

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

EIGHTEENTH CONGRESS
First Regular Session

6511
House Bill No. _____



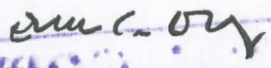
Introduced by REPRESENTATIVE ERIC L. OLIVAREZ

EXPLANATORY NOTE

The Philippine Ship Registry is a mechanism that is designed to confer nationality, exercise jurisdiction, protect and enforce rights, and undertake the national and international responsibilities of a flag State, over all ships flying the Philippine flag. The Philippine Ship Registry shall pave the way for the Philippines to be established as a leading maritime nation and respected flag State and shall also ensure the reliability, safety, competitiveness, and effectiveness of Filipino-owned-and-manned maritime fleets and vessels.

The key objectives of this Bill include but is not limited to enhancing and rationalizing the Philippine maritime industry by establishing a ship registry and procedures in registration of ships in compliance with international maritime conventions regulations and practices and providing adequate protection to merchant fleets and help expand Philippine international trade. In order to achieve these objectives, several key provisions are provided such as the establishment of the Philippine Ship Registry as the repository of the records of Philippine flag ships requiring the information to be recorded therein as requisite to mandatory registration that contain the specifications of the ships including the encumbrances, if applicable, mandating the ship owner, operator, bareboat charterer, ship manager, agent or master to immediately report to MARINA incidents involving loss of life, serious injuries, material loss to property or those affecting the seaworthiness of the vessel or causing pollution or damage to the marine Environment. Several more provisions are provided for that will aid the government in achieving the country's goal of becoming a leading maritime nation and respected flag state.

In view of the foregoing, the passage of this Bill is earnestly sought.


ERIC OLIVAREZ

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Introduced by **REPRESENTATIVE ERIC L. OLIVAREZ**

**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, WHICH COLLECTIVELY
WILL PROMOTE A COMPREHENSIVE AND ORDERLY
PHILIPPINE SHIP REGISTRY SYSTEM FOR THE REGULATION OF
VESSELS CARRYING THE FLAG STATE**

*Be it enacted by the Senate and the House of Representatives in 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;
- f. To align the tax structure for its domestic and overseas shipping fleet to make it competitive; and
- g. To provide a mechanism for the early adoption and implementation of international maritime regulations and conventions.

Section 3. Implementing Agency. -The Maritime Industry Authority (MARINA) shall be the implementing agency of this Act. The MARINA shall provide secretariat support in the enforcement of this Act.

Chapter 2 Definitions

Section 4. Definition of Terms. - As used in this Act:

- a. **Arrest** refers to the attachment of a vessel by judicial process through an order of a competent court in order to secure the enforcement of a maritime claim, which attachment shall produce the effect of detaining or restricting the removal of a ship in execution or satisfaction of a judgment;
- b. **Bareboat charter** refers to a contract for the lease of a ship, for a stipulated period of time, by virtue of which the bareboat charterer has complete possession and control of the ship, including the right to appoint the master and crew of the ship, for the duration of the lease;
- c. **Bareboat charterer or charterer** may be used interchangeably and refers to any person, commercial partnership or corporation which bareboat charters a Philippine flag vessel from another Philippine national, or a vessel of compatible foreign registry, for its own use;
- d. **Certificate of Philippine Registration** refers to the document of registration of a vessel registered in accordance with Section 13 of this Act;
- e. **Claimant** refers to a person who asserts that a maritime claim exists in his favor;
- f. **Court or Philippine court or competent court** may be used interchangeably and refers to a court of appropriate jurisdiction within the territory of the Philippines;
- g. **De-registration** refers to the act of deleting a ship from the Registry of Ships of the Philippines and the cancellation of the Certificate of Philippine registry in accordance with Section of this Act;
- h. **Foreign flag vessel** refers to a ship which is registered under the laws of a country other than the Philippines and which is authorized to fly the flag of that country;
- i. **Foreign registry** refers to the registry of ships of a country other than the Philippines;
- j. **Maritime claim** refers to any of the claims provided in this Act;

k. **Maritime lien** refers to a charge that attaches to a ship which arises from a maritime claim against the ship, its owners, charterers, managers, or operators that results in a demand for indemnity or remuneration from the ship or its owners, charterers, managers or operators and is enforceable by judicial action;

l. **Mortgagee** refers to the person, whether natural or juridical, in whose favor a ship mortgage is created in order to secure a principal obligation;

m. **Mortgagor** refers to a ship owner who constitutes a ship mortgage over a vessel or a vessel under construction registered in its name in order to secure the fulfillment of a principal obligation;

n. **Philippine Flag Vessel** refers to any vessel duly registered under Philippine Laws and authorized to fly the Philippine flag;

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

p. **Registration** refers to the act of entering a ship in the Registry of Ships of the Philippines in accordance with this Act;

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

r. **Record of Ship Mortgages and Encumbrances** refers to the public record maintained by the MARINA containing all details of the vessel's mortgage and encumbrances, as will be further described in details hereafter;

s. **Seagoing vessel** refers to any Philippine flag vessel of five hundred (500) gross tons or more, authorized to carry passengers or cargo, or both, in trade between a Philippine port and a foreign port, or between two foreign ports;

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

u. **Ship mortgage** refers to a contract executed by the owner of a ship creating a security interest over a particular vessel or a vessel under construction in order to secure the performance of a principal obligation;

v. **Ship owner** refers to any person, commercial partnership or corporation authorized to own, operate, manage, control, lease or charter out, or otherwise engage in the business of shipping;

w. **Ship operator** refers to any person, commercial partnership or corporation authorized to operate, manage or control a ship owned by another;

x. **Tonnage or Gross tonnage** may be used interchangeably unless otherwise indicated and refers 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 refers 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, hereinafter referred to as the "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 the 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;
- f. Entitlement to the privilege to engage, consistently with the limitations provided by law, in Philippine coastwise trade in accordance with corollary permits, certificates and franchises that may be issued to the vessel; and
- g. Entitlement to the right to invoke the exercise of jurisdiction and control by Philippine government authorities over all persons found on board the vessel, or over any incident involving the penal or disciplinary responsibility of the master or any member of the crew whether the same arises from a crime or quasi-delict committed on board the vessel or from any collision or other incident of navigation concerning the ship.

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

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

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

Section 9. Who may Register. -

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

1. The ship is five hundred (500) gross tons or more;
2. The ship is owned by a qualified person, as may be determined by the MARINA;

3. The ship meets the requirements for safety, security, marine environmental protection, crew nationality, training, certification and competency, and crew welfare.

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

1. It is used only in international voyages;

2. It is managed by a qualified person residing in the Philippines, as may be determined by the MARINA;

3. It complies with the applicable provisions that govern the safety and security of Philippine ships and persons on board;

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

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

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

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

Section 10. *Licensure.* - Every ship, regardless of size, intended to be used in the carriage of passengers or cargo, or both, between ports and places, in the coastal, internal, inland or sheltered waters of the Philippines, shall be covered by a license to operate: *Provided,* That such ship is owned by a citizen of the Philippines or a corporation or association organized under the laws of the Philippines at least sixty percent (60%) of whose capital is owned by such citizens and the ship meets the other

conditions for the grant of the license imposed by this Act and the regulations pursuant hereto.

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

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

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

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

d. Labor and social conditions. - A ship must meet the labor and social standards required by applicable international labor conventions, rules and standards as implemented by the 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. - The applicant for ship registration must pay 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 the 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 the 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 the MARINA has 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. The

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

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

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

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

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

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

- a. Mere clerical errors without any effect on the meaning and substance of the document shall be corrected by the appropriate and designated officer of the MARINA who shall make the necessary correction;
- b. Any mistake or error that might affect the meaning and substance of the documents shall be corrected by order of the MARINA after notice to, and hearing of, the interested parties.

Section 18. *Reconstitution of Lost Certificate.* - If the Certificate of Philippine Registration of a ship is lost or damaged, the owner, master or agent thereof may file an application with the MARINA for the issuance of a replacement certificate. The replacement certificate shall indicate that the original certificate is considered cancelled and revoked. If after the issuance of the replacement 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 the MARIN A

Section 19. *Suspension, Cancellation or Revocation of Ship Registration.* - The registration of a Philippine flag vessel shall be cancelled 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 the MARINA;

c. In the case of a 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. The ship is determined by the 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 the 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 the MARINA;

j. The ship owner, manager, agent or bareboat charterer is proven to have given or submitted to the 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 the 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 the 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 the 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 the 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 the 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 the MARINA determines that the conditions for the additional incentive is violated or proof shown for its existence is fabricated, the Certificate of Philippine Registration may be revoked in accordance with Section 19 paragraph G) hereof

Section 25. *Adjustments in Fees and Taxes.* - The 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 various 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.* - The 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 the 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;

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

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

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

Section 31. Rights Over Vessels Under Construction. - Any right in respect to a vessel under construction in the Philippines may be entered and recorded after the keel has been laid or equivalent construction work has been performed. Vessels under construction contracted by a Philippine national may be registered in accordance with the provisions of this Act. In order that the vessel may be the subject of registration under this Act, it is necessary that the keel of the vessel must have been laid and a keel number assigned by the shipyard at the time of application.

Section 32. Inspection of the Record. - The Record shall be open to public inspection during ordinary business hours in the offices of the MARINA and online. Upon request and payment of reasonable fees, extracts from the Record of Ship Mortgages and Other Rights, and/or authenticated copies of any document or instrument required to be filed

under this Title and/or pertinent rules and regulations, or extracts thereof, shall be furnished to any person.

Title III

Maritime Liens and Encumbrances

Chapter 1

Maritime Liens

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

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

a. claims for wages and other sums due to the master, officers and other members of the ship's complement in respect of their employment on the ship;

b. claims in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the ship;

c. claims based on tort and not capable of being based on contract, in respect of loss or damage to property caused by the operation of the ship other than loss of or damage to cargo, containers and passengers' effects carried on the ship;

d. claims for port, canal, and other waterway dues, tonnage dues, light dues, pilotage dues, other public taxes, dues and charges of the same character; and

e. Claims relating to the salvage, wreck removal and contribution in general average.

Section 35. *Claims Not Secured by Maritime Liens.* - No maritime lien shall attach to a ship

to secure claims for damages in connection with the carriage of oil or other hazardous or noxious

substances by sea for which compensation is payable to the claimants pursuant to international

conventions, local laws, or compulsory insurance, or those which arose out of or which resulted from

the radioactive properties or a combination of radioactive properties with toxic, explosive or other

hazardous properties of nuclear fuel, or of radioactive produce or waste.

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

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

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

In the event of a forced sale of a wreck of a ship, following its removal by the MARINA, the costs of such removal shall be paid out of the proceeds of the sale before all other claims secured by maritime lien on the ship. If at the time of the forced sale, the vessel is in the possession of a ship-builder or a ship repairer who enjoys a right of retention, such a ship-builder or ship-repairer shall surrender possession of the ship to the purchaser but is entitled to obtain satisfaction of a 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 Presidential 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

Ship Mortgages

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.

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

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

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

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

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

Chapter III

Enforcement of Mortgage

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

- a. The mortgagor defaults in the discharge of the indebtedness or other obligations secured by the ship mortgage;
- b. The mortgagor or any person in possession of the mortgaged property substantially prejudices the security of the mortgagee by any act or omission;
- c. The mortgagor commits any breach of the mortgage contract which, by the terms of the contract, entitles the mortgagee to enforce the security.

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

- a. Arresting the ship subject to the mortgage and applying for an order for its forced sale by competent court; or
- b. Foreclosing the mortgage; or
- c. Any other manner stipulated in the mortgage contract.

Section 52. *Arrest and Forced Sale of a Ship.* - A mortgagee entitled to enforce a mortgage, or a person exercising a maritime lien, may bring a

proceeding *in rem* against the ship which is the 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 shall be the bases 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 hereof 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, the 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 I
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 manager, or salvor.

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

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

- a. Claims in respect of loss of life or personal injury, or loss of or damage to property, including damage to harbor works, basins, waterways and aids to navigation, occurring on board or in direct connection with the operation of the ship or with salvage operations and consequential loss resulting therefrom;
- b. Claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
- c. Claims in respect of other loss resulting from the infringement of rights, other than contractual rights, occurring in direct connection with the operation of the ship or of salvage operations;
- d. Claims in respect of loss or damage arising from the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked or abandoned, including anything that is or has been on board such ship;
- e. Claims in respect of loss or damage resulting from the removal, destruction or the rendering harmless of the cargo of the ship;

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

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

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

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

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

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

e. Claims brought by employees against the ship owner, ship operator, bareboat 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, ship manager, 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 a tonnage 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 a tonnage 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.

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

Section 69. Claims for Loss of Life in Excess of the Stipulated Limit.
- If the amount calculated in accordance with subsection (a) of the preceding section is insufficient to pay in full all the claims for loss of life or personal injury, the amount calculated in accordance with subsection

(b) shall be available for the payment of the unpaid balance of the claims under subsection (a).

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

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

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

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

a. Any person carried on the ship under a contract of passenger carriage; or

b. Any person carried on the ship who, with the consent of the master, is accompanying a vehicle, or a shipment of live animals, or other cargo which is covered by a contract for the carriage of goods.

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

Section 73. *Aggregation of Claims for Loss of Life and Personal Injury and for other Claims.*- The limits of liability for loss of life and personal injury and for other claims determined in accordance with

Section 68 hereof shall apply to the aggregate of all claims which arise on any distinct occasion against:

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

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

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

Chapter 3

Limitation Fund

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

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

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

Section 75. *Insurance Indemnity Cover.* - Every ship owner or bareboat charterer shall be required to maintain adequate insurance coverage or protection and indemnity coverage to meet the financial responsibility for any liability which such ship owner or bareboat charterer may incur for loss of or injury to human life, damage to property and to the marine environment. In determining the limits for mandatory insurance coverage for seagoing ships, the MARINA shall take into account and be guided by the applicable limits of liability provided in relevant international conventions. In setting the limits for mandatory insurance coverage for

coastwise vessels the MARINA shall consider the prevailing local social, economic and other conditions in the Philippines.

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

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

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

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

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

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

Section 81. Release from Arrest after the Constitution of the Limitation Fund - After a limitation fund has been constituted in accordance with Section 74 of this Act, any ship or other property, belonging to a shipowner, ship operator, bareboat charterer, ship manager or salvor on whose behalf the fund has been constituted, which has been arrested or attached in accordance with Title III of this Act in order to satisfy a claim which is enforceable against the fund or any other bond or security given, may be released from arrest at the discretion of the court. Such release shall however be mandatory if the limitation fund has been constituted:

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

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

Title V

Enforcement/Investigation

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

- a. The name of the vessel;
- b. The port to which the vessel belongs;
- c. The place where the incident occurred;
- d. The nature and probable cause of the incident;

- e. The number and names of those who perished; and
- f. The estimated amount of loss or damage to the vessel, the cargo or the marine environment.

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

Title VII

Casualty Investigation

Section 83. *Marine Safety Investigation.* - Following the occurrence of an accident or incident involving a Philippine flag coastwise or seagoing vessel resulting in the loss of life, material loss of property, or serious injury to any person, or receives any damage affecting her seaworthiness or her efficiency, or if it should cause any pollution or damage to the marine environment, regardless of where such accident or incident may occur, the MARINA on its own or through a duly constituted independent group of suitably qualified safety inspectors, shall immediately undertake a marine safety investigation. This investigation shall be separate from any 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, it's 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 Impections 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 the 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 the 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 repatriation of crew; the construction, repairs, maintenance and recycling of ships; and other government and business processes concerning vessels in the Philippine Registry.

Section 101. *Implementing Rules and Regulations.* - Within sixty (60) days after the effectivity of this Act, the MARINA shall issue the implementing rules and regulations as may be necessary to implement the provisions of this Act.

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

For this purpose, the MARINA is authorized to impose an administrative fine of not less than Ten Thousand Pesos (PhP10,000.00) but not more than Five Hundred Thousand Pesos (PhP500,000.00), as well as the penalty of suspension, cancellation, or revocation of the relevant certificates, for violations of this Act and such rules and regulations that it may issue pursuant to this Act.

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

Section 103. *Transitory Provisions.* - Every ship currently registered under the laws of the Philippines and granted the privilege to fly its flag shall be deemed to be registered under this Act in so far as its registration is not inconsistent with the provisions of this Act and such registration shall continue to be valid until its expiration unless sooner revoked by the MARINA.

Any ship mortgage entered into in accordance with the provisions of the Ship Mortgage Decree or the Chattel Mortgage Law shall continue to be valid and effective and its registration shall be transferred to the MARINA in accordance with the provisions of this Act. Nothing in the transfer shall change or in any way alter or affect any preference a registered

mortgage may enjoy or the original date on which such mortgage was entered in the registry.

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

Section 105. *Repealing Clause.* - The following laws are hereby repealed:

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

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

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

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

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

Section 106. *Effectivity.* - This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,