

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Constitution Hills, Quezon City

EIGHTEENTH CONGRESS
First Regular Session

House Bill No. 4020



Introduced by Rep. Edgar Mary S. Sarmiento

AN ACT ESTABLISHING THE SCOPE AND PROCEDURE FOR PHILIPPINE SHIP REGISTRY, RECOGNITION AND ENFORCEMENT OF MARITIME CLAIMS, AND LIMITATION OF LIABILITY, AS WELL AS PROVIDING ESSENTIAL INCENTIVES COLLECTIVELY RESULTING IN A COMPREHENSIVE AND ORDERLY PHILIPPINE SHIP REGISTRY SYSTEM AND REGULATION OF VESSELS CARRYING THE FLAG STATE.

EXPLANATORY NOTE

As of 2016, the Philippines has a total of 30, 854 registered domestic fleet consisting of passenger, cargo, tanker, tug, dredger, speedboats, special service and miscellaneous types of services.¹ This is according to the most recent statistics available from Marina. This number does not cover ship/vessel registration from 2017 to 2018 and those vessels that are yet to be registered with Marina.

While ship registration has numerous advantages and confers Philippine nationality and protection upon the vessel at times it is at high sea, it seems however that such advantages are no longer encouraging Filipino ship/vessel owners into complying fully with the registration processes, seeing that the latter is demanding and costly.

Furthermore, there is no one legislation providing for uniform standards on ship/vessel registration.

Incentives for ship registration has also been in limbo. Republic Act no. 9295, otherwise known as Domestic Shipping Act of 2004 provides for incentives for shipowners and domestic shipping operators – however, the incentives under the same has expired in 2014.²

The Philippines is an archipelago and its location in Asia has always been advantageous and strategic for the marine transportation and cargo industries. Encouraging full registration of all ships and vessels is essential in ensuring that the Philippines can be and remain globally competitive in marine transportation. A unified and legalized system of ship registration will ensure compliance with global standards and allow Philippine vessels to be competitive in the global marine transportation

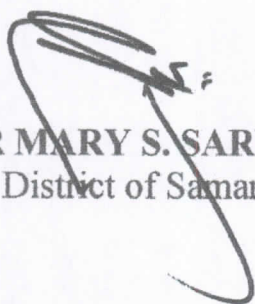
¹ Annual Report on Basic Maritime Statistics, 2012 to 2016, Marina – Management Information Systems Service.

² Marina Accomplishment Report for 2018; page 26.

market. Registration will likewise ensure compliance with safety and seaworthiness standards, thereby ensuring that all ships/vessels carrying the Philippine Flag are guaranteed safe and seaworthy.

This bill likewise seeks to legislate incentives to shipowners and operators to encourage ship/vessel registration. This, of course, is in addition to the conferment of Philippine nationality and protection upon vessels registered under the Philippine Ship Registry. This will also provide for a more efficient legal framework as to ship registration.

This bill was first filed by Rep. Jesulito Manalo of ANGKLA Partylist during the 16th Congress.



REP. EDGAR MARY S. SARMIENTO
First District of Samar

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Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

Title I

General Provisions

Chapter 1

Policies

SECTION 1. *Short Title.* – This Act shall be known as the “***Philippine Ship Registry System Act***”.

Section 2. *Declaration of Policy.* – It is the policy of the State:

- a. To establish the Philippines as a leading maritime nation and respected flag State;
- b. To ensure that Filipino-owned-and-manned maritime fleets or vessels are strengthened and assisted to meet the minimum global standards for reliability, safety, competitiveness, and effectiveness;
- c. To provide protection to our merchant marine fleets, and help expand Philippine international trade;
- d. To encourage Philippine vessel acquisition, development, modernization and expansion through systemized and sustainable programs;
- e. To provide policies that will attract more ship owners to register under Philippine flag, thus ensuring the country’s economic growth;

- 1 f. To align the tax structure for its domestic and overseas shipping fleet to make it
2 competitive; and
- 3 g. To provide a mechanism for the early adoption and implementation of international
4 maritime regulations and conventions.

5 **Section 3. *Implementing Agency.*** – The Maritime Industry Authority (MARINA), shall
6 be the implementing agency of this Act. MARINA shall create a specific department to provide
7 secretariat support in the enforcement of this Act.
8

9 Chapter 2

10 Definitions

11 **Section 4. *Definition of Terms.*** – For the purpose of this Act,

12 a. **Arrest** refers to the attachment of a vessel by judicial process through an order of a
13 competent court in order to secure the enforcement of a maritime claim, which attachment shall
14 produce the effect of detaining or restricting the removal of a ship in execution or satisfaction of a
15 judgment;

16 b. **Bareboat charter** refers to a contract for the lease of a ship, for a stipulated period of
17 time, by virtue of which the bareboat charterer has complete possession and control of the ship,
18 including the right to appoint the master and crew of the ship, for the duration of the lease;

19 c. **Bareboat charterer** or **charterer** may be used interchangeably and shall refer to any
20 person, commercial partnership or corporation which bareboat charters a Philippine flag vessel
21 from another Philippine national, or a vessel of compatible foreign registry, for its own use;

22 d. **“Certificate of Philippine Registration”** shall mean the document of registration of a
23 vessel registered in accordance with Section 13 of this Act;

24 e. **“Claimant”** shall mean a person who asserts that a maritime claim exists in his favor;

25 f. **“Court”** or “Philippine court” or “competent court” may be used interchangeably and
26 shall refer to a court of appropriate jurisdiction within the territory of the Philippines;

27 g. **“De-registration”** shall refer to the act of deleting a ship from the Registry of Ships of
28 the Philippines and the cancellation of the Certificate of Philippine registry in accordance with
29 Section 21 of this Act;

30 h. **“Foreign flag vessel”** shall refer to a ship which is registered under the laws of a country
31 other than the Philippines and which is authorized to fly the flag of that country;

32 i. **“Foreign registry”** shall mean the registry of ships of a country other than the
33 Philippines;

34 j. **“Maritime claim”** shall refer to any of the claims provided in this Act;

35 k. **“Maritime lien”** shall refer to a charge that attaches to a ship which rises from a
36 maritime claim against the ship, its owners, charterers, managers, or operators that results in a

1 demand for indemnity or remuneration from the ship or its owners, charterers, managers or
2 operators and is enforceable by judicial action;

3 l. **“Mortgagee”** shall refer to the person, whether natural or juridical, in whose favor a ship
4 mortgage is created in order to secure a principal obligation;

5 m. **“Mortgagor”** shall refer to a ship owner who constitutes a ship mortgage over a vessel or
6 a vessel under construction registered in its name in order to secure the fulfillment of a principal
7 obligation;

8 n. **“Philippine Flag Vessel”** shall mean any vessel duly registered under Philippine Laws
9 and authorized to fly the Philippine flag;

10 o. **“Philippine national”** shall refer to any individual who is a citizen of the Philippines, or
11 a commercial partnership or corporation organized under the laws of the Philippines, at least 60%
12 of the capital of which is owned by citizens of the Philippines;

13 p. **“Registration”** shall refer to the act of entering a ship in the Registry of Ships of the
14 Philippines in accordance with this Act;

15 q. **“Register of Ships of the Philippines”** or **“Register”** or **“Registry”** may be used
16 interchangeably and shall refer to the official public register maintained by the MARINA which
17 shall hold the record of all vessels under Philippine laws;

18 r. **“Record of Ship Mortgages and Encumbrances”** shall refer to the public record
19 maintained by MARINA containing all details of the vessel’s mortgage and encumbrances, as will
20 be further described in details hereafter;

21 s. **“Seagoing vessel”** shall refer to any Philippine flag vessel of five hundred gross tons or
22 more, authorized to carry passengers or cargo, or both, in trade between a Philippine port and a
23 foreign port, or between two foreign ports;

24 t. **“Ship manager”** shall mean any person, commercial partnership or corporation to which
25 the technical or commercial management, or both such technical and commercial management, of
26 a ship has been entrusted by the ship owner and for that purpose is in charge of the operation of the
27 ship which may include vessel maintenance and upkeep, crewing and passenger and cargo
28 solicitations;

29 u. **“Ship mortgage”** shall mean a contract executed by the owner of a ship creating a
30 security interest over a particular vessel or a vessel under construction in order to secure the
31 performance of a principal obligation;

32 v. **“Ship owner”** shall refer to any person, commercial partnership or corporation
33 authorized to own, operate, manage, control, lease or charter out, or otherwise engage in the
34 business of shipping;

35 w. **“Ship operator”** shall refer to any person, commercial partnership or corporation
36 authorized to operate, manage or control a ship owned by another;

x. **“Tonnage”** or **“Gross tonnage”** may be used interchangeably unless otherwise indicated and shall refer to the ship’s gross tonnage calculated in accordance with the tonnage measurement rules provided in the applicable international convention on the tonnage measurement of ships;

y. **“Unit of Account”** refers to the Special Drawing Rights (SDR) as defined by the International Monetary Fund (IMF). The SDR is an international reserve asset, created by the IMF in 1969 to supplement its member countries’ official reserves.

z. **“Vessel” or “ship”** may be used interchangeably and refer to any boat, craft or artificial contrivance capable of floating in water, designed to be used, or capable of being used, as a means of water transport for the carriage of passengers or cargo, or both, utilizing its own motive power or that of another, and shall include a ship under construction and for purposes of this Act shall continue to be considered as personal property. It excludes fishing vessels defined and regulated under existing laws and *bancas*, sailboats, and other water-borne contrivance of less than three gross tons and not motorized: *Provided*, That this does not include those owned and/or operated by the Armed Forces of the Philippines and by foreign governments for military purposes: *Provided further*, That mobile offshore platforms used in petroleum exploration and development, such as mobile offshore drilling units and offshore production platforms, shall be considered as ships when they are mobile and not affixed to the seabed.

Title II.

Ship Registry

Section 5. *The Philippine Ship Registry.* – The Philippine Ship Registry is hereby established, through which the State confers nationality, exercises its jurisdiction, protects and enforces private rights, and undertakes the national and international responsibilities of a flag State, over all ships flying the Philippine flag.

The Registry is comprised of the Register of Ships and the Record of Ship Mortgages and Encumbrances. It shall be maintained by the MARINA in accordance with the provisions of this Act, and the rules and regulations that may be issued pursuant thereto. There shall be one Registry for all domestic and international flag vessels.

Chapter I.

Registration of Ships

Section 6. *Register of Ships.*— A Register of Ships shall be kept and maintained by MARINA, which shall record essential ship information, including the following:

- a. Name of vessel;
- b. Keel number;
- c. Hull material:

- d. Principal dimensions;
- e. Gross tonnage;
- f. Net tonnage;
- g. IMO number;
- h. Official number;
- i. Place of build;
- j. Year of build;
- k. Name and address of registered owner, ship operator, bareboat charterer, manager or other person responsible for the ship;
- l. Date of issuance of CPR;
- m. Class of vessel;
- n. A reference that encumbrances on the vessel appear in the primary registry.

In the case of second hand tonnage, the following additional data shall likewise be listed in the Registry of Ships:

- o. Place of previous registry;
- p. Name of previous owner.

In the case of bareboat chartered vessels, the following additional data shall also be listed in the Registry of Ships:

- q. Place of primary registry;
- r. Name of registered owner appearing in the primary registry;
- s. Name of the vessel as it appears in the primary registry;
- t. A reference that encumbrances on the vessel appear in the primary registry;
- u. Any material change of condition with respect to any of the preceding items and any other fact required by regulation shall likewise be recorded in the Registry of Ships.

The MARINA may add to the required information to be submitted in accordance with international standards.

Section 7. *Effect of Registration.*— Any ship registered under the Philippine registry shall be entitled to the following:

- a. Conferment of the nationality and status of a Philippine ship;
- b. Entitlement to the protection of the Philippine flag;
- c. Entitlement to the right to invoke the diplomatic, consular and naval protection of Philippine authorities and the protection of the flag of the Philippines;
- d. Imposition of the duty to fly the Philippine flag;
- e. Obligation to abide by all applicable laws, decrees, orders, rules and regulations of the Philippines;

1 f. Entitlement to the privilege to engage, consistently with the limitations provided by law,
2 in Philippine coastwise trade in accordance with corollary permits, certificates and franchises that
3 may be issued to the vessel; and

4 g. Entitlement to the right to invoke the exercise of jurisdiction and control by Philippine
5 government authorities over all persons found on board the vessel, or over any incident involving
6 the penal or disciplinary responsibility of the master or any member of the crew whether the same
7 arises from a crime or quasi-delict committed on board the vessel or from any collision or other
8 incident of navigation concerning the ship.

9 **Section 8. *One Ship, One Registry Rule.*** – A ship may be registered with only one ship
10 register at any one time. Before entering the ship in the Register, MARINA shall assure itself that
11 any previous registration has been deleted, or that the ship has been de-registered from any foreign
12 registry.

13 In the case of a foreign flag ship under bareboat charter, MARINA shall ensure that the right
14 to fly the flag of the former flag State is suspended for the duration of its registration with the
15 Philippine Registry. Registration shall be issued only upon the production of evidence indicating
16 the suspension of its previous registration and nationality under the former flag State, and
17 indicating the particulars of any registered encumbrances entered in the previous registry.

18 It is the duty of the owner, master, or agent of every ship in the Register to inform MARINA
19 of any change in the facts pertaining to the ship and entered therein.

20 **Section 9. *Who may Register.***–

21 a. All ships operating within the maritime territory and jurisdiction of the Philippines,
22 except transient foreign flag ships subject to such regulations as MARINA may prescribe, are
23 mandated to be registered with the Philippine Registry: *provided*, That they meet the conditions for
24 the grant of registration imposed by this Act and the regulations pursuant hereto. This mandatory
25 registration under the Philippine Flag is particularly required in the following cases:

- 26 1. The ship is five hundred (500) gross tons or more;
- 27 2. The ship is owned by a qualified person, as may be determined by MARINA;
- 28 3. The ship meets the requirements for safety, security, marine environmental
29 protection, crew nationality, training, certification and competency, and crew welfare.

30 b. Any other ship, including a foreign-owned ship, may also be registered in accordance
31 with this Act, provided the following conditions are present:

- 32 1. It is used only in international voyages;
- 33 2. It is managed by a qualified person residing in the Philippines, as may be determined
34 by MARINA;
- 35 3. It complies with the applicable provisions that govern the safety and security of
36 Philippine ships and persons on board;

1 4. It complies with the applicable provisions that govern the terms and conditions of
2 employment on board Philippine flag vessels; and

3 5. The ship employs full Filipino crew, unless otherwise authorized by MARINA,
4 consistent with applicable treaties, conventions and internationally-accepted maritime and labor
5 standards and practices: *Provided, however,* That any exemption granted by MARINA must still
6 require that at least majority of the crew of the seagoing vessel are Filipinos.

7 6. Additional incentives for payment of tax tonnage, under Section 24 hereof, shall be
8 granted to the registered foreign-owned vessel where the ship owner, manager, operator, or
9 bareboat charterer and all its crew officers, and employees have a valid, subsisting and duly
10 implemented collective bargaining agreement that conforms to international labor standards, rules
11 and conventions.

12 c. Vessels of a foreign registry that are covered by a bareboat charter may be registered
13 under the Philippine flag: *Provided, That* their registration under the foreign flag of primary
14 registration shall not be abandoned, but shall be deemed suspended, for the duration of the ship's
15 registration under the Philippine flag.

16 **Section 10.Licensure.** – Every ship, regardless of size, intended to be used in the carriage of
17 passengers or cargo, or both, between ports and places, in the coastal, internal, inland or sheltered
18 waters of the Philippines, shall be covered by a license to operate: *Provided, That* such ship is
19 owned by a citizen of the Philippines or a corporation or association organized under the laws of
20 the Philippines at least sixty percent (60%) of whose capital is owned by such citizens and the ship
21 meets the other conditions for the grant of the license imposed by this Act and the regulations
22 pursuant hereto.

23 **Section 11.Conditions for Registration.**– No ship shall be registered unless the following
24 conditions are present, as determined by MARINA in accordance with this Act and regulations
25 issued related hereto:

26 a. Proof of Ownership. - There must be satisfactory proof of ownership and/or management
27 by qualified persons.

28 b. Seaworthiness. - A ship must comply with the general requirements for age, safety,
29 security, navigation, manning, and protection and preservation of the marine environment in
30 accordance with national and international standards for ships.

31 c. Manning. - A ship must be manned by a crew with such level of skills and competencies
32 as may be necessary in accordance with applicable international maritime conventions, rules, and
33 standards as well as national law and regulations.

34 d. Labor and social conditions. - A ship must meet the labor and social standards required
35 by applicable international labor conventions, rules and standards as implemented by MARINA.

e. Management. - A ship must be managed by a person or entity that is under the effective jurisdiction of the State.

f. Payment of fees and dues. - Ships shall be registered upon payment of the corresponding registration fees and tonnage dues as may be imposed by the State.

Section 12.*Documentary Requirements.*—Every ship owner, master or agent who opts to enroll a vessel for registry under the Philippine flag shall submit to MARINA the following documents:

- a. A written application for registration;
- b. A documentary proof of ownership over the vessel;
- c. Proof of authority to enroll the ship for registry, if applicable;
- d. A copy of a certification issued by a classification society showing the ship is of a certain class, if existing and applicable; and
- e. Such other necessary documents that may be required by MARINA in accordance with the best international shipping practices or standards.

Section 13.*Issuance of Certificate of Philippine Registration.* No application for a Certificate of Philippine Registration shall be approved and issued until MARINA made the proper evaluation that all the conditions and documents required and mandated for registration under this Act or regulations issued hereto have been complied with. MARINA or its deputized representative shall inspect the vessel and all its documents and ensure that it is qualified for registration under this Act.

A certificate of Philippine registry shall be valid for a period of no more than three (3) years, and may be continuously renewed for a similar period: *Provided, That* all the requirements for registration or its renewal are met.

In case of a bareboat chartered vessel, the certificate of Philippine registration shall be valid for a period of no more than three (3) years or the period of the bareboat charter, whichever is shorter.

Section 14.*Types of Registration.*—Registration of a ship may be permanent, provisional, or temporary in nature.

a. Permanent Registration. - Except as provided in the succeeding sections, the registration of a ship and issuance of a Certificate of Philippine Registration is deemed to be permanent until the ship is actually de-registered or deleted from the Register.

b. Provisional Registration. - Ships constructed and/or acquired abroad, before being brought to the Philippines, may be issued a Provisional Certificate of Philippine Registration and a provisional tonnage certificate for conduction purposes.

c. Temporary Registration. - The following may be issued a Temporary Certificate of Philippine registration:

1 1. Any ship about to be built, or under construction in the Philippines;

2 2. Any ship owned and/or operated by an entity duly registered with the Board of
3 Investments (BOI) under pertinent investment laws, rules and regulations, to be used exclusively
4 for the purpose of transporting raw materials and/or finished products within Philippine waters as
5 an essential element and operation in the manufacturing, processing, or other business activity or
6 project registered by such entity with the BOI: *Provided, That* such temporary registration applies
7 only for the duration of such business activity or project, and shall not exceed one year, renewable
8 for another year: *Provided, further, That* the type of ship used or service undertaken cannot be
9 provided by a Philippine ship owner;

10 3. Any ship that is operated and managed under a bareboat charter: *Provided, That* in
11 case of a foreign flag vessel bareboat-chartered by a qualified person for operation in Philippine
12 waters, the ship may be temporarily registered with the Registry for the duration of the charter:
13 *Provided further, That* for the duration of temporary registration with the Philippines, any
14 registration with a foreign flag State is suspended: *Provided, finally, That* no ship under a bareboat
15 charter shall be registered if, after the effectivity of its charter, it has undergone extensive structural
16 modification in a manner that affects its safety and seaworthiness.

17 **Section 15.***Markings, Name and Homeport.* – All ships duly registered according to the
18 provisions of this Act shall have their respective names plainly marked upon each side of the bow
19 and the stern; and the homeport and International Maritime Organization (IMO) number upon the
20 stern.

21 **Section 16.** *Change in Ownership of Ships.* – In case of a sale of a Philippine flagged ship,
22 the transferee shall present the bill of sale or other certificate evidencing the transfer of ownership
23 to MARINA within fifteen (15) days after its execution, for appropriate recording in the Register.

24 **Section 17.***Correction of Errors in the Registry.*– Errors in recording made in the Register
25 shall be corrected in the following manner:

26 a. Mere clerical errors without any effect on the meaning and substance of the document
27 shall be corrected by the appropriate and designated officer of MARINA who shall make the
28 necessary correction;

29 b. Any mistake or error that might affect the meaning and substance of the documents shall
30 be corrected by order of MARINA after notice to, and hearing of, the interested parties.

31 **Section 18.***Reconstitution of Lost Certificate.* - If the certificate of Philippine registration of a
32 ship is lost or damaged, the owner, master or agent thereof may file an application with MARINA
33 for the issuance of a replacement certificate. The replacement certificate shall indicate that the
34 original certificate is considered cancelled and revoked. If after the issuance of the replacement
35 certificate, the lost original certificate of Philippine registry is found, it shall be the duty of the

owner, master, agent or any person having possession of the original certificate to surrender it to MARINA.

Section 19.*Suspension, Cancellation or Revocation of Ship Registration.* – The registration of a Philippine flag vessel shall be cancelled from the Register, and its corresponding Certificate of Philippine Registration shall be revoked in any of the following cases:

- a. the certificate of Philippine Registration was illegally or fraudulently obtained;
- b. the ship is sold, transferred and/or assigned to a person not qualified to register ships in the Philippines under the provisions of this Title or as may be determined by MARINA;
- c. in case of transfer of ownership over the ship, the new transferee or assignee has properly applied for change of ownership and/or registration;
- d. the ship is sold by the order of a competent court;
- e. the ship is sold for scrapping;
- f. ship is determined by MARINA to be unsafe and unserviceable beyond repair;
- g. the bareboat charter of the ship has expired, or has been cancelled or terminated for any reason, in which case the cancellation from the register of ships and revocation of the certificate of Philippine registry shall be automatic;
- h. the ship has been declared lost or missing pursuant to a written and notarized notice submitted by the owner, master, or agent of a Philippine flag vessel to MARINA, containing advice of such loss and the probable cause thereof;
- i. gross violations of the safety, security, environment and other standards or requirements set by MARINA;
- j. the ship owner, manager, agent or bareboat charterer is proven to have given or submitted to MARINA fabricated information or fraudulent documents relative to the registration or settlement of their fees or taxes;
- k. the ship has engaged in illegal activities;
- l. the ship owner, manager or bareboat charterer commits any act inimical to the national security or national interests of the Philippines;
- m. The ship is entered in a foreign registry without prior approval of MARINA.

Section 20.*Inspection of the Register.* – The Register of Ships shall be open to public inspection during ordinary business hours, in the offices of MARINA and online. All documents and information provided in connection with the registration of a ship are considered public documents. Upon request and payment of reasonable fees, authenticated copies of any document or instrument required to be filed under this Act and pertinent rules and regulations, or extracts thereof, shall be furnished to any person.

Section 21.*De-registration of Ships.* – A ship which is or has been registered in another State shall not be eligible for permanent registration in the Philippines, unless:

a. A certificate has been issued by the former flag State to the effect that the ship has been de-registered; or

b. A certificate has been issued by the former flag State to the effect that the ship will be de-registered on the day when such new registration is effected.

Except in case of forced sales, a Philippine flagged vessel shall not be de-registered without the written consent of all holders of registered mortgages.

If the de-registration of the vessel is obligatory in accordance with this section, all holders of registered mortgages shall be notified by the MARINA of the pending de-registration in order to enable such holders to take appropriate action to protect their respective interests.

If the consent of the holders is not obtained, de-registration shall not be implemented earlier than three (3) months after notice to such holders of registered mortgages is given.

Chapter II

Taxes and Fees

Section 22.*Processing Fee.* – A processing fee shall be paid by the owner, master or agent of the ship sought to be registered when the application for registration or when a renewal thereof is filed. The processing fee shall be collected to cover administrative costs for handling and processing the application. The processing fee shall be in such reasonable amount as may be determined by MARINA.

Section 23. *Registration Fee.* – A registration fee shall be payable by the ship owner master or agent when the ship is first entered in the Registry and shall be paid when the Certificate of Philippine Registration is issued. The registration fee shall be fixed in such reasonable amount as determined by MARINA.

Section 24. Tonnage Tax Fees.—An annual tonnage tax fee shall likewise be paid by the owner, manager or bareboat charterer of the vessel in order for the issuance and continued possession of a valid and subsisting certificate of Philippine registration. The annual tonnage tax fee shall be computed at the rate of US\$0.10 per net register tonnage or its equivalent in Philippine Peso based on the present or latest exchange rate posted by the *Bangko Sentral ng Pilipinas (BSP)* on the date of payment of the tonnage tax fees. The ship owner, master, or agent shall have the option whether to pay in US dollars or in Philippine Peso.

For all vessels, if the owner, manager, or agent has satisfactorily established with MARINA compliance with the conditions stated in Section 9 par. b subsection 6 hereof, they shall enjoy an additional incentive. In such case, the tonnage tax fees due from them shall be reduced to the rate of US\$0.08 per net register tonnage or its equivalent in Philippine Peso based on the present or latest exchange rate posted by the BSP on the date of payment of the tonnage tax fees: *Provided* That if MARINA determines that the conditions for the additional incentive is violated or proof

shown for its existence is fabricated, the certification of Philippine registration may be revoked, in accordance with Section 19 paragraph (j) hereof.

Section 25.*Adjustments in Fees and Taxes.*— MARINA may review the rates for the processing fee, registration fee, and tonnage tax fees from time to time and with the approval of the Department of Transportation, may, by regulation, adjust or increase the fees, but for a reasonable amount.

Section 26.*Exemption from Duties and Taxes.* — The importation by the owner, manager, agent or bareboat charterer of a vessel, and the spare parts, steel/metal plates and equipment needed for the refurbishing, repair and maintenance of such vessel shall be exempt from the payment of import duties and taxes, value added taxes and all other pertinent taxes.

In the case of a registered vessel, the annual tonnage tax fees shall be in lieu of any income tax due from the ship owner, manager, agent or bareboat charterer and the withholding tax due on the lease or bareboat charter fees earned by the ship owner. Likewise, all crewing personnel of the registered foreign-owned vessel shall be exempt from income tax and all other taxes that may be imposed on their salaries and remunerations received by reason of or in connection with their employment with the ship owner, manager or bareboat charterer of the registered foreign-owned vessel.

Chapter III

Record of Ship Mortgages and Encumbrances

Section 27.*Record of Ship Mortgages and Encumbrances.*— MARINA shall maintain a Record of Ship Mortgages and Encumbrances containing the details and documents regarding all transfers, mortgages, encumbrances, or other documents proving or affecting the title to any ship registered in the Register of Ships. All documents, certificates, receipts, or acknowledgments canceling or satisfying any such obligation in whole or in part shall likewise be recorded. The date and time of recording shall be expressly stated.

Section 28.*Effect of Recording.*— In order to be valid and enforceable, every mortgage, encumbrance, or other right over a Philippine flag vessel, whether permanent or temporary in nature, in favor of a person other than the registered ship-owner or his agent, must be entered into the Record. Priority in time of recording determines the priority in rights between different rights-holders.

Section 29.*Requirements of Recording.* — A ship mortgage, encumbrance, or other rights shall be entered into the Record upon submission to MARINA of the following:

- a. A copy of the contract or other instrument evidencing such mortgage, encumbrance, or other rights, which contain all the essential details thereof;
- b. A copy of the Certificate of Philippine Registration;

1 c. In case of a ship under construction, a copy of its Temporary Certificate of Philippine
2 Registration, or if such has not yet been issued, a declaration stating the ship's name, the location
3 of the shipyard, the yard number, and the dimensions and appropriate deadweight of the vessel
4 upon completion.

5 **Section 30.***Annotation of Mortgages and Encumbrances.* – Upon request of the mortgagee,
6 holder of the right, or his agent, and submission of the necessary documents required in this Act
7 for recording, MARINA shall cause the annotation of a ship mortgage, encumbrance, or other right
8 on the back of the corresponding Certificate of Philippine Registry of the vessel concerned,
9 referring to the entry number, date and time of entry, and nature or subject matter of the document
10 as contained in the Record.

11 If a new or replacement certificate is issued, the annotations upon the previous certificate
12 shall automatically be transferred and annotated upon the back of the new or replacement
13 certificate.

14 **Section 31.***Rights Over Vessels Under Construction.* – Any right in respect to a vessel under
15 construction in the Philippines may be entered and recorded after the keel has been laid or
16 equivalent construction work has been performed.

17 Vessels under construction contracted by a Philippine national may be registered in
18 accordance with the provisions of this Act. In order that the vessel may be the subject of
19 registration under this Act, it is necessary that the keel of the vessel must have been laid and a keel
20 number assigned by the shipyard at the time of application.

21 **Section 32.***Inspection of the Record.* – The Record shall be open to public inspection during
22 ordinary business hours in the offices of MARINA and online. Upon request and payment of
23 reasonable fees, extracts from the Record of Ship Mortgages and Other Rights, and/or
24 authenticated copies of any document or instrument required to be filed under this Title and/or
25 pertinent rules and regulations, or extracts thereof, shall be furnished to any person.

26 Title III

27 Maritime Liens and Encumbrances

28 Chapter 1

29 Maritime Liens

30 **Section 33.** *Nature of Maritime Liens.* – Maritime liens arise and are enforceable whether
31 the claims secured by such liens are against the owner, or against the demise or other charterer,
32 manager or operator of the ship. Except in case of forced sale of the ship, the maritime liens shall
33 follow the ship notwithstanding any change of ownership, registration, or flag.

34 **Section 34.***Claims Secured by Maritime Liens.* – The following claims in relation to a ship
35 shall be secured by maritime liens on the ship:

- 1 a. claims for wages and other sums due to the master, officers and other members of the
2 ship's complement in respect of their employment on the ship;
- 3 b. claims in respect of loss of life or personal injury occurring, whether on land or on water,
4 in direct connection with the operation of the ship;
- 5 c. claims based on tort and not capable of being based on contract, in respect of loss or
6 damage to property caused by the operation of the ship other than loss of or damage to cargo,
7 containers and passengers' effects carried on the ship;
- 8 d. claims for port, canal, and other waterway dues, tonnage dues, light dues, pilotage dues,
9 other public taxes, dues and charges of the same character; and
- 10 e. Claims relating to the salvage, wreck removal and contribution in general average.

11 **Section 35.***Claims Not Secured by Maritime Liens.* – No maritime lien shall attach to a ship
12 to secure claims for damages in connection with the carriage of oil or other hazardous or noxious
13 substances by sea for which compensation is payable to the claimants pursuant to international
14 conventions, local laws, or compulsory insurance, or those which arose out of or which resulted
15 from the radioactive properties or a combination of radioactive properties with toxic, explosive or
16 other hazardous properties of nuclear fuel, or of radioactive produce or waste.

17 **Section 36.***Priority of Maritime Liens.* – The maritime liens set out in Section 33 hereof
18 shall take priority over registered mortgages, hypothèques, and charges. No other claim shall take
19 priority over such maritime liens or over such mortgages, hypothèques, or charges except as may
20 be specifically provided under this Act. The maritime liens set out in each of sub-sections (a) to (e)
21 of Section 34 hereof shall rank equally as between themselves.

22 **Section 37.***Maritime Liens in case of Salvage, Wreck Removal, or General Average Acts.* –
23 Maritime liens securing claims for salvage, wreck removal and contribution to general average
24 shall take priority over all other maritime liens which have attached to the ship prior to the time
25 when the operations giving rise to the said liens were performed.

26 Such liens shall rank in the inverse order of the time when the claims secured thereby
27 accrued. Claims for contribution to general average shall be deemed to have accrued on the date on
28 which the general average act was performed, while claims for salvage shall be deemed to have
29 accrued on the date on which the salvage operation was terminated.

30 In the event of a forced sale of a wreck of a ship, following its removal by MARINA, the
31 costs of such removal shall be paid out of the proceeds of the sale before all other claims secured
32 by maritime lien on the ship.

33 If at the time of the forced sale, the vessel is in the possession of a ship-builder or a ship-
34 repairer who enjoys a right of retention, such a ship-builder or ship-repairer shall surrender
35 possession of the ship to the purchaser but is entitled to obtain satisfaction of his claim out of the

proceeds of the sale after the satisfaction of the claims of holders of maritime liens mentioned in Section 34 hereof.

Section 38. *Extinguishment of Maritime Liens.* – Maritime liens shall be extinguished after a period of one (1) year from the time when the claims secured thereby arose unless, prior to the expiration of such period, the ship has been arrested and the ownership thereof transferred through a forced sale ordered by a competent court or tribunal.

The period of one (1) year shall not be subject to suspension or interruption: *Provided*, That the time shall not run while the person enforcing the lien is prevented from arresting the ship legally or by circumstances beyond his control.

Maritime liens which arose prior to the effectivity of this Act shall be extinguished one (1) year after the date of such effectivity.

Section 39. *Rights of Retention.*– The following persons, when in possession of ship or ship that is under construction, shall have the right to retain such ship or ship under construction, without need of a court order:

a. a shipbuilder, to secure claims arising out of the construction of, or other work carried out in relation to the ship; and

b. a ship repairer, to secure claims arising out of the repair of, including the modification, conversion or reconstruction of the ship, or other work carried out in relation to the ship, affected during such possession.

Section 40. *Extinguishment of Rights of Retention.* – The rights of retention under the preceding section shall be extinguished when:

a. the claim in respect of which said right has been exercised is met or is otherwise discharged;

b. the ship ceases to be in the possession of the ship-builder or ship-repairer as the case may be; or

c. The competent court orders the release of the ship.

Section 41. *Assignment or Subrogation.* – The assignment of or subrogation to a claim secured by a maritime lien results in the simultaneous assignment of or subrogation to such maritime lien.

Claimants holding maritime liens may not be subrogated to the compensation payable to the owner of the ship under an insurance contract.

Section 42. *Exclusions.* – The provisions of this Title shall not apply to:

a. a claim for the enforcement of a maritime lien that is already the subject of a pending case and which is sought to be enforced under the provisions of Pres. Decree No.1521, or the Ship Mortgage Decree, at the time of the effectivity of this Act;

b. A maritime lien which arose prior to the effectivity of this Act, unless such lien has already prescribed.

Chapter II

Section 43.*Application.*—The provisions of this Chapter shall apply to every mortgage wherever executed in respect of:

- a. a ship that is registered in the Philippines, or
- b. A ship that is under construction in the Philippines.

Section 44.*Subject of a Ship Mortgage.* – Unless otherwise stipulated, a ship mortgage shall include all the property of the mortgagor which is appropriated to the ship and on board at the time when the mortgage contract is entered into, or which is later substituted for such property.

In case the ship is under construction, the ship mortgage shall include all materials, machinery and equipment owned by the mortgagor that are within the premises of the builder's yard and distinctly identified as intended to be incorporated into the ship under construction.

Section 45.*Formal Validity.* –A ship mortgage shall not be valid unless it is made by or with the consent of the owner of the ship or ship under construction, and in writing and signed by the mortgagor and mortgagee. However, the ship mortgage may be validly made in the form of an electronic document as defined by law. Except as otherwise expressly provided in this Act, no other document for formal validity shall be required in order for the ship mortgage to be binding and effective upon the mortgagor and mortgagee.

Section 46.*Registration of Ship Mortgages.* – Every mortgage of a ship that is registered or under construction in the Philippines shall, on proper application, be registered in the Record of Mortgages and Encumbrances established in Section 27 hereof. If such a mortgage is not registered, it shall be unenforceable against the ship and third persons.

All entries in the Register of Mortgages and Encumbrances pertaining to the mortgage of a ship shall be annotated on the back of the Certificate of Philippine Registration, stating the time and date of transfer and the nature and subject matter of the encumbrance. All ship mortgages shall be registered in the order in which they are filed, indicating the date and time of registration.

MARINA shall, upon the registration of a mortgage, issue two official copies of the relevant entry in the Registry to the mortgagor. Each official copy of the entry shall bear the official time and date of the registration of the mortgage.

If a ship mortgage is transferred or materially amended or if one mortgage is substituted for another, the transfer, amendment or substitution shall likewise be entered into the Record. Any transfer, amendment or substitution that is not entered into the Record shall be unenforceable against the ship and third persons.

Section 47. Disclosure by the Mortgagor. – Upon request of the mortgagee prior to the

1 execution of the mortgage to which they are parties, the mortgagor shall provide in writing the
2 details of any prior ship mortgage and any maritime lien that is known to the mortgagor, upon the
3 ship which is the subject of the ship mortgage.

4 **Section 48.***Priority Between Ship Mortgages.* – Ship mortgages shall rank in the order of
5 their being recorded with the Registry.

6 **Section 49.***Notification of De-registration of Subject of Ship Mortgage.*– Except in case of a
7 forced sale upon order of a competent court, the de-registration of a ship shall not be permitted
8 unless all registered ship mortgages are first deleted, or the written consent of all holders of such
9 mortgages is obtained.

10 Where the de-registration of the ship is obligatory according to the provisions of this Act or
11 its implementing regulations, MARINA shall notify the holders of registered ship mortgages of the
12 pending de-registration in order to enable such holders to take appropriate action to protect their
13 interests. Unless the said holders consent to a shorter period, the de-registration shall not be
14 implemented until after a lapse of a reasonable time from notification in writing, which shall be not
15 less than three (3) months.

16 There shall be no other requirements for formal validity except as stated in the preceding
17 paragraphs.

18 Chapter III

19 Enforcement of Mortgage

20 **Section 50.***Grounds to Enforce a Ship Mortgage.* –A mortgagee shall be entitled to enforce
21 the security represented by the ship under a mortgage in the following cases:

22 a. The mortgagor defaults in the discharge of the indebtedness or other obligations secured
23 by the ship mortgage;

24 b. The mortgagor or any person in possession of the mortgaged property substantially
25 prejudices the security of the mortgagee by any act or omission;

26 c. The mortgagor commits any breach of the mortgage contract which, by the terms of the
27 contract, entitles the mortgagee to enforce the security.

28 **Section 51.***Remedies of Mortgagees.* –The enforcement of the security under the mortgage
29 may be carried out by:

30 a. Arresting the ship subject to the mortgage and applying for an order for its forced sale by
31 competent court; or

32 b. Foreclosing the mortgage; or

33 c. Any other manner stipulated in the mortgage contract.

34 **Section 52.***Arrest and Forced Sale of a Ship.*– A mortgagee entitled to enforce his mortgage,
35 or a person exercising a maritime lien, may bring a proceeding *in rem* against the ship which is the
36

subject of the mortgage or to which the maritime lien attaches, as the case may be, before a competent court having jurisdiction over the ship.

The petitioner shall be entitled to apply to the court *ex parte* for an order for the arrest of said ship. The petitioner's claim shall be supported by an affidavit stating the circumstances which entitles him to enforce the mortgage or lien. An affidavit executed abroad must be duly authenticated. If the affidavit satisfactorily establishes the petitioner's claim, the competent court shall order the arrest of the ship.

The court may require the petitioner to post a bond or other security before issuing the order of arrest. If so required, the bond or security shall not exceed the amount of the mortgage debt or lien.

The court shall, after judgment, order the forced sale of the ship to satisfy the claim, unless the ship has been released in accordance with the next succeeding section.

The rules on preliminary attachment under the Rules of Court shall not apply in the arrest of ships.

Section 53. Release of Arrested Ship. - The court shall not release the arrested ship prior to rendition of judgment unless the mortgagor, the owner of the ship, or any person authorized to act on his behalf or of any other person interested in the ship:

- a. applies to the court for an order releasing the ship from arrest, by making a cash deposit, and if the same is not possible upon presentation of competent evidence, by filing a counter-bond or security in an amount double the value of the claim, to secure the payment of any judgment that the mortgagee may recover in the action, or
- b. Proves that the arrest was improperly or irregularly made.

Section 54. Notice of Forced Sale of a Ship. - Prior to the forced sale of a ship, the court shall give, or cause to be given, at least thirty (30) days prior notice of the time and place of such sale, either in customary or electronic form, to the following:

- a. all holders of registered mortgages;
- b. such holders of maritime liens whose claims have been notified to the court and have not expired;
- c. All other persons having an interest in the ship, whose interests have been notified to the court.

Section 55. Effect of Forced Sale of a Ship. - In the event of the forced sale of a ship, all mortgages, except those assumed by the purchaser with the consent of the holders, and all liens and other encumbrances of whatsoever nature, shall cease to attach to the ship but shall attach to the proceeds of sale: *Provided*, That at the time of the sale, the ship is in the jurisdiction of the Philippines, and the sale has been effected in accordance with the laws of the Philippines.

Any charter party or contract for the use of the ship in existence at the time of the forced sale

shall be deemed to be terminated, without prejudice to any claim the charterer may have against the owner of the ship at the time of the sale.

Section 56.*Bankruptcy Does Not Affect Ship Mortgage.* –The mortgage of a ship is not affected by the bankruptcy or rehabilitation of the mortgagor after the date of the registration of the mortgage.

Section 57.*Distribution of the Proceeds.*–The costs awarded by the competent court and expenses arising out of the arrest and sale of the ship shall be paid first out of the proceeds of such sale. Thereafter, the following claims shall be satisfied out of the balance of the proceeds of the sale in the order herein enumerated, observing also the preference among each category of claims, established in Sections 34 and 36 on maritime liens and Section 46 hereof on ship mortgages:

- a. maritime liens;
- b. registered mortgages; and
- c. Rights of retention.

In case of deficiency, the mortgagee shall be entitled to file a suit *in personam* against the mortgagor.

Section 58.*Certificate of Release.*–When a ship registered in the Philippines has been the object of a forced sale in the Philippines, the competent court having jurisdiction shall, at the request of the purchaser, issue a certificate to the effect that the ship is sold free of all mortgages, maritime liens, and other encumbrances, except those assumed by the purchaser.

Upon the production of the above-mentioned certificate, MARINA shall delete all registered mortgages from the Registry, except those assumed by the purchaser, or issue a certificate of de-registration for the purpose of registration, as the case may be.

Section 59.*Effect of the Forced Sale of a Ship in Foreign States.*–The forced sale in a foreign state of a ship registered in the Philippines shall be recognized and effective in the Philippines: *Provided*, That the procedure for such forced sale in that foreign state substantially corresponds to the appropriate procedure set out herein.

Chapter IV

Foreign Liens and Mortgages

Section 60.*Foreign Maritime Liens.* –A claim governed by the law of a State other than the Philippines and recognized by such law as giving rise to a maritime lien or right of a similar nature against the owner, or against the demise or other charterer, manager or operator of a ship, shall be recognized by and enforceable in the Philippines: *Provided*, That said claim constitutes or corresponds substantially to a claim set out in this Act. The provisions of this Act relating to maritime liens, including priority, ranking of liens between themselves, and enforcement, shall also apply to such claims.

Section 61.*Foreign Mortgages.*— A foreign mortgage, or any mortgage or hypothec which relates to a ship of foreign registry, shall be recognized and enforceable in the Philippines: *Provided, That:*

a. such mortgage has been effected and registered or otherwise recorded in accordance with the law of the State where the ship is registered;

b. such register and any instrument or document which are required to be deposited are open to public inspection, and that extracts of the register and copies of such instruments are obtainable from the registrar, and

c. either the register or the loan agreement specifies:

1. the name and address of the person in whose favor the mortgage has been effected or that it has been issued to bearer;

2. the amount secured by the mortgage or the manner of calculating said amount;

3. the date of the mortgage; and

4. such other particulars which, according to the law of the State where the ship is registered, determine the rank in regard to other registered mortgages.

All matters relating to the procedure for enforcement of foreign mortgages shall be governed by this Act.

Section 62.*Priority and Ranking of Foreign Mortgages.*— Foreign mortgages shall be subordinate to maritime liens as set out in this Act.

The ranking of foreign registered mortgages as between themselves, and their effect as regard to third parties, shall be governed by the law of the State where the ship is registered.

Title IV

Limitation on Liability

Chapter 1

Right to Limit Liability

Section 63.*Application.* — The following may invoke the right to limit their liability in accordance with the rules provided for in this Title for the claims set out in the succeeding section:

a. Ship owners;

b. Ship operators;

c. Bareboat charterers;

d. Ship managers;

e. Salvors with respect to claims set forth in Section 65 hereof:

f. Any person whose act, neglect or default the ship owner, ship operator, bareboat charterer, ship manager or salvor is responsible for; and

g. Insurers who assume the liability of any ship owner, ship operator, bareboat charterer, ship

1 manager, or salvor.

2 They may invoke their right to limit liability against any claimant in a judicial action who
3 has sought the arrest of their vessels in order to enforce a claim which is subject to limitation.

4 **Section 64.***Claims which are Subject to Limitation.* – The following claims made against the
5 persons set forth in the preceding section or against the ship, whatever the basis of liability may be,
6 shall be subject to the limitation of liability:

7 a. Claims in respect of loss of life or personal injury, or loss of or damage to property,
8 including damage to harbor works, basins, waterways and aids to navigation, occurring on board
9 or in direct connection with the operation of the ship or with salvage operations and
10 consequential loss resulting therefrom;

11 b. Claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers
12 or their luggage;

13 c. Claims in respect of other loss resulting from the infringement of rights, other than
14 contractual rights, occurring in direct connection with the operation of the ship or of salvage
15 operations;

16 d. Claims in respect of loss or damage arising from the raising, removal, destruction or the
17 rendering harmless of a ship which is sunk, wrecked or abandoned, including anything that is or has
18 been on board such ship;

19 e. Claims in respect of loss or damage resulting from the removal, destruction or the
20 rendering harmless of the cargo of the ship;

21 f. Claims in respect of measures taken in order to avert or minimize loss for which the
22 person liable may limit this liability in accordance with this Title, and any further loss caused by
23 such measures.

24 **Section 65.***Claims Not Subject to Limitation.* – The following claims shall not be subject to
25 any limitation of liability in accordance with this Title:

26 a. Claims arising from the contract of salvage or from any salvage operation rendered in
27 accordance with relevant Philippine law on salvage or any applicable international salvage
28 convention, including any claim for special compensation payable under a contract of salvage, or
29 any contribution in general average;

30 b. Claims for oil pollution damage within the meaning of the applicable convention
31 covering the civil liability for oil pollution damage or any amendment thereto which is in force;

32 c. Claims subject to any international convention governing or prohibiting the limitation of
33 liability for nuclear damage;

34 d. Claims against the ship owner of a nuclear ship for nuclear damage;

35 e. Claims brought by employees against the shipowner, ship operator, bareboat
36 charterer, ship manager, or salvor, where the duties of such employees are connected with the ship

or with the salvage operations, as the case may be, or their heirs, successors, or assigns, if under the law governing the contract of employment, the ship owner, ship operator, bareboat charterer, ship manager, or salvor is not entitled to limit his liability in respect of such claims, or if the law governing the contract of employment permits a limit of liability greater than that provided for in this Act.

Section 66.*Conduct Barring Limitation.* – Any shipowner, ship operator, bareboat charterer, ship manager or salvor, or any person acting on their behalf, shall not be entitled to limit liability if it is proven that the loss resulted from the personal act or omission of such ship owner, ship operator, bareboat charterer, ship manager, or salvor, or any person acting on their behalf, and such actor omission was committed with the intent to cause such loss, or it was done recklessly and with the knowledge that such loss would probably result.

Section 67.*Counterclaims; Right to Set Off.* – When a ship owner, ship operator, bareboat charterer, shipmanager, or salvor, who is entitled to limit his liability, has a counterclaim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the limits of liability shall only apply to the balance of the claim, if any. The right of set off can be invoked only if both parties are entitled to limit their respective liabilities and their respective claims do not fall within the provisions of sections 65 and 66 of this Act.

Chapter 2

Limits of Liability

Section 68.*General Limits.*– The general limits of liability for claims other than for passenger claims, arising from any distinct occasion shall be calculated as follows:

a. In respect of claims for loss of life or personal injury:

1. 2,000,000 units of account for a ship with atonnage not exceeding 2,000 tons;

2. For a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in a.1:

i. For each additional ton from 2001 to 30,000 tons, 800 units of account;

ii. For each additional ton from 30,001 to 70,000 tons, 600 units of account;

iii. For each additional ton in excess of 70,000 tons, 400 units of account

b. In respect of any other claims:

1. 1,000,000 units of account for a ship with atonnage not exceeding 2,000 tons;

2. For a ship with a tonnage in excess thereof the following amount in addition to that mentioned in b.1:

i. For each additional ton from 2001 to 30,000 tons, 400 units of account;

ii. For each additional ton from 30,001 to 70,000 tons, 300 units of account;

iii. For each additional ton in excess of 70,000 tons, 200 units of account.

1 The MARINA, with the approval of the Secretary of the Transportation may by
2 regulation revise the limits of liability provided for in this section to align such limits with
3 applicable international maritime conventions.

4 **Section 69.***Claims for Loss of Life in Excess of the Stipulated Limit.* - If the amount calculated
5 in accordance with subsection (a) of the preceding section is insufficient to pay in full all the
6 claims for loss of life or personal injury, the amount calculated in accordance with subsection (b)
7 shall be available for the payment of the unpaid balance of the claims under subsection (a).

8 In this case, the unpaid balance for claims for loss of life and personal injury shall rank
9 ratably with all other claims falling under subsection (b): *Provided*, however, That if there should
10 be any claim arising from damage to harbor works, basins and waterways, and aids to navigation,
11 these shall be satisfied first before any other claim falling under subsection (b) are satisfied,
12 including any unsatisfied claims for loss of life or personal injury.

13 **Section 70.***Salvor's Limit of Liability when Not Operating from a Ship.* - The limit of liability
14 for any salvor who is not operating from any ship or salvage tug, or who is operating solely on the
15 ship to, or in respect of, which he is rendering salvage services, shall be calculated in accordance
16 with the provisions of section 69 of this Act applying a tonnage of 1,500 tons.

17 **Section 71.** *Limit of Liability for Passenger Claims.* - The limit of liability of a ship owner,
18 ship operator, bareboat charterer, or ship manager, for passenger claims relating to loss of life or
19 personal injury arising out of any distinct occasion, shall be an amount equivalent to 175,000 units
20 of account multiplied by the number of passengers which the ship is authorized to carry according
21 to the ship's certificate.

22 Claims for loss of life or personal injury to passengers of a ship shall mean any such claims
23 brought by or on behalf of:

- 24 a. Any person carried on the ship under a contract of passenger carriage; or
25 b. Any person carried on the ship who, with the consent of the master, is accompanying a
26 vehicle, or a shipment of live animals, or other cargo which is covered by a contract for the carriage
27 of goods.

28 **Section 72.***Formula for Converting the Unit of Account to Philippine Peso.* - The unit of
29 account mentioned in this Chapter shall be converted to Philippine Pesos according to the value of
30 the Philippine Peso on the date the limitation fund is constituted, or payment is made, or security is
31 given. The equivalent value of the Philippine Peso shall be calculated in accordance with the
32 method of valuation applied by the International Monetary Fund for its operations and transactions
33 in effect on the applicable date.

34 **Section 73.***Aggregation of Claims for Loss of Life and Personal Injury and for other*
35 *Claims.* - The limits of liability for loss of life and personal injury and for other claims determined
36 in accordance with Section 68 hereof shall apply to the aggregate of all claims which arise on any

1 distinct occasion against:

2 a. The ship owner, ship operator, bareboat charterer, or ship manager and any person whose
3 act, neglect or default such ship owner, ship operator, bareboat charterer or ship manager is
4 responsible for; or

5 b. The ship owner, ship operator, bareboat charterer, or ship manager of a ship rendering
6 salvage services from a ship or the salvor or salvors operating from a salvage tug, and any person
7 whose act, neglect or default the ship owner, ship operator, bareboat charterer, ship manager or
8 salvor is responsible for; or

9 c. The salvor who is not operating from a ship or salvage tug or who is operating solely on
10 the ship to, or in respect of, which the salvage services are rendered and any person whose act,
11 neglect or default the salvor is responsible for.

13 Chapter 3

14 Limitation Fund

15 **Section 74.** *Creation of a Limitation Fund.* – Any person entitled to limit his liability in
16 accordance with section 63 hereof and who is alleged to be liable for a claim: *Provided*, in section
17 64 hereof may, at any time during the hearing of the case or after the arrest of his vessel, constitute
18 a fund with the court in which legal proceedings have been instituted for the satisfaction of the
19 claim subject to limitation.

20 The fund shall be in an amount equivalent to the limits of liability set forth in sections 68, 70
21 and 71 hereof, as the case may be, together with any interest due thereon from the date of the
22 occurrence giving rise to the liability until the date of the creation of the fund. The total amount
23 of the fund shall be subject to the rules on aggregation of claims set forth in section 73 of this Act.

24 Any fund created shall be available only for the payment of claims in respect of which
25 limitation of liability can be invoked.

26 **Section 75.** *Insurance Indemnity Cover.* - Every ship owner or bareboat charterer shall be
27 required to maintain adequate insurance coverage or protection and indemnity coverage to meet the
28 financial responsibility for any liability which such ship owner or bareboat charterer may incur for
29 loss of or injury to human life, damage to property and to the marine environment. In determining
30 the limits for mandatory insurance coverage for seagoing ships, the MARINA shall take into
31 account and be guided by the applicable limits of liability provided in relevant international
32 conventions. In setting the limits for mandatory insurance coverage for coastwise vessels the
33 MARINA shall consider the prevailing local social, economic and other conditions in the
34 Philippines.

35 **Section 76.** *Form of the Fund.* – The fund may be created, either by depositing the sum with
36 a bank or other financial institution designated by the court, or by providing a bond, or other

1 security acceptable to the court.

2 The fund constituted by any of the persons mentioned in Section 63, subsections (a), (b), (c),
3 (d) or (e) shall likewise be deemed constituted in favor of the persons mentioned in subsection (f)
4 and (g) of that section.

5 **Section 77.***Distribution of the Fund.*— Subject to the provisions of Sections 68 and 69 hereof,
6 the limitation fund shall be distributed among the claimants in proportion to their claims against the
7 fund as determined by the court.

8 **Section 78.***Subrogation of Rights.* – If at any time before the fund is distributed, the ship
9 owner, ship operator, bareboat charterer, ship manager or salvor, or their respective insurers, settles
10 a claim made against and payable by the fund, such person shall, up to the amount paid, acquire by
11 subrogation the rights which the claimant would have enjoyed under this Title.

12 **Section 79.***Contingency Fund for Expected Claim.* – Where the ship owner, ship operator,
13 bareboat charterer, ship manager, or salvor, or their respective insurers, establishes that it may be
14 compelled to pay a claim, at a later date, whether in whole or in part, and because of such payment,
15 the ship owner, ship operator, bareboat charterer, ship manager or salvor, or their respective
16 insurers, would have enjoyed a right of subrogation if the claim had been paid before the fund was
17 distributed, the court having jurisdiction over the claim and in which the fund has been constituted
18 may order that a sufficient sum from the fund be provisionally set aside to enable the person who
19 has been subrogated to the rights of the claimant to enforce his claim against the fund at such later
20 date.

21 **Section 80.***Bar to other Actions.* - Where a limitation fund has been constituted in
22 accordance with section 74 hereof, any person having made a claim against the fund shall be barred
23 from enforcing such claim against any other assets of the persons mentioned in Section 63 hereof
24 and on whose behalf the fund has been constituted.

25 **Section 81.***Release from Arrest after the Constitution of the Limitation Fund.* – After a
26 limitation fund has been constituted in accordance with section 74 of this Act, any ship or other
27 property, belonging to a shipowner, ship operator, bareboat charterer, ship manager or salvor on
28 whose behalf the fund has been constituted, which has been arrested or attached in accordance with
29 Title III of this Act in order to satisfy a claim which is enforceable against the fund or any other
30 bond or security given, may be released from arrest at the discretion of the court.

31 Such release shall however be mandatory if the limitation fund has been constituted:

- 32 a. At the port where the occurrence took place;
- 33 b. If the occurrence took place out of port, at the first port of call of the ship after such
34 occurrence;
- 35 c. At the port of disembarkation in respect of claims for loss of life or personal injury;
- 36 d. At the port of discharge in respect of damage to cargo; or

1 e. At the port where the arrest is made.

2 The provisions of this section and of the immediately preceding section shall apply only if
3 the claimant may bring a claim against the limitation fund before the court administering that fund
4 and the fund is actually available and freely transferable to the claimant in respect of the claim.
5

6 Title V

7 Enforcement/Investigation

8 **Section 82.** *Report of any Incident Involving a Philippine Registered Ship.* – When any
9 Philippine flag vessel sustains an accident or causes any incident involving the loss of life, material
10 loss of property, or serious injury to any person, or receives any damage affecting her
11 seaworthiness or her efficiency, or if it should cause any pollution or damage to the marine
12 environment, regardless of where such accident or incident may occur, the ship owner, ship
13 operator, bareboat charterer, ship manager, agent or master of such vessel shall immediately, after
14 the occurrence of the accident or incident, send a report of the accident or incident to the regional
15 office of the MARINA nearest the place of the accident or incident or, in the case of seagoing
16 vessels, to the head office of the MARINA in the port of Manila, stating:

- 17 a. The name of the vessel;
18 b. The port to which the vessel belongs;
19 c. The place where the incident occurred;
20 d. The nature and probable cause of the incident;
21 e. The number and names of those who perished; and
22 f. The estimated amount of loss or damage to the vessel, the cargo or the marine
23 environment.

24 The ship owner, ship operator, charterer, ship manager, agent or master may be required to
25 furnish such other information as shall be called for.
26

27 Title VII

28 Casualty Investigation

29 **Section 83.** *Marine Safety Investigation.* – Following the occurrence of an accident or
30 incident involving a Philippine flag coastwise or seagoing vessel resulting in the loss of life,
31 material loss of property, or serious injury to any person, or receives any damage affecting her
32 seaworthiness or her efficiency, or if it should cause any pollution or damage to the marine
33 environment, regardless of where such accident or incident may occur, the MARINA on its own or
34 through a duly constituted independent group of suitably qualified safety inspectors, shall
35 immediately undertake a marine safety investigation. This investigation shall be separate from any
36 other form of investigation that may be undertaken by any other government agency.

Section 84. *Nature of the Investigation.* – The investigation undertaken in accordance with this Chapter shall not apportion blame or determine liability but shall be conducted to determine the cause of the accident and the identification of measures to prevent the occurrence of similar marine casualties, accidents or incidents in the future.

Section 85. *Power of Safety Investigators to Investigate.* – Maritime safety investigators appointed by the MARINA shall have full powers to board the Philippine flag ship regardless of where it may be found, and interview the master and the crew and any other person involved, and acquire such evidentiary material for purposes of undertaking and completing the marine safety investigation.

Section 86. *Amendment of Safety Regulations.* – Following completion of the safety investigation and upon a complete study of the safety investigation report, the MARINA shall take measures to amend its safety regulations to implement the recommendations made in the report.

Section 87. *Providing Reports to the International Maritime Organization.* – The MARINA as competent authority shall provide a copy of the report to the International Maritime Organization to enable a wide dissemination of information and to assist the international maritime community to address safety issues.

Title VIII

Operation of Vessels

Section 88. *Ship Construction.* – Every new building registered under Philippine laws shall be constructed in accordance with standards for ship construction set forth in international maritime conventions and implemented through government regulations.

Ship construction shall be under the supervision of the MARINA or a recognized organization appointed for the purpose. The recognized organization shall oversee the construction of the ship and ensure that the construction regulations provided in international maritime conventions and those issued by the MARINA covering the structural strength and integrity of all parts of the ship's hull and its appendages as well as the safety and reliability of the main propulsion, steering systems and auxiliary systems of the ship are followed.

Section 89. *Navigation and Communications Equipment.* – Every Philippine flag vessel shall have on board such navigation and communication equipment and apparatus required by international maritime convention for the safe navigation of ships. Every equipment and apparatus that shall be required to be installed on board shall be suited for the type, tonnage, power, means of propulsion and trading limitations of the particular ship.

Section 90. *Equipment to Prevent Marine Pollution.* – Every Philippine flag vessel shall have on board equipment and apparatus to prevent, reduce, or control pollution to the marine environment emanating from ships. Every equipment and apparatus required to be installed on

board shall be suited for the type, tonnage, power, means of propulsion and trading limitations of the particular ship.

Section 91. *Inspections and Surveys.* – To ensure the proper maintenance of the ship’s hull, machinery and equipment, its through-life compliance with international conventions and government regulations, and its safe operation, every Philippine flag vessel shall be subject to periodic inspections and surveys.

Section 92. *Scope of Inspections and Surveys.* – The inspections and surveys shall be conducted in accordance with international maritime conventions and government regulations, and shall include an inspection and survey of the ship’s:

- a. Hull structure;
- b. Machinery and equipment;
- c. Life-saving equipment;
- d. Fire-fighting equipment; and
- e. Radio and communications installations.

Section 93. *Extent of authority of recognized organization.* – The MARINA, in appointing a recognized organization or classification society to conduct the inspection and survey of ships, shall inform the recognized organization of the specific responsibilities and conditions of the authority delegated to it.

Section 94. *Issuance of Certificates.* – The recognized organization, pursuant to the functions delegated to it by the MARINA, shall have the authority to issue vessel certificates to every Philippine flag vessel and for this purpose, the vessel certificates issued by such recognized organization shall be deemed to have met the requirements of this Act.

Copies of the vessel certificates shall be submitted to the MARINA which shall, upon verification of compliance, issue a certificate of inspection in favor of the complying vessel confirming the findings of the recognized organization.

Section 95. *Availability of Vessel Certificates.* – The vessel certificates mentioned in the immediately preceding section shall be readily available on board the vessel for examination at all times.

Title IX

Manning Requirements

Section 96. *Citizenship of Crew.* –Vessels engaged in coastwise trade as well as sea going vessels shall employ full Filipino crew: *Provided, however,* That seagoing vessels shall be subject to the exemption mentioned in Section 9b(5) hereof.

An exemption from this citizenship requirement on such terms and conditions and for a limited period as may be determined by the MARINA may be obtained from MARINA upon

written application from the ship owner or operator. This exemption however shall not be granted to coastwise vessels.

Section 97. *Crew Competence.* – Every member of the crew of a Philippine flag vessel shall possess the appropriate certificate of competency setting forth his competence to serve in the capacity and perform the functions involved at the level of responsibility, for the position held, for the type, tonnage, power, means of propulsion, and trading limitations of the ship concerned.

The certificate of competency, as well as any endorsements thereto and any renewals thereof, shall be issued by MARINA. The certificate of competency shall attest to the fact that the seafarer to whom it is issued meets the requirements for service, age, medical fitness training, qualification, and examinations for the position held.

Section 98. *Crew Deployment.*– Crew deployment to Philippine flagged seagoing vessels engaged in international or regional trade shall continue to be undertaken by the Philippine Overseas Employment Administration (POEA) in accordance with the appropriate provisions of the Maritime Labor Convention (MLC).

Title X

Final Provisions

Section 99. *Requisition of Vessels.* — The President of the Philippines may, in times of war and other national emergency, when the public interest so requires, order the requisition of any and all vessels of Philippine registry, absolutely or temporarily, for any naval or military purpose. The Government shall pay the owner or operator of the vessel, based on normal conditions at the time of requisition:

- a. The fair market value, if the vessel is taken absolutely; or
- b. The fair charter value, if the vessel is taken temporarily, for the period commencing from the takeover by the Government to the date the vessel is returned to its owner or operator.

Section 100. *Streamlined and Rationalized Procedures.* – To ensure the effective implementation of this Act and the further streamlining of processes to support the country's competitiveness and promote trade facilitation, the MARINA shall coordinate with the Department of Foreign Affairs, Department of Finance, Department of Labor and Employment, Department of Health, Department of Interior and Local Government, Securities and Exchange Commission, Philippine Overseas Employment Administration, Bureau of Immigration, Board of Investments, Bureau of Customs, Bureau of Internal Revenue, Philippine Ports Authority, Philippine Coast Guard, Bureau of Fisheries and Aquatic Resources, Bureau of Quarantine and other relevant offices and agencies to further streamline policies, requirements, processes, procedures, and national and local government fees, dues, charges, tariffs, assessments, rates and other levies, on the acquisition, registration and operation of vessels; the hiring, deployment, change and

1 repatriation of crew; the construction, repairs, maintenance and recycling of ships; and other
2 government and business processes concerning vessels in the Philippine Registry.

3 **Section 101.** *Implementing Rules and Regulations.*—MARINA shall issue the implementing
4 rules and regulations as may be necessary to implement the provisions of this Act.

5 **Section 102.** *Administrative Offenses and Penalties.*—To ensure faithful compliance with
6 the rules and regulations issued in accordance with the preceding section, MARINA, through
7 summary administrative proceedings, may identify, prohibit, and penalize such acts and activities
8 that may reduce the efficiency and reliability of the Philippine Ship Registry, impede the
9 effectiveness of the exercise of Philippine jurisdiction and control over Philippine flag vessels, or
10 otherwise interfere with its duties and responsibilities as a flag State and the implementation of this
11 Title.

12 For this purpose, MARINA is authorized to impose an administrative fine of not less than
13 Ten Thousand Pesos (PhP 10,000.00) but not more than Five Hundred Thousand Pesos (PhP
14 500,000.00), as well as the penalty of suspension, cancellation, or revocation of the relevant
15 certificates, for violations of this Act and such rules and regulations that it may issue pursuant to
16 this Act.

17 The range of fines shall be subject to review and revision every five (5) years from the date
18 of effectivity of this Act, but in no case shall any increase exceed an amount equivalent to twenty
19 percent (20%) of that previously imposed.

20 **Section 103.** *Repealing Clause.* — The following laws are hereby repealed:

- 21 a. Articles 573 to 585 of the Code of Commerce of 1888;
- 22 b. Sections 801 to 821 of Republic Act No. 1937;
- 23 c. Republic Act No. 913;
- 24 d. Republic Act No. 1407;
- 25 e. Republic Act No. 6106;
- 26 f. Republic Act No. 7471, as amended;
- 27 g. Republic Act No. 9301;
- 28 h. Presidential Decree No. 214;
- 29 i. Presidential Decree No. 760, as amended.

30 The provisions of the following laws covering the powers and functions of MARINA are
31 hereby amended insofar as they are inconsistent with section 6 of this Act:

- 32 j. Presidential Decree No. 474, as amended,
- 33 k. Executive Order No. 125 and 125-A, as amended;
- 34 l. Section 10 of Republic Act No. 9295.

35 Section 14 of Republic Act No. 9295 is hereby amended insofar as it is inconsistent with
36 Section 51 of this Act.

1 Such other laws, presidential decrees, executive orders, issuances, rules and
2 regulations or parts thereof, which are otherwise inconsistent with the provisions of this Act are
3 hereby repealed, amended or modified accordingly.

4 **Section 104. *Separability Clause.*** – If, for any reason, any section, subsection, clause or term
5 of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such
6 declaration shall remain in full force and effect.

7 **Section 105. *Transitory Provisions.*** – Every ship currently registered under the laws of the
8 Philippines and granted the privilege to fly its flag shall be deemed to be registered under this Act
9 in so far as its registration is not inconsistent with the provisions of this Act and such registration
10 shall continue to be valid until its expiration unless sooner revoked by MARINA.

11 Any ship mortgage entered into in accordance with the provisions of the Ship Mortgage
12 Decree or the Chattel Mortgage Law shall continue to be valid and effective and its registration
13 shall be transferred to the MARINA in accordance with the provisions of this Act. Nothing in the
14 transfer shall change or in any way alter or affect any preference a registered mortgage may enjoy
15 or the original date on which such mortgage was entered in the registry.

16 **Section 106. *Effectivity.***– This Act shall take effect fifteen (15) days from its publication in
17 at least two (2) national papers of general circulation.

18 Approved,