sections 106.72 through 106.79.

Sec. 13. This Act takes effect January 1, 1988.

Approved May 15, 1987