



IMO
International Maritime Law Institute

Established under the auspices of the International Maritime Organization
a specialized agency of the United Nations



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MARITIME LEGISLATIVE DRAFTING PROJECT

**DRAFT LAW ON AMENDMENTS TO THE LAW OF MERCHANT
SHIPPING OF THE REPUBLIC OF LITHUANIA**

Objects of the draft law:

1) amendments to the Law of Merchant Shipping in order to meet new international salvage regulations under the International Convention On Salvage 1989;

2) introduction of the concept of maritime liens according to the International Convention On Maritime Liens and Mortgages 1993.

1996/1997

Project

LAW ON AMENDMENTS TO THE LAW OF MERCHANT SHIPPING OF THE REPUBLIC OF LITHUANIA

..... 1998, No I -

Vilnius

(Zin., 1996, No 100 - 2300)

Article 1. Amendments to article 2

Article 2 shall be amended by paragraphs 27 and 28 as follows:

“27. “Salvage operations” means any act or activity undertaken in any waters to assist a vessel or any structure capable of navigation as well as any other property not permanently and intentionally attached to the shoreline, which includes freight at risk.

28. “Maritime lien” means legal pledge without registration and privileged claim enforceable in accordance with this Law.”

Article 2. Amendment to article 6

The wording “claims for damages caused by such vessels” in the second sentence of paragraph 5 shall be replaced by wording “claims against such vessels”, and the whole paragraph 5 shall be read as follows:

“5. Vessels by the assignment of the Government of the Republic of Lithuania executing obligations of the Lithuanian state shall not be arrested, mortgaged or transferred to someone. Claims against such vessels shall be presented to the Government of the Republic of Lithuania.”

Article 3. Introduction of article 9¹

The following article 9¹ shall be introduced:

“Article 9¹. Change of ownership or registration

1. Except for the cases provided for in articles 103 and 104 of this Law, the vessel shall not be deregistered from the Ships register or Ships book of the Republic of Lithuania unless all registered mortgages are previously deleted or the written consent of all holders of such mortgages is obtained. Where the deregistration of the vessel is obligatory in accordance with the laws of Lithuania otherwise than as a result of a voluntary sale, the holders of registered mortgages shall be notified of the pending deregistration in order to enable such holders to take appropriate action to protect their interests; unless the holders consent, the deregistration shall not be implemented earlier than after three months after the relevant notification to such holders.

2. A vessel which is or has been registered in a foreign State shall not be eligible for registration in the Ships register or Ships book of the Republic of Lithuania unless either:

1) a certificate has been issued by the former State to the effect that the vessel has been deregistered; or

2) a certificate has been issued by the former State to the effect that the vessel will be deregistered with immediate effect when the new registration is effected. The date of deregistration shall be the date of the new registration of the vessel.”

Article 4. Introduction of article 9²

The following article 9² shall be introduced:

“Article 9². Temporary change of flag

1. A vessel registered in the Ships register or Ships book of the Republic of Lithuania shall not be permitted to fly temporarily the flag of another State unless all registered mortgages on that vessel have been previously satisfied or the written consent of the holders of all such mortgages has been obtained.

2. No mortgages can be registered on a vessel flying temporary flag.”

Article 5. Amendment to article 49

Paragraph 1 shall be amended by subparagraph 7 and shall be read as follows:

“1. In the following cases it is not allowed as general average even if there are found some features stated by the definition of general average in article 2 of this Law:

1) value of the cargo that was thrown overboard due to its self-self-inflammation, and value of the cargo which was carried in violation of rules of this Law or customs of merchant shipping;

2) losses incurred due to smoke or the influence of warmth during the fire;

3) losses that incurred due to cutting of the fragments of the parts of a vessel, or parts that have been earlier pulled down during the accident;

4) expenses incurred due to displacement or unloading of the cargo, fuel or provision at the port of departure or sailing in, or the place of refuge when damage of a vessel has been noticed at the port of departure or sailing in, if there were no any accidents or significant events that were related to the damage of a vessel; in addition, expenses incurred due to displacement of moved cargo during passage if such displacement was not necessary for safe navigation;

5) expenses for wages of the crew, fuel and provision during repair of the damaged vessel, when the repairs was necessary to continue a passage safely and damage of a vessel has been noticed at a port of departure or sailing in, if there were no accident or significant events that were related to the damage of a vessel;

6) all losses or damages of the vessel or cargo incurred due to lengthening of passage;

7) special compensation payable to a salvor by the operator of a vessel under article 85 of this Law to the extent specified in paragraph 5 of that article.”

Article 6. Change of Chapter IX “SAFE NAVIGATION, REMUNERATION FOR SALVAGE AT SEA”, deletion of Chapters XI, XIV and re-numeration of Chapters and articles

1. Chapter IX “SAFE NAVIGATION, REMUNERATION FOR SALVAGE AT SEA” shall be changed as follows:

“CHAPTER IX. NAVIGATION AND COLLISIONS

Article 53. Safe navigation

1. Safe navigation shall be ensured by the operator of a vessel.
2. The Ministry of Transport, also performing functions of National Maritime Administration of the Republic of Lithuania shall establish requirements of safe navigation following documents of international maritime law.
3. Requirements of safe navigation shall be officially published and obligatory to operators of vessels inconsiderable of the state flag under which the vessel is sailing.

Article 54. Duties of masters upon collision

1. After a collision, the master of each of the vessels in collision is bound so far as he can do without serious danger to his vessel, its crew and persons thereon to render assistance to the other vessel, its crew and its passengers.
2. Where it is possible, the master shall inform the other vessel of the name of his own ship, its port of registry and the nearest port at which it will call.

Article 55. Compensation of damages occurred due to collision of vessels

1. The compensation due for damages caused to the vessel, or to any things or persons on board thereof shall be settled in accordance with this Law, where:
 - 1) a collision occurs between seagoing vessels;
 - 2) a collision occurs between seagoing vessels and vessels of inland navigation;

3) it was violation of requirements on safe navigation, even if the collision of vessels was avoided.

2. Damages shall be recovered by the operator of the vessel liable for the collision of vessels. All legal presumptions of fault concerning liability for collision are abolished.

3. If the collision is caused by irresistible force, or if the cause of the collision is left in doubt, the damages are borne by those who have suffered them.

4. If all collided vessels are in fault, the liability of each vessel is in proportion to the degree of the faults respectively committed. In case it is impossible to establish the degree of the respective faults, or if it appears that the faults are equal, the liability is apportioned equally.

5. In respect of damages caused by death or personal injuries, the operators of the vessels in fault are jointly liable to third parties.

6. The operator of the vessel shall be liable even the collision is caused by the fault of a pilot.

7. Damages occurred due to the pollution of the environment by a collision of vessels shall be compensated according to the laws of the Republic of Lithuania.”

2. Articles 56, 57, Chapters XI and XIV shall be deleted.

3. Articles 58 - 61, Chapters XII, XIII and XV, articles 65 - 77, 84 - 88 shall be considered as articles 56 - 59, Chapters XI, XII and XIII, articles 60 - 77 correspondingly.

Article 7. Amendment to article 70

Subparagraph 3 of paragraph 6 shall be deleted, paragraph 7 shall be amended and both paragraphs shall be read as follow:

“6. One year limitation period is applicable to the claims provided for in this paragraph. This period is counted as follows:

1) for claims arising from the contract of international carriage of passengers by sea: due to passengers carriage - from the date the passenger left a vessel or had to leave it; in case it is claimed the damage suffered as a

result of the death or personal injury to a passenger - from the date a passenger was injured or died, but no longer than 2 years from the date of disembarkation;

2) for claims due to compensation of damages caused by the collision of vessels - from the date of collision.

7. The limitation period set for claims provided for in subparagraph 2 of paragraph 6 of this article is extended to 2 years in case where the vessel that is subject to the claim could not be found in territorial waters of the Republic of Lithuania during the limitation period.”

Article 8. Introduction of the Chapter XIV “SALVAGE”

The following Chapter XIV “SALVAGE” shall be introduced:

“CHAPTER XIV. SALVAGE

Article 78. Application of this Law

1. The rules of this Law shall apply to any salvage operations save to the extent that a contract of the parties otherwise provides expressly or by implication.

2. However, this Law does not apply:

- 1) when all vessels involved are vessels of inland navigation;
- 2) to fixed or floating platforms or to mobile offshore drilling units when such platforms or units are on location engaged in the exploration, exploitation or production of sea-bed mineral resources.

Article 79. Right to assistance

1. The master of every vessel in danger has a right to request that the assistance would be rendered to him.

2. A vessel in danger shall send distress signals provided for by documents of international maritime law. If the danger does not threaten a vessel, these signals can not be sent and the person who sent them shall be liable according to the laws of Lithuania.

Article 80. Duty to render assistance

1. Every master is bound, so far as he can do so without serious danger to his vessel and persons thereon:

- 1) to render assistance to any person in danger of being lost at sea;
- 2) to proceed with all possible speed to the rescue of persons in distress, if informed of their need of assistance, in so far as such action may be reasonably expected of him.

2. The master shall be liable for non performance of these duties according to the laws of the Republic of Lithuania, unless he has received the information from the vessel earlier arrived to the place of danger that the assistance is not necessary.

3. The operator of a vessel shall incur no liability for a breach of the duties of the master under paragraph 1 of this article.

Article 81. Salvage contracts, annulment and modification of them

1. The master shall have the authority to conclude contracts for salvage operations on behalf of the operator of the vessel. The master or the operator of the vessel shall have the authority to conclude such contracts on behalf of the owner of the property on board the vessel.

2. Nothing in this article shall affect duties to prevent or minimise damage to the environment.

3. A contract or any terms thereof may be annulled or modified by the court:

1) if the contract has been entered into under undue influence or the influence of danger and its terms are inequitable;

2) if the payment under the contract is in an excessive degree too large or too small for the services actually rendered;

3) in other cases provided for in the Civil Code of the Republic of Lithuania.

Article 82. Duties of the salvor, the operator and master of the vessel and the owner of other property

1. The salvor shall owe a duty to the operator of the vessel or the owner of other property in danger:

1) to carry out the salvage operations with due care;

2) in performing the duty specified in subparagraph 1, to exercise due care to prevent or minimise damage to the environment;

3) whenever circumstances reasonably require, to seek assistance from other salvors; and

4) to accept the intervention of other salvors when reasonably requested to do so by the operator or master of the vessel, or the owner of other property in danger; provided however that the amount of his reward shall not be prejudiced should it be found that such a request was unreasonable.

2. The operator and master of the vessel or the owner of other property in danger shall owe a duty to the salvor:

1) to co-operate fully with him during the salvage operations;

2) in so doing, to exercise due care to prevent or minimise damage to the environment; and

3) when the vessel or other property has been brought to a place of safety, to accept redelivery when reasonably requested by the salvor to do so.

Article 83. Conditions for reward

1. Salvage operations which have had a useful result give right to a reward.

2. Except as otherwise provided, no payment is due under this Law if the salvage operations have had no useful result.

3. This reward shall also be paid, notwithstanding that the salvaged vessel and the vessel undertaking the salvage operations belong to the same operator.

4. No remuneration is due from persons whose lives are saved. However a salvor of human life, who has taken part in the services rendered on the occasion of the accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimising damage to the environment.

Article 84. Criteria for fixing reward

1. The amount of the salvage reward shall, if not settled by agreement or arbitral tribunal, be determined by the court.

2. The reward shall be fixed with a view to encouraging salvage operations, taking into account the following criteria without regard to the order in which they are presented below:

- 1) the salvaged value of the vessel and other property;
- 2) the skill and efforts of the salvors in preventing or minimising damage to the environment;
- 3) the measure of success obtained by the salvor;
- 4) the nature and degree of the danger;
- 5) the skill and efforts of the salvors in salvaging the vessel, other property and life;
- 6) the time used and expenses and losses incurred by the salvors;
- 7) the risk of liability and other risks run by the salvors or their equipment;
- 8) the promptness of the services rendered;
- 9) the availability and use of vessels or other equipment intended for salvage operations;

10) the state of readiness and efficiency of the salvor's equipment and the value thereof.

3. Payment of a reward fixed according to paragraph 1 of this article shall be made by all of the vessel and other property interests in proportion to their respective salvaged values.

4. The rewards, exclusive of any interest and recoverable legal costs that may be payable thereon, shall not exceed the salvaged value of the vessel and other property.

5. The salvaged value of the vessel and other property means the assessed value of the ship and other property salvaged at the time and place of the completion of the salvage operations for each salvaged interest, or the proceeds of the sale thereof, after deduction of the relevant taxes and customs dues, expenses incurred in connection with the discharge, storage, assessment of the value and the sale thereof. The salvaged value however does not include the value of the salvaged personal belongings of the crew and that of the cabin luggage of the passengers.

Article 85. Special compensation

1. Damage to the environment means substantial physical damage to human health or to marine life or resources in coastal or inland waters or areas adjacent thereto, caused by pollution, contamination, fire, explosion or similar major incidents.

2. If the salvor has carried out salvage operations in respect of a vessel which by itself or its cargo threatened damage to the environment and has failed to earn a reward under article 84 of this Law at least equivalent to the special compensation assessable in accordance with this article, he shall be entitled to special compensation from the operator of that vessel equivalent to his expenses as herein defined. The special compensation shall be payable in respect of whole period of the salvage operations performed by the salvor.

3. If, in the circumstances set out in paragraph 2 of this article, the salvor by his salvage operations has prevented or minimised damage to the environment, the special compensation payable by the operator to the salvor under paragraph 2 may be increased up to a maximum of 30% of the expenses incurred by the salvor. However, the arbitral tribunal or court, if it deems it fair

and just to do so and bearing in mind the relevant criteria set out in article 84, paragraph 2, may increase such special compensation further, but in no event shall the total increase be more than 100% of the expenses incurred by the salvor.

4. Salvor's expenses for the purpose of paragraphs 2 and 3 of this article means the out-of-pocket expenses reasonably incurred by the salvor in the salvage operation and a fair rate for equipment and personnel actually and reasonably used in the salvage operation, taking into consideration the criteria set out in article 84, paragraph 2 (8), (9) and (10). A fair rate however shall not include an element of profit.

5. The total special compensation under this article shall be paid only if and to the extent that such compensation is greater than any reward recoverable by the salvor under article 84 of this Law.

6. If the salvor has been negligent and has thereby failed to prevent or minimise damage to the environment, he may be deprived of the whole or part of any special compensation due under this article.

7. Nothing in this article shall affect any right of recourse on the part of the operator of the vessel.

Article 86. Apportionment between salvors

1. The apportionment of a reward under article 84 of this Law between salvors shall be made by their agreement on the basis of the criteria contained in that article. In case of failure to agree, the remuneration shall be apportionment by the court.

2. The apportionment between the operator, master and other persons in the service of each salving vessel shall be in procedure set by the Ministry of Transport of the Republic of Lithuania. If the salvage has not been carried out from a vessel, the apportionment shall be determined by the contract between the salvor and his servants.

Article 87. Situations when salvage reward can be reduced or is not payable

1. A salvor may be deprived of the whole or part of the payment due under this Law to the extent that the salvage operations have become necessary or more difficult because of fault or neglect on his part or if the salvor has been guilty of fraud or other dishonest conduct.

2. Services rendered notwithstanding the express and reasonable prohibition of the operator or master of the vessel, or the owner of any other property in danger which is not and has not been on board the vessel shall not give rise to payment under this Law.

3. No payment is due under the provisions of this Law unless the services rendered exceed what can be reasonably considered as due performance of a contract entered into before the danger arose.

Article 88. Duty to provide security

1. Upon the request of the salvor a person liable for a payment due under this Law shall provide satisfactory security for the claim, including interest and costs of the salvor.

2. Without prejudice to paragraph 1 of this article, the operator of the salvaged vessel shall use his best endeavours to ensure that the owners of the cargo provide satisfactory security for the claims against them including interest and costs before the cargo is released.

3. The salvaged vessel and other property shall not, without the consent of the salvor, be removed from the port or place at which they first arrive after the completion of the salvage operations until satisfactory security has been put up for the salvor's claim against the relevant vessel or property.

4. The salvor may not enforce his maritime lien, provide in article 92 of this Law when satisfactory security for his claim, including interest and costs, has been duly tendered or provided.

Article 89. State-owned and humanitarian cargoes

1. Unless the State owner consents, no provision of this Law shall be used as a basis for the seizure, arrest or detention by any legal process of non-commercial cargoes owned by a State and entitled, at the time of the salvage operations, to sovereign immunity under generally recognised principles of international law.

2. No provision of this Law shall be used as a basis for the seizure, arrest or detention of humanitarian cargoes donated by a State, if such State has agreed to pay for salvage operations performed in respect of such humanitarian cargoes.

Article 90. Interim payment

1. The court or arbitral tribunal may, by interim decision, order that the salvor shall be paid on account such amount as seems fair and just, and on such terms including terms as to security where appropriate, as may be fair and just according to the circumstances of the case.

2. In the event of an interim payment under this article the security provided under article 88 of this Law shall be reduced accordingly.

Article 91. Limitation of actions

1. Any action relating to payment under this Law shall be time-barred if judicial or arbitral proceedings have not been instituted within a period of two years. The limitation period commences on the day on which the salvage operations are terminated.

2. The person against whom a claim is made may at any time during the running of the limitation period extend that period by a declaration to the claimant. This period may in the like manner be further extended.”

Article 9. Introduction of the Chapter XV “MARITIME LIENS AND MORTGAGES”

The following Chapter XV “MARITIME LIENS AND MORTGAGES” shall be introduced:

“CHAPTER XV. MARITIME LIENS AND MORTGAGES

Article 92. Maritime liens

1. Each of the following claims against the owner or operator of the vessel shall be secured by a maritime lien on the vessel:

1) claims for wages and other sums due to the master, officers and other members of the vessel's complement in respect of their employment on the vessel, including costs of repatriation and social insurance contributions payable on their behalf;

2) 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 vessel;

3) claims for reward for the salvage of the vessel;

4) claims for port, canal, and other waterway dues and pilotage dues;

5) claims based on tort arising out of physical loss or damage caused by the operation of the vessel other than loss of or damage to cargo, containers and passengers' effects carried on the vessel.

2. Subject to the provisions of article 104 of this Law, the maritime liens follow the vessel, notwithstanding any change of ownership or of registration or of flag.

3. No maritime lien shall attach to a vessel to secure claims as set out in subparagraphs (2) and (5) of paragraph 1 of this article which arise out of or result from:

1) damage 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 providing for strict liability and compulsory insurance or other means of securing the claims; or

2) the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel or of radioactive products or waste.

Article 93. Priority of maritime liens

1. The maritime liens set out in article 92 of this Law shall take priority over registered mortgages, and no other claim shall take priority over such maritime liens or over such mortgages, except as provided in paragraph 3 of article 102 and paragraph 3 of article 105 of this Law.

2. The maritime liens set out in article 92 of this Law shall rank in the order listed, provided, however, that maritime liens securing claims for reward for the salvage of the vessel shall take priority over all other maritime liens which have attached to the vessel prior to the time when the operations giving rise to the said liens were performed.

3. The maritime liens set out in each of subparagraphs (1), (2), (4) and (5) of paragraph 1 of article 92 shall rank *pari passu* as between themselves.

4. The maritime liens securing claims for reward for the salvage of the vessel shall rank in the inverse order of the time when the claims secured thereby accrued. Such claims shall be deemed to have accrued on the date on which each salvage operation was terminated.

Article 94. Right of retention

1. A shipbuilder or shiprepairer for whose care and authority a ship has been placed for execution of works, including reconstruction of the vessel, shall have a right of retention in respect of a vessel in possession.

2. A right of retention shall entitle the shipbuilder or shiprepairer to retain possession over the ship on which he has worked or carried out activity until such shipbuilder or shiprepairer is paid for such building, repairing or reconstruction.

3. Such right of retention shall be extinguished when the vessel ceases to be in the possession of the shipbuilder or shiprepairer, otherwise than in consequence of an arrest or seizure.

Article 95. Assignment and subrogation

1. The assignment of or subrogation to a claim secured by a maritime lien entails the simultaneous assignment of or subrogation to such a maritime lien.

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

Article 96. Terms of limitation period for maritime liens

1. The maritime liens set out in article 92 of this Law shall be extinguished after a period of one year unless, prior to the expire of such period, the vessel has been arrested or seized, such arrest or seizure leading to a forced sale. The time period shall not be subject to suspension or interruption, provided, however, that time shall not run during the period that the arrest or seizure of the vessel is not permitted by law.

2. The one - year period referred to in paragraph 1 shall commence:

1) with respect to the maritime lien set out in article 92, paragraph 1 subparagraph (1), upon the claimant's discharge from the vessel;

2) with respect to the maritime liens set out in article 92, paragraph 1 subparagraph (2) to (5), when the claims secured thereby arise.

Article 97. Conclusion of the contract of mortgage of a vessel

1. Under the contract of mortgage of a vessel the mortgagee is entitled to get his claim satisfied from the value of the vessel mortgaged prior to other creditors in case the mortgagor fails to pay debt secured by the mortgage.

2. The mortgage of the vessel secures a claim to the extent which is at the moment of its satisfaction taking into consideration interest, forfeits, damages caused by failure to meet term of payment, and costs of recovery.

3. The contract of mortgage of the vessel shall be concluded in written form and certified by notary. Only vessels registered in the Ships register or Ships book of the Republic of Lithuania may be mortgaged in procedure set by this Law.

4. A mortgagor has to be an owner of the vessel mortgaged. In case the property rights to the vessel mortgaged were transferred to another person, the

mortgage right is still in force, inconsiderably whether or not the new owner was informed that the vessel is mortgaged.

5. The vessel is mortgaged with all its equipment and appurtenances, which are necessary for its navigation or for performance of its voyage and which are presented on the vessel at the time when mortgage was entered into, except those that are not property of the owner of the ship.

Article 98. Registration of the contract of mortgage of a vessel

1. A contract of mortgage of a vessel comes into force from its registration in the Ships register or Ships book of the Republic of Lithuania. A specified fee is paid for registration of contract of mortgage of a vessel.

2. While making a registration of mortgage of a vessel it is stated, as follows:

- 1) the mortgagee;
- 2) amount of a credit and the time the credit is due;
- 3) interest and terms of their payment;
- 4) the main parameters of the vessel mortgaged;
- 5) the owner of the vessel mortgaged;
- 6) the debtor;
- 7) insurance of a vessel and other rights due to the vessel mortgaged;
- 8) the day of registration of contract of mortgage of a vessel.

3. The rights of the owner of the vessel to pass the mortgaged vessel to other persons without the consent of the mortgagee, to mortgage the vessel or in other way to limit property rights to the vessel are suspended from the moment the contract of mortgage comes into force. Contracts concluded in violation of these restrictions may be considered void by the established procedure.

Article 99. Expiration of the right of vessel mortgage

1. The right of mortgage expires:

- 1) when the claim secured by mortgage is extinguished;
- 2) when the vessel is lost. In this case the mortgagee shall have the preferential right to satisfy his claims from the insurance proceeds, if the vessel was insured;

3) when the vessel is sold by forced sale.

2. In case the claim secured by the mortgage is extinguished, the Registrar of the contract of mortgage of a vessel records it in the Ships register or Ships book of the Republic of Lithuania within 5 days after receiving the document confirming extinction of the secured claim.

Article 100. Recognition and enforcement of mortgages created in a foreign State

Mortgages and other registrable charges of the same nature effected on seagoing vessels and created in a foreign State shall be recognised and enforceable in the Republic of Lithuania provided that:

1) such mortgages and other registrable charges have been effected and registered in accordance with the law of the State in which the vessel is registered;

2) the register and any instruments required to be deposited with the registrar in accordance with the law of the State in which the vessel is registered are open to public inspection, and that extracts from the register and copies of such instruments are obtainable from the Registrar; and

3) either the register or any instruments referred to in subparagraph (2) of this article specifies at least the name and address of the person in whose favour the mortgage or other registrable charge has been effected or that it has been issued to bearer, the maximum amount secured, if that is a requirement of the law of the State of registration or if that amount is specified in the instrument creating the mortgage or other registrable charge, and the date and other particulars which, according to the law of the State of registration, determine the ranking in relation to other registered mortgages and charges.

Article 101. Notice against selling of the mortgaged vessel by force

1. A mortgagee sends the written notice to the debtor and the owner of the mortgaged vessel informing that in case the debt will not be paid in time referred to in the notice, he will claim to sell the mortgaged vessel.

2. In case the debt was not paid till the moment set in the notice, the mortgagee has the right to request forced sale of a vessel.

Article 102. Forced sale of a vessel

1. The resolution of forced sale of the vessel having a maritime lien specified in article 92, being mortgaged in accordance with this Law, or foreign mortgage of which is recognised by this Law shall be adopted according to the procedure, established by the laws of the Republic of Lithuania.

2. The vessel is sold in public auction, which is organised by the Court Bailiff according to the Code of Civil Process of the Republic of Lithuania.

3. If at the time of the forced sale the vessel is in the possession of a shipbuilder or of a shiprepairer, such shipbuilder or shiprepairer must surrender possession of the vessel to the purchaser but is entitled to obtain satisfaction of his claim out of the proceeds of sale after the satisfaction of the claims of holders of maritime liens mentioned in article 92 of this Law.

Article 103. Notice of forced sale

1. Prior to the forced sale of a vessel in the Republic of Lithuania, the Court Bailiff shall ensure that notice in accordance with this article is provided to:

1) the Registrar of the vessel. The notice shall be given also to the competent authority the vessel's record in the State whose flag the vessel is permitted to fly temporarily;

2) all holders of registered mortgages or other charges which have not been issued to bearer;

3) all holders of registered mortgages or other charges issued to bearer and all holders of the maritime liens set out in article 92 of this Law, provided that the Court Bailiff conducting the forced sale receives notice of their respective claims; and

4) the registered owner of the vessel.

2. Such notice shall be provided at least 30 days prior to the forced sale and shall contain either:

1) the time and place of the forced sale and other particulars concerning the forced sale or the proceedings leading to the forced sale specified in the Code of Civil Process of the Republic of Lithuania; or,

2) if the time and place of the forced sale cannot be determined with certainty, the approximate time and anticipated place of the forced sale and

such particulars concerning the forced sale as the Court Bailiff in conducting the proceedings shall determine is sufficient to protect the interests of persons entitled to notice. In this case additional notice of the actual time and place of the forced sale shall be provided when known but, in any event, not less than seven days prior to the forced sale.

3. The notice specified in paragraph 2 of this article shall be in writing and either given by registered mail, or given by any other appropriate means which provide confirmation of receipt, to the persons interested as specified in paragraph 1, if known. The notice also shall be published in press of Lithuania and, if deemed appropriate by the Court Bailiff, of foreign states.

Article 104. Effects of forced sale

1. In the event of the forced sale of the vessel all registered mortgages or other charges, 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 vessel.

2. The Court Bailiff shall, at the request of the purchaser, issue a certificate to the effect that the vessel is sold free of all registered mortgages or other charges, except those assumed by the purchaser, and of all liens and other encumbrances. Upon production of such certificate, the Registrar shall be bound to delete all registered mortgages or other charges except those assumed by the purchaser, and to register the vessel in the name of the purchaser or to issue a certificate of deregistration for the purpose of new registration, as the case may be.

Article 105. Distribution of received means

1. The means received for the sold ship are transferred to the deposit account of the Office of the Court Bailiffs and are distributed by the Court Bailiff among creditors in accordance to the sequence of securing of their claims within 10 days after the sale.

2. The resolution of distribution of means shall be sent to all creditors, whose claims were secured by the maritime lien on or mortgage of the vessel. The resolution may be sued to the court within 10 days from its adoption. If the resolution was not sued, it shall come into force upon expiration of suing term.

Debts are paid within 10 days after the resolution of distribution of means comes into force.

3. The costs and expenses arising out of the arrest or seizure and subsequent sale of the vessel shall be paid first out of the proceeds of sale. Such costs and expenses include, *inter alia*, the costs for the upkeep of the vessel and the crew as well as wages, other sums and costs referred to in article 92, paragraph 1(1), incurred from the time of arrest or seizure. In the event of the forced sale of a stranded or sunken vessel following its removal by a the Klaipeda State Seaport Authority in the interest of safe navigation or the protection of the marine environment, the costs of such removal shall be paid out of the proceeds of the sales, before all other claims secured by a maritime lien on the vessel.

4. The balance of the proceeds shall be distributed in accordance with the provisions of articles 93 and 102 of this Law, to the extent necessary to satisfy the respective claims.

Article 106. Satisfaction of the claim ensured by vessel mortgage

The mortgagee is paid as follows:

- 1) the sum of a debtorial claim;
- 2) the interest for the last 3 years till the end of the term of performance of debtorial obligation or till the announcement of vessel owner being insolvent or liquidated;
- 3) the cost of recovery of debtorial claim.”

I promulgate this Law approved by the Seimas of the Republic of Lithuania.

PRESIDENT OF THE REPUBLIC

ALGIRDAS BRAZAUSKAS