

INTERNATIONAL MARITIME ORGANIZATION
INTERNATIONAL MARITIME LAW INSTITUTE

***"An Act Providing For
The Registration of Ships and Incentives
Therefor, The Registration, Recognition
and Enforcement of Ship Mortgages,
Maritime Claims and Maritime Liens, The
Arrest of Ships, The Limitation of
Liability for Maritime Claims
And for Other Purposes"***

A Draft Legislation presented to the
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(IMO-IMLI)
in partial fulfillment of the
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THIRTEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Second Regular Session)

HOUSE OF REPRESENTATIVES

House Bill No. _____

Introduced by

EXPLANATORY NOTE

This bill seeks to update our law on ship registration, correct our law on ship mortgages, and provide a legal framework for the enforcement of maritime claims, the arrest of vessels and the establishment of limits of liability for maritime claims.

The bill, if passed, will align our maritime laws with the requirements of international maritime conventions and allow us to achieve uniformity with international maritime practices.

Ship Registration

The existing law on ship registration is found in the Tariff and Customs Code of the Philippines, Republic Act No. 1937. The Act came into effect in 1957 prior to the 1958 Geneva Convention on the High Seas and the 1982 United Nations Convention on the Law of the Sea where the requirement of the "genuine link" was established.

Taxation

Philippine tax laws with respect to ships operated under the Philippine flag impose a corporate income tax on operators. International practices provide for the collection of a tonnage tax in lieu of the corporate income tax. Imposition of new taxes and the exemption from existing taxes must emanate from the House of Representatives. While discretion for the collection of new taxes or the provision of new tax rates may be given to a government agency like the Department of Finance, the parameters for imposing new taxes or new tax rates must be set forth in the organic law with such

specificity as to give very little discretion to the executive agency in imposing the new tax or rate of tax. The tax structure of Philippine ships must be aligned with international practices to make the Philippine flag an attractive flag registry.

Maritime Liens and Ship Mortgages

The law on ship mortgages is contained in the Ship Mortgage Decree of 1978, Presidential Decree No. 1521. While the Decree took effect in 1978, the provisions did not take into account, nor put into effect, the 1926 or the 1967 International Convention for the Unification of Certain Rules Relating to Maritime Liens and Mortgages. As such the present law on ship mortgages is not aligned with international convention. This has made access to financing for the construction and acquisition of ships difficult for Philippine ship owners.

A more recent convention on maritime liens and ship mortgages adopted in 1993 has been prepared by the International Maritime Organization and the United Nations Committee on Trade and Development reflecting current practices in the field of ship mortgages and maritime claims. This latest convention has not been incorporated into Philippine law.

This backdrop has led to a belief held by foreign bankers that liens and mortgages created over Philippine flag vessels are uncertain. This belief is further reinforced by what they consider as the confusing manner by which the registration of mortgages is made principally because ship registration is decentralized and the vessel can be registered in any port of the Philippines where the Philippine Coast Guard has a detachment. This has made access to ship financing very difficult to Philippine ship owners.

Enforcement of Maritime Claims

Philippine law on the arrest of ships is limited to: (1) instances where the ship has been found violating customs regulations and (2) where the attachment is ordered by a competent court in order to acquire jurisdiction over an absentee defendant. In these instances an action in rem may be maintained against the vessel in order to prosecute the case.

Philippine law does not recognize the closed list of maritime claims provided in the 1952 International Convention Relating to the Arrest of Seagoing Ships

because it is not a party to that convention. Neither is the Philippines a party to the 1999 International Convention on the Arrest of Ships.

Limitation of Liability

Another aspect that must be considered with respect to this proposed bill is that international conventions, generally, allow ship owners to limit their liability should their vessel be arrested for the enforcement of a maritime claim. Philippine law does not follow the regime allowing for the limitation of liability of ship owners recognized by the 1976 International Convention on Limitation of Liability of Maritime Claims and the 1996 Protocol to this Convention because it is also not a party to the Convention and the Protocol.

Bareboat Chartering

While bareboat chartering has become an option to Philippine ship owners, foreign bankers have raised the concern that liens and mortgages entered in the primary registry of the ship is not reflected in the Philippine registry. This makes it difficult to trace the vessel particularly because Philippine regulations on bareboat chartering require a change of name of the bareboat chartered vessel once it is entered in the Philippine Registry.

WHAT NEEDS TO BE DONE?

In order to make the Philippine flag an attractive registry, the existing legal framework of the shipping industry must be reformed.

Delineate functions between MARINA and PCG

There is a need to delineate powers and functions between the Philippine Coast Guard (PCG) and the Maritime Industry Authority (MARINA).

The agency originally vested with the power to register vessels was the Bureau of Customs. This power was transferred to the PCG, then to MARINA, then to the PCG, then back to MARINA. It is currently held by MARINA. Despite this, PCG continues to discharge the function principally because it has detachments in remote islands where MARINA has no offices.

On the other hand, MARINA has asserted its right to issue safety regulations thereby duplicating the functions of the PCG with respect to the accreditation and licensing of classification societies, the survey and classification of ships and other such functions.

In determining which agency should be given the power to register vessels and exercise administrative and social control on the one hand and the power to exercise technical supervision over a vessel registered under Philippine laws on the other, there is a need to look at the charter of each agency. MARINA is given the regulatory powers over the commercial activities of Philippine registered ships. PCG has the power to enforce maritime safety and marine environmental regulations.

Registration of Vessels

On this delineation, it is evident that the registration of vessels, being the first step to a vessel's right to engage in commercial activity under Philippine laws, should properly belong to MARINA.

Flag State Administration

Bearing in mind the functions of each agency, it is clear that the enforcement of maritime safety and environmental regulations are with the PCG. This being the case, the technical supervision of vessels together with the functions that come with it should be with the PCG. It is only on a clear delineation of functions that the duplication of functions will be avoided.

Incentives

There is a need to reform the tax structure for Philippine vessels in order to align this with international practices. Most jurisdictions exempt vessels from corporate taxes and instead collect a tonnage tax from national flag vessels in lieu of income taxes. This allows for easier tax management and better revenue collection considering the difficulty in monitoring revenues and expenses of vessels, particularly those engaged in international trade.

Mortgages

The access to financing has long been a concern of Philippine ship owners. They have asserted that the Ship Mortgage Decree of 1978 contained in Presidential Decree

No. 1521 is defective and unacceptable to foreign bankers because the liens are not clearly delineated. They have been clamoring for the revision of this law without much success.

This Decree as well as the earlier law covered by Republic Act No. 1407 provide for the enforcement of the mortgage through a suit in rem. These two laws however do not clarify the relationship of the mortgage with other maritime liens.

Maritime Claims

Since the matter of setting straight the rules on ship mortgages cannot be settled without delving into the priorities of preferred maritime liens as well as maritime claims that do not enjoy any priority, there is a need to reconcile the rules of mortgages with that of preferred maritime liens as well as that of other maritime claims.

Arrest of Vessels

It is recognized that a law on maritime liens and mortgages cannot be properly enforced in accordance with international practices unless the appropriate procedure is provided. This can only be done if Philippine law can provide for a legal framework that refines the present grounds for the arrest of ships which are limited to: (1) a violation of Customs regulations, and (2) an arrest to acquire jurisdiction over an absentee defendant so that it covers the closed list of maritime claims recognized by international practice and for which the arrest of a vessel can be effected.

Limitation of Liability

International practice generally allows ship owners to limit their liability for certain maritime claims. Ship owners engaged in international shipping have accepted the obligation of recognizing liability with respect to particular claims in exchange for their right to limit their financial exposure with respect to such liability. The practice of limiting liability has been allowed in international practice to encourage continued investments in shipping where a single claim could spell the financial ruin of a ship owner. The practice of limitation of liability must be adopted and Philippine law must recognize such general limits of liability to ensure the alignment of our laws with international

practices and the continued investments in the shipping industry.

RECOMMENDATION

The passage of the attached measure is urgently requested. A strong and competitive merchant marine fleet, owned and controlled by Filipinos, manned by qualified Filipino officers and crew, is essential to the growth of our economy. Our vested interest in seafaring demands that we have a fleet for our seafarers. We can only expand our fleet if we can provide a legal framework that will encourage and allow ship owners to enter into long term vessel acquisition, development, modernization and expansion programs. It is hoped that this law will meet these requirements.

1 (a) Ensure safe, reliable, efficient, adequate and
2 economic passenger and cargo service through the maintenance
3 of well-equipped, safe and modern vessels most suitable for
4 Philippine overseas and domestic shipping requirements and
5 conditions;

6 (b) Ensure the growth of exports by providing
7 necessary, competitive and economical sea linkages through
8 the provision of ships that are capable of meeting the
9 requirements of expanding Philippine international trade;

10 (c) Encourage the dispersal of industry and the
11 economic development of our regional communities by ensuring
12 the availability of regular, reliable and efficient shipping
13 services;

14 (d) Function as an employment base for the growing
15 community of highly skilled and qualified Filipino
16 seafarers;

17 (e) Provide a means to access financing to encourage
18 long term vessel acquisition, development, modernization and
19 expansion programs principally driven by private
20 investments; and

21 (f) Serve as a naval and military auxiliary in times of
22 war and other national emergencies.

23 The State shall promote such other necessary
24 administrative and executive policies that will ensure the
25 continued growth of the Philippine merchant fleet in

1 consonance with international practices and provide a
2 mechanism for the early adoption and implementation of
3 international maritime regulations and conventions.

4 Section 3. **Scope of the Act.** - Unless otherwise
5 indicated, this Act shall apply to:

6 (a) All merchant marine ships, whether seagoing or
7 coastwise, authorized to carry passengers or cargo, or both,
8 which are registered under the Philippine flag;

9 (b) All persons, partnerships, corporations, firms or
10 other entities duly registered and licensed to engage in the
11 business of shipping as ship owners, ship operators,
12 bareboat charterers, or ship managers, or those acting on
13 their behalf;

14 (c) All ship mortgages over Philippine flag vessels
15 registered in accordance with this Act and those that are to
16 be enforced against other ships that are found within the
17 jurisdiction of the Philippines regardless of nationality;

18 (d) All maritime liens and claims that are incurred in
19 the Philippines or are to be enforced on ships found within
20 the jurisdiction of the Philippines regardless of
21 nationality;

22 (e) All ships arrested for the enforcement of maritime
23 claims that are within the territorial jurisdiction of the
24 Philippines regardless of nationality; and

25 (f) All ships that are within the territorial

1 jurisdiction of the Philippines against which a maritime
2 claim that is subject to applicable limits of liability is
3 sought to be enforced regardless of the nationality of such
4 ship.

5 The provisions of this Act, however, shall not apply to
6 any war ship, naval auxiliary ship or other ship owned or
7 operated by the Philippine government or any foreign
8 government for non-commercial service.

9 **Chapter 2**

10 **Definitions**

11 Section 4. **Definition of Terms.** - The following
12 terms shall have the meanings hereinafter set forth:

13 a. "Arrest" shall mean the attachment of a vessel by
14 judicial process through an order of a court in order to
15 secure the enforcement of a maritime claim, which attachment
16 shall produce the effect of detaining or restricting the
17 removal of the vessel from the territorial jurisdiction of
18 the Philippines, but shall not include the seizure of a ship
19 in execution or satisfaction of a judgment;

20 b. "Bareboat charter" shall mean a contract for the
21 lease of a ship, for a stipulated period of time, by virtue
22 of which the bareboat charterer has complete possession and
23 control of the ship, including the right to appoint the
24 master and the crew of the ship, for the duration of the
25 lease;

1 c. "Bareboat charterer" or "charterer" may be used
2 interchangeably and shall refer to any person, commercial
3 partnership or corporation which bareboat charters a
4 Philippine flag vessel from another Philippine national, or
5 a vessel of foreign ownership registered in a compatible
6 registry, for its own use;

7 d. "Board of Marine Inquiry" shall refer to the Board
8 of Marine Inquiry created in accordance with section 7 of
9 Presidential Decree No. 601;

10 e. "Certificate of Philippine Registry" shall mean
11 the document of registration of a vessel registered in
12 accordance with section 20 of this Act;

13 f. "Claimant" shall mean a person who asserts that a
14 maritime claim exists in his favor;

15 g. "Classification society" shall refer to any
16 government-accredited organization authorized to implement
17 published rules and regulations governing the structural
18 strength, safety and reliability of a ship in order to
19 maintain basic conditions on board and enables the ship to
20 operate in its intended service;

21 h. "Coastwise vessel" shall refer to any Philippine
22 flag vessel authorized to carry passengers or cargo, or
23 both, between two domestic ports, in the coastal or internal
24 waters of the Philippines;

25 i. "Compatible registry" shall mean a foreign

1 registry which has entered into an agreement with the
2 Maritime Industry Authority in order to determine and
3 establish the requirements for the transfer of registration
4 of ships from one registry to the other;

5 j. "Court" or "Philippine court" may be used
6 interchangeably and shall refer to a court of appropriate
7 jurisdiction within the territory of the Philippines;

8 k. "De-registration" shall refer to the act of
9 deleting a ship from the Registry of Ships of the
10 Philippines and the cancellation of the Certificate of
11 Philippine Registry in accordance with Title II, Chapter 5
12 of this Act;

13 l. "Foreign court" shall mean a court exercising
14 jurisdiction in a territory other than in the Philippines;

15 m. "Foreign flag vessel" shall refer to a ship which
16 is registered under the laws of a country other than the
17 Philippines and which is authorized to fly the flag of that
18 country;

19 n. "Foreign registry" shall mean the registry of
20 ships of a country other than the Philippines;

21 o. "International maritime convention" or
22 "international convention" may be used interchangeably and
23 shall refer to any written treaty or agreement, or any
24 protocol or amendment thereto, affecting the maritime
25 industry which has been agreed to and approved by States as

1 members of the International Maritime Organization or other
2 international agency, which the Philippines has ratified and
3 which is in force;

4 p. "Marine surveyor" shall refer to any government-
5 accredited person, organization or classification society
6 authorized to conduct safety inspections and examine the
7 general condition of a ship;

8 q. "Maritime claim" shall refer to any of the claims
9 provided in section 88 of this Act;

10 r. "Maritime Industry Authority" shall refer to the
11 government agency created in accordance with Presidential
12 Decree No. 474 as amended;

13 s. "Maritime lien" shall refer to a charge that
14 attaches to a ship which arises from a maritime claim
15 against the ship, its owners, charterers, managers or
16 operators that results in a demand for indemnity or
17 remuneration from the ship or its owners, charterers,
18 managers or operators and is enforceable by judicial action;

19 t. "Mortgagee" shall refer to the person, whether
20 natural or juridical, in whose favor a ship mortgage is
21 created in order to secure a principal obligation;

22 u. "Mortgagor" shall refer to a ship owner who
23 constitutes a ship mortgage over a vessel or a vessel under
24 construction registered in its name in order to secure the
25 fulfillment of a principal obligation;

1 v. "Philippine Coast Guard" shall refer to the
2 government agency created in accordance with Republic Act
3 No. 5173, as amended;

4 w. "Philippine flag vessel" shall mean any vessel
5 duly registered under Philippine laws and authorized to fly
6 the Philippine flag;

7 x. "Philippine national" shall refer to any
8 individual who is a citizen of the Philippines, or a
9 commercial partnership or corporation organized under the
10 laws of the Philippines, at least 60% of the capital of
11 which is owned by citizens of the Philippines;

12 y. "Registration" shall refer to the act of entering
13 a ship in the Registry of Ships of the Philippines in
14 accordance with Title II, Chapter 1 of this Act;

15 z. "Registry of Ships of the Philippines" shall refer
16 to the official public register maintained by the Maritime
17 Industry Authority in accordance with section 15 hereof
18 which shall hold the record of all vessels and its
19 encumbrances registered under Philippine laws and shall
20 hereafter be referred to as the "Registry";

21 aa. "Seagoing vessel" shall refer to any Philippine
22 flag vessel of 500 gross tons or more, authorized to carry
23 passengers or cargo, or both, in trade between a Philippine
24 port and a foreign port, or between two foreign ports;

25 bb. "Ship manager" shall mean any person, commercial

1 partnership or corporation to which the technical or
2 commercial management, or both such technical and commercial
3 management, of a ship has been entrusted by the ship owner
4 and for that purpose is in charge of the operation of the
5 ship which may include, but shall not be limited to, vessel
6 maintenance and upkeep, crewing, and passenger and cargo
7 solicitation;

8 cc. "Ship mortgage" shall mean a contract executed by
9 the owner of a ship creating a security interest over a
10 particular vessel or a vessel under construction in order to
11 secure the performance of a principal obligation;

12 dd. "Ship owner" shall refer to any person, commercial
13 partnership or corporation authorized to own, operate,
14 manage, control, lease or charter out, or otherwise engage
15 in the business of shipping;

16 ee. "Ship operator" shall refer to any person,
17 commercial partnership or corporation authorized to operate,
18 manage or control a ship owned by another;

19 ff. "Tonnage" or "gross tonnage" may be used
20 interchangeably unless otherwise indicated and shall refer
21 to the ship's gross tonnage calculated in accordance with
22 the tonnage measurement rules provided in the applicable
23 international convention on the tonnage measurement of
24 ships;

25 gg. "Unit of account" shall refer to the special

1 drawing right as defined by the International Monetary Fund;

2 hh. "Vessel" or "ship" may be used interchangeably and
3 shall refer to any boat, craft or artificial contrivance
4 capable of floating in water, designed to be used, or
5 capable of being used, as a means of water transport for the
6 carriage of passengers or cargo, or both, utilizing its own
7 motive power or that of another, and shall include a ship
8 under construction and for purposes of this Act shall
9 continue to be considered as personal property;

10 ii. "Vessel certificate" shall refer to the official
11 document issued by the appropriate government agency
12 attesting to the fact that the vessel complies with the
13 requirements imposed by international conventions or
14 government regulations on safety and the protection of the
15 marine environment.

16 **Chapter 3**

17 **Regulatory Agencies**

18 Section 5. **Implementing agencies.** - The
19 implementation of this Act shall be vested in the Maritime
20 Industry Authority and the Philippine Coast Guard.

21 Section 6. **Powers and functions of the Maritime**
22 **Industry Authority.** - For the purposes of this Act, the
23 Maritime Industry Authority shall have the following powers
24 and functions:

25 a. Accredit and license ship owners and operators;

1 b. Maintain the Registry of Ships of the Philippines;

2 c. Record all registrations, de-registrations,
3 deletions, transfers, sales, purchases, bareboat charters,
4 and mortgages of Philippine flag vessels;

5 d. Issue certificates of Philippine registry,
6 provisional certificates of Philippine registry and such
7 other authorizations, clearances and documents required to
8 give effect to any registration or de-registration of any
9 vessel;

10 e. Issue certificates of ownership to vessels which
11 are not eligible for the issuance of a certificate of
12 Philippine registry;

13 f. Conduct an inquiry on any application for the
14 issuance of a certificate of Philippine registry;

15 g. Deputize the Philippine Coast Guard for the
16 registration of vessels that are within the Philippines and
17 the collection of fees incident to such registration;

18 h. Deputize Philippine consular officers or maritime
19 attachés for the registration of vessels wanting to transfer
20 to the Philippine registry but are outside the territorial
21 jurisdiction of the Philippines and the collection of fees
22 incident to such registration;

23 i. Enter into agreements with foreign registries to
24 determine and establish the requirements for registration,
25 de-registration and enforcement in order to ensure the

1 compatibility of requirements of the Philippine registry
2 with that of other foreign registries;

3 j. Issue certificates of public convenience to
4 coastwise vessels;

5 k. Investigate any complaint made in writing, and
6 after notice and hearing, revoke any registration,
7 certificate, license, accreditation or document issued to
8 any seagoing or coastwise vessel, ship owner, ship operator,
9 bareboat charterer, or ship manager;

10 l. Impose fines on or otherwise penalize any vessel,
11 ship owner, ship operator, bareboat charterer or ship
12 manager found violating the provisions of this Act;

13 m. Exercise such other functions necessary for or
14 incidental to the proper implementation of this Act.

15 Section 7. **Powers and functions of the Philippine**
16 **Coast Guard.** - For purposes for this Act, the Philippine
17 Coast Guard shall have the following powers and functions:

18 a. Enforce laws, promulgate and administer
19 regulations relating to the promotion of the safety of life
20 and property at sea, the prevention of marine pollution and
21 the protection of the marine environment in accordance with
22 international maritime conventions;

23 b. Approve plans for the construction, repair or
24 alteration of vessels, and the materials, equipment and
25 appliances of vessels in accordance with international

1 conventions and domestic regulations giving effect to such
2 conventions on the safety of life at sea, marine pollution,
3 load line requirements and other related conventions;

4 c. Conduct the initial and periodic inspections of
5 vessels as well as their equipment and appliances either by
6 itself or through the agency of a marine surveyor or
7 classification society;

8 d. Approve the classification of vessels either by
9 itself or through the agency of a classification society;

10 e. Accredite and license surveyors and classification
11 societies and deputize them to perform such functions
12 necessary to give effect to the requirements of
13 international maritime conventions and government
14 regulations;

15 f. Issue certificates of inspection;

16 g. Determine the safe manning requirements of vessels
17 and the certificates of competency which each crew member
18 should possess considering the type, tonnage, power, means
19 of propulsion and trading limitations of particular ships
20 and, for this purpose, issue safe manning certificates to
21 ships;

22 h. Determine the safety, life saving, pollution
23 prevention and communication equipment to be installed on
24 board every vessel considering its type, tonnage and trading
25 limitations;

1 i. Investigate on its own or through the Board of
2 Marine Inquiry marine casualties, accidents, incidents,
3 disasters and marine protests in order to determine the
4 liability of vessels, ship owners, ship operators, bareboat
5 charterers, ship managers, ship officers and crew;

6 j. Impose fines or otherwise penalize any vessel,
7 ship owner, ship operator, bareboat charterer, ship manager
8 or classification society found violating the provisions of
9 this Act;

10 k. Exercise such other functions necessary for or
11 incidental to the implementation of this Act.

12 Section 8. **Issuance of implementing rules and**
13 **regulations.** - The Maritime Industry Authority and the
14 Philippine Coast Guard shall respectively issue rules and
15 regulations to implement the provisions of this Act;
16 Provided, that such rules and regulations shall not change
17 or in any way amend or be contrary to the intent and
18 purposes of this Act.

19 Section 9. **Power to adopt regulations to conform to**
20 **international maritime conventions.** - The Maritime Industry
21 Authority and the Philippine Coast Guard acting by
22 themselves, or in conjunction with each other, shall
23 recommend to the Department of Transportation and
24 Communications, through the Secretary, the adoption of
25 international maritime conventions so that the appropriate

1 recommendation can be made, and the relevant instrument of
2 ratification may be issued, by the Senate of the
3 Philippines; Provided that in the case of a subsequent
4 amendment to any existing international convention or
5 treaty to which the Philippines is already a party, both the
6 Maritime Industry Authority and the Philippine Coast Guard
7 are hereby empowered and authorized to amend and revise
8 their respective rules and regulations to conform with the
9 amendments to the relevant convention or treaty without need
10 of further authorization.

11

12

Title II

13

Vessels

14

Chapter 1

15

Registration of Vessels

16

Section 10. **Registry of Ships of the Philippines.** -

17

The Registry of Ships of the Philippines shall be the
18 official public registry of ships and shall contain all
19 records of registrations, deletions, transfers, bareboat
20 charters, and mortgages of Philippine flag vessels.

21

The Registry shall be open to public inspection during
22 regular business hours. Any person wishing to inspect the
23 Registry, or obtain extracts or copies of instruments
24 deposited with the Registry, may do so upon prior written
25 application to and approval of the Administrator of the

1 Maritime Industry Authority.

2 Section 11. **Vessel eligibility.** - Vessels of any
3 size, age or type that are classed by a classification
4 society, whether owned or chartered by Philippine nationals,
5 may be registered under the Philippine flag.

6 Vessels that are more than twenty (20) years old on
7 their first application for registration shall be subject to
8 a safety inspection as a pre-condition to the issuance of a
9 certificate of Philippine registry.

10 Vessels of a foreign registry that are covered by a
11 bareboat charter may be registered under the Philippine
12 flag; Provided, that the duration of the bareboat charter is
13 not less than one (1) year and its registration under the
14 foreign flag of primary registration shall not be abandoned,
15 but shall be deemed suspended, for the duration of the
16 ship's registration under the Philippine flag.

17 Section 12. **Vessel Ownership.** - Every vessel
18 registered in accordance with this Act shall be owned or
19 chartered by one or more Philippine nationals and, in the
20 case of corporations or commercial partnerships, the
21 president and corporate secretary or general manager and
22 partnership secretary thereof, as the case may be, shall be
23 citizens and residents of the Philippines.

24 Section 13. **Vessels required to be registered.** -
25 Every coastwise vessel and seagoing vessel shall be

1 registered in accordance with the provisions of this Act.

2 To this end, it shall be the duty of the ship owner,
3 ship operator, bareboat charterer, or any person acting on
4 behalf of every vessel to apply with the Maritime Industry
5 Authority for the registration of the vessel.

6 Section 14. **Where the registration is to be made.** -

7 The registration of a coastwise vessel shall be made at its
8 home port or at the port where the nearest regional office
9 of the Maritime Industry Authority, or the nearest
10 Philippine Coast Guard detachment deputized for the purpose,
11 is located.

12 The registration of a seagoing vessel shall be made in
13 the principal office of the Maritime Industry Authority in
14 the port of Manila.

15 If the vessel is not within the territory of the
16 Philippines at the time of acquisition or bareboat charter,
17 the application for registration shall be made through the
18 nearest Philippine consular office where the vessel may be
19 found. The Philippine consular office receiving the
20 application shall have the duty to forward the same to the
21 principal office of the Maritime Industry Authority in the
22 port of Manila.

23 Section 15. **The Registry of Ships of the**
24 **Philippines.** - The Maritime Industry Authority shall
25 maintain the following sub-registries for Philippine flag

1 vessels:

2 a. "The Principal Registry of Philippine Vessels" in
3 which the record of all registrations, deletions, transfers,
4 leases, bareboat charters out, suspensions of registry,
5 mortgages, encumbrances and other commercial transactions of
6 seagoing and coastwise ships owned by Philippine nationals
7 shall be made;

8 b. "The Bareboat Charter Registry of Vessels" in
9 which all records of registrations and deletions of ships
10 which are bareboat chartered into the Philippines shall be
11 made. This sub-registry shall also note down the following
12 details:

13 (i) the name and address of the registered owner in
14 the primary registry;

15 (ii) the registered name of the vessel as it appears
16 in the primary registry;

17 (iii) a reference that encumbrances on the vessel
18 appear in the primary registry;

19 c. "The Registry of Fishing Vessels" in which all
20 records of registrations and deletions of fishing vessels
21 owned by Philippine nationals shall be made;

22 d. "The Registry of Yachts and other Recreational
23 Vessels" in which all records of registrations and deletions
24 of yachts and other recreational vessels owned by Philippine
25 nationals shall be made.

1 Section 16. **Documents required for the registration**
2 **of vessels.** - Every ship owner or bareboat charterer
3 wishing to enroll a vessel in the Registry shall be required
4 to submit the following documents to the Maritime Industry
5 Authority:

6 a. A written application for registration;

7 b. A notarized copy of the declaration of ownership;

8 c. A certified copy of the Certificate of Sole
9 Proprietorship, or Articles of Partnership, or Articles of
10 Incorporation of the ship owner or bareboat charterer, as
11 the case may be;

12 d. The power of attorney, partnership resolution or
13 secretary's certificate authorizing the enrollment of the
14 ship in the Registry;

15 e. The tonnage measurement certificate;

16 f. The certificate issued by a classification society
17 showing that the ship is in class;

18 g. The vessel certificates required by international
19 conventions and domestic regulations;

20 h. The application for a provisional radio license;

21 i. The application for vessel name;

22 j. A certified copy of the cover note or certificate
23 of entry in the name of the ship owner or bareboat charterer
24 showing the current hull and machinery, and protection and
25 indemnity insurance coverage.

1 Section 17. **Additional documents required.** - In
2 addition to the documents listed in the immediately
3 preceding section, every ship owner or bareboat charterer
4 shall be required to submit the following documents:

5 a. For new buildings:

6 (i) A notarized copy of the original builder's
7 certificate;

8 b. For second hand tonnage:

9 (i) A notarized copy of the bill of sale or other
10 document of title evidencing the transfer;

11 (ii) The certificate of deletion from the previous
12 registry;

13 (iii) The certificate of non-encumbrance issued by
14 the previous registry;

15 (iv) A safety inspection certificate if the vessel
16 is more than twenty (20) years old;

17 c. For bareboat chartered or leased ships:

18 (i) The proof of ownership and consent of the
19 registered owner to the vessel's enrollment in
20 the Registry;

21 (ii) A certified true copy of the bareboat charter;

22 (iii) If the bareboat charterer wishes to change the
23 vessel's name, a letter requesting the change
24 of name of the vessel from that appearing in
25 its primary registry and the reason for the

- 1 request;
- 2 (iv) The written consent to the transfer of registry
3 of the holders of all mortgages, hypothecations
4 or similar charges against the vessel
5 registered in the foreign registry;
- 6 (v) Certified true copies of all mortgages,
7 hypothecations, and charges, with an English
8 translation of such documents;
- 9 (vi) The written consent to the bareboat charter
10 registration of the appropriate authority of
11 the country of primary registration of the
12 vessel, or satisfactory evidence that such
13 consent is not required;
- 14 (vii) A transcript of the register or other document
15 from the appropriate authority of the country
16 of primary registration showing all recorded
17 mortgages and encumbrances on the vessel
18 appearing in that registry;
- 19 (viii) A safety inspection certificate if the vessel
20 is more than twenty (20) years old.

21 Such other documents necessary to support the
22 application for the enrollment of ships in the Registry as
23 may be required by regulation.

24 Section 18. **Data to be listed in the Registry.** -
25 The following data shall be listed, in such form and detail

1 for all ships entered in the Registry of Ships:

2 a. Name of vessel;

3 b. Keel number;

4 c. Hull material;

5 d. Principal dimensions;

6 e. Gross tonnage;

7 f. Net tonnage;

8 g. IMO number;

9 h. Official number;

10 i. Place of build;

11 j. Year of build;

12 k. Name and address of registered owner, ship
13 operator, bareboat charterer, manager or other person
14 responsible for the ship;

15 l. Date of issuance of certificate of Philippine
16 registry;

17 m. Class of vessel;

18 n. A reference that encumbrances on the vessel appear
19 in the primary registry.

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

23 a. Place of previous registry;

24 b. Name of previous owner.

25 In the case of bareboat chartered vessels, the

1 following additional data shall also be listed in the
2 Registry of Ships:

3 a. Place of primary registry;

4 b. Name of registered owner appearing in the primary
5 registry;

6 c. Name of the vessel as it appears in the primary
7 registry;

8 d. A reference that encumbrances on the vessel appear
9 in the primary registry.

10 Any material change of condition with respect to any of
11 the preceding items and any other fact required by
12 regulation shall likewise be recorded in the Registry of
13 Ships.

14 Section 19. **Proceedings prior to the grant of a**
15 **Certificate of Philippine Registry.** - No application for a
16 Certificate of Philippine Registry shall be approved and
17 issued until:

18 a. An inspection of the vessel and its documents has
19 been conducted; and

20 b. It is verified that the applicant meets the
21 ownership requirements prescribed by this Act.

22 The Maritime Industry Authority on its own or through
23 the agency of the Philippine Coast Guard, may conduct the
24 inspection and investigation at any time in order to
25 ascertain whether the vessel is entitled to have, or to

1 retain, the certificate of Philippine registry.

2 Further inquiries may be made through a formal
3 administrative investigation of the vessel's owner,
4 operator, charterer, manager, master, crew or passengers to
5 determine the ownership or title and the intention to engage
6 in legitimate trade of any vessel seeking a certificate of
7 Philippine registry.

8 Section 20. **Issuance of the Certificate of**
9 **Philippine Registry.** - Upon the application for
10 registration and a satisfactory determination of
11 eligibility, a certificate of Philippine registry shall be
12 issued to all vessels which are more than fifteen (15) gross
13 tons. A certificate of Philippine registry shall be valid
14 for a period of no more than three (3) years, renewable for
15 a similar period or periods provided the vessel continues to
16 meet all the requirements to be eligible for registration.

17 In the case of bareboat chartered vessels, the
18 certificate of Philippine registry shall be valid for a
19 period of no more than three (3) years or the period of the
20 bareboat charter, whichever is shorter.

21 Section 21. **Registration of vessels between three**
22 **and fifteen gross tons.** - A vessel between three (3) gross
23 tons and fifteen (15) gross tons shall be registered with
24 the Maritime Industry Authority and a certificate of
25 ownership shall be issued to it. The application for the

1 issuance of a certificate of Philippine registry shall be
2 optional with the owner of such vessel.

3 Section 22. **Registration of vessels of three gross**
4 **tons or less.** - A vessel of three (3) gross tons or less
5 shall not be registered, unless requested by its owner.
6 Neither shall a document of registration of any kind be
7 required for such vessel. The application for the issuance
8 of a certificate of ownership shall be optional with the
9 owner of such vessel.

10 Section 23. **Provisional registration of vessels.** -
11 A provisional certificate of Philippine registry may be
12 issued to ships applying for registration provided all
13 documents listed in section 16 have been submitted and the
14 submission of the additional documents required in section
15 17 is pending.

16 The provisional certificate of Philippine registry
17 shall be valid for a period of ninety (90) days subject to a
18 single renewal of another ninety (90) days.

19 If the ship owner or bareboat charterer fails to submit
20 all required documents within the stipulated period, the
21 provisional certificate of Philippine registry shall
22 automatically expire on the date appearing on the
23 provisional certificate.

24 Section 24. **Appointment of consular officials for**
25 **the provisional registration of ships.** - If the ship is

1 outside Philippine territory, the application for
2 registration and its supporting documents enumerated in
3 sections 16 and 17 may be submitted to the nearest
4 Philippine consular office which shall then have the duty to
5 forward the documents to the offices of the Maritime
6 Industry Authority in the port of Manila.

7 The Philippine consular officer, upon the ship owner's
8 or bareboat charterer's submission of all documents
9 enumerated in section 16 may, at the direction of the
10 Maritime Industry Authority, issue a provisional certificate
11 of registry to the vessel.

12 Section 25. **Form and contents of certificate of**
13 **Philippine registry.** - The certificate of Philippine
14 registry shall contain the following information:

- 15 a. Name of the vessel;
- 16 b. Name and address of the registered owner or
17 charterer;
- 18 c. Keel number;
- 19 d. Hull material;
- 20 e. Principal dimensions;
- 21 f. Gross tonnage;
- 22 g. Net tonnage;
- 23 h. IMO number;
- 24 i. Official number;
- 25 j. Year of build;

1 k. Date of issuance of certificate of Philippine
2 registry;

3 1. List of registered encumbrances.

4 Such other information as may be determined by
5 regulation may likewise be set forth in the certificate of
6 Philippine registry.

7 The certificate of Philippine registry issued to every
8 ship which is bareboat chartered in shall, in addition,
9 contain the following information:

10 a. The fact that the ship is covered by a bareboat
11 charter and the date of such charter;

12 b. The name of the ship as it appears in its primary
13 registry, if such name has been changed upon entry in the
14 Philippine registry;

15 c. The name of the registered owner or owners as it
16 appears in the primary registry;

17 d. A reference that registered encumbrances appear in
18 the primary registry.

19 **Chapter 2**

20 **Vessels Under Construction**

21 Section 26. **Registration of Vessels Under**
22 **Construction.** - Vessels under construction contracted by a
23 Philippine national may be registered in accordance with the
24 provisions of this Act. In order that the vessel may be the
25 subject of registration under this Act, it is necessary that

1 the keel of the vessel must have been laid and a keel number
2 assigned by the shipyard at the time of application.

3 Section 27. **Documents required for the registration**
4 **of vessels under construction.** - Every ship owner wishing
5 to enroll a vessel under construction in the Registry shall
6 be required to submit the following documents:

7 a. A written application for registration;

8 b. A notarized copy of the declaration of ownership;

9 c. A certified copy of the Certificate of Sole
10 Proprietorship, or Articles of Partnership, or Articles of
11 Incorporation of the ship owner or operator, as the case may
12 be;

13 d. The power of attorney, partnership resolution or
14 secretary's certificate authorizing the enrollment of the
15 ship in the Registry; and

16 e. A notarized copy of the shipbuilding contract.

17 Section 28. **Document of registration.** - A
18 provisional certificate of registration shall be issued to a
19 vessel under construction and shall be valid for the period
20 during which the vessel is under construction.

21 Section 29. **Form and contents of the document of**
22 **registration.** - The provisional certificate of registration
23 issued to a ship under construction shall contain the
24 following information:

25 a. Name of the vessel;

1 or from any collision or other incident of navigation
2 concerning the ship.

3 **Chapter 4**

4 **Registration Fees and Tonnage Taxes**

5 Section 31. **Processing fee.** - A processing fee
6 shall be paid by the applicant when the application for
7 registration is filed. The processing fee shall be
8 collected to cover administrative costs for handling and
9 processing the application. The processing fee shall be in
10 such amount as may be determined by the Maritime Industry
11 Authority by regulation and approved by the Secretary of the
12 Department of Transportation and Communications.

13 Section 32. **Registration fee.** - A registration fee
14 shall be payable by the ship owner or bareboat charterer
15 when the ship is first entered in the Registry and shall be
16 paid when the Certificate of Philippine Registry is issued.

17 The registration fee shall be computed on the basis of
18 the tonnage of the vessel and shall be in such amount as may
19 be determined by regulation issued by the Maritime Industry
20 Authority and approved by the Secretary of the Department of
21 Transportation and Communications.

22 The registration fee shall be payable by the ship owner
23 or charterer regardless of whether the ship is owned or
24 bareboat chartered, or if the ship will be used
25 commercially, or for fishing, or for recreation.

1 The registration fee shall be reviewed from time to
2 time and, when deemed appropriate, the Maritime Industry
3 Authority shall submit a recommendation to the Secretary of
4 the Department of Transportation and Communications to
5 adjust the same. Any adjustment in the registration fee
6 shall be subject to the prior approval of the Secretary of
7 the Department of Transportation and Communications.

8 Section 33. **Annual tonnage taxes for seagoing**
9 **vessels.** - A tonnage tax shall be imposed and shall be
10 payable annually by every ship owner or bareboat charterer,
11 for every Philippine flag vessel it owns or charters
12 commencing the year after the entry of such ship in the
13 Registry. The tonnage tax shall be payable no later than
14 January 31 of each year and shall be assessed in accordance
15 with the following schedule:

16	Tonnage	Tonnage Tax
17	500 gross tons or less	P2,000.00
18	Over 500 gross tons	Plus P20.00 per ton

19
20 The tonnage tax paid shall be in lieu of any income tax due
21 from the ship owner or bareboat charterer and the
22 withholding tax due on the lease or bareboat charter fees
23 earned by the non-resident ship owner.

24 Section 34. **Exemption from duties and taxes.** - The
25 importation by a ship owner or bareboat charterer of a

1 vessel, and the spare parts and equipment needed for the
2 repair and maintenance of such vessel shall be exempt from
3 the payment of:

- 4 a. Import duties and taxes; and
- 5 b. Value added taxes.

6 Section 35. **Renewal of the Certificate of Philippine**
7 **Registry.** - Only a processing fee shall be paid by any ship
8 owner or operator wishing to renew a Certificate of
9 Philippine Registry. The processing fee paid for the
10 renewal of the Certificate of Philippine Registry shall be
11 in addition to the payment of the annual tonnage tax due for
12 the year the renewal of registration is made.

13 Chapter 5

14 De-registration or Suspension of Registration 15 of Philippine flag vessels

16 Section 36. **Sale, bareboat charter or other transfer**
17 **of Philippine flag vessels.** - A ship owner may freely sell,
18 transfer, bareboat charter out or otherwise dispose of a
19 vessel registered in his name.

20 Section 37. **Deletion from the Registry of Ships of**
21 **the Philippines.** - A ship shall be deleted from the
22 Registry of Ships for any of the following reasons:

- 23 a. If it is transferred to a natural or juridical
24 person who does not meet the ownership requirements imposed
25 by this Act; or

1 b. If it commits any act inimical to the security or
2 interests of the Philippines; or

3 c. If it is entered in a foreign registry without the
4 prior approval of the Maritime Industry Authority; or

5 d. If its bareboat charter party is not extended or
6 renewed; or

7 e. If it is sold for scrap; or

8 f. If it is lost.

9 If the vessel is sold, transferred or disposed of, the
10 ship owner or operator shall be required to submit the
11 following documents to effect the deletion of the ship's
12 registration:

13 a. A written request to delete the ship's
14 registration;

15 b. A notarized copy of the bill of sale;

16 c. The original certificate of registry;

17 d. The original radio station license; and

18 e. A certification from the appropriate agency
19 showing that all outstanding taxes, fees and charges due to
20 the government have been paid.

21 If the bareboat charter is not extended or renewed, the
22 documents listed in the immediately preceding paragraph
23 shall likewise be submitted by the bareboat charterer,
24 however, in lieu of the notarized copy of the bill of sale,
25 a statement from the charterer shall be submitted saying

1 that the bareboat charter has been terminated or that it has
2 expired and the same has not been renewed.

3 If the vessel has been lost, the ship owner, in lieu of
4 the notarized copy of the bill of sale, shall be required to
5 submit a copy of the report of the incident which has
6 resulted in the loss of the vessel issued by the Philippine
7 Coast Guard.

8 Section 38. **De-registration of a ship which is**
9 **subject of a mortgage.** - No ship shall be deleted from the
10 Registry unless:

11 a. All mortgages are discharged; or

12 b. The written consent of all mortgagees to the
13 deletion from the Registry is obtained.

14 If the de-registration of the vessel is obligatory in
15 accordance with the preceding section, all holders of
16 registered mortgages shall be notified by the Maritime
17 Industry Authority of the pending de-registration in order
18 to enable such holders to take appropriate action to protect
19 their respective interests. If the consent of the holders
20 is not obtained, de-registration shall not be implemented
21 earlier than three (3) months after notice to such holders
22 of registered mortgages is given.

23 Section 39. **Suspension of a ship's registry.** - The
24 registration of a vessel which has been bareboat chartered
25 out to a non-Philippine national shall be suspended for the

1 duration of the bareboat charter. However, a ship which has
2 been bareboat chartered out to a non-Philippine national
3 shall continue to be subject to Philippine law for all
4 transactions affecting the sale, transfer, mortgage,
5 encumbrance or other disposition of the vessel, the
6 enforcement of any lien or claim against the vessel, or any
7 other transaction affecting the private rights of the owner
8 of the vessel.

9 Section 40. **Documents required in order to suspend**
10 **registration.** - The ship owner shall be required to submit
11 the following documents to effect the suspension of such
12 registration:

- 13 a. A written request to suspend the ship's
14 registration;
- 15 b. A notarized copy of the bareboat charter;
- 16 c. The original certificate of registry;
- 17 d. The original radio station license; and
- 18 e. A certification from the appropriate agency
19 showing that all outstanding taxes, fees and charges due to
20 the government have been paid.

21 **Chapter 6**

22 **Operation of Vessels**

23 Section 41. **Ship construction.** - Every new building
24 registered under Philippine laws shall be constructed in
25 accordance with standards for ship construction set forth in

1 international maritime conventions and implemented through
2 government regulations.

3 Ship construction shall be under the supervision of the
4 Philippine Coast Guard or a classification society appointed
5 by the ship owner. The classification society shall oversee
6 the construction of the ship and ensure that the
7 construction regulations provided in international maritime
8 conventions and those issued by the Philippine Coast Guard
9 covering the structural strength and integrity of all parts
10 of the ship's hull and its appendages as well as the safety
11 and reliability of the main propulsion, steering systems and
12 auxiliary systems of the ship are followed.

13 Section 42. **Navigation and communication equipment.**

14 - Every Philippine flag vessel shall have on board such
15 navigation and communication equipment and apparatus
16 required by international maritime convention for the safe
17 navigation of ships. Every equipment and apparatus that
18 shall be required to be installed on board shall be suited
19 for the type, tonnage, power, means of propulsion and
20 trading limitations of the particular ship.

21 Section 43. **Equipment to prevent marine pollution.**

22 - Every Philippine flag vessel shall have on board equipment
23 and apparatus to prevent, reduce, or control pollution to
24 the marine environment emanating from ships. Every
25 equipment and apparatus required to be installed on board

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

3 Section 44. **Inspections and surveys.** - To ensure
4 the proper maintenance of the ship's hull, machinery and
5 equipment, its through-life compliance with international
6 conventions and government regulations, and its safe
7 operation, every Philippine flag vessel shall be subject to
8 periodic inspections and surveys.

9 Section 45. **Scope of inspections and surveys.** - The
10 inspections and surveys shall be conducted in accordance
11 with international maritime conventions and government
12 regulations, and shall include, but shall not be limited to,
13 an inspection and survey of the ship's:

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

19 Section 46. **Extent of authority of marine surveyor**
20 **or classification society.** - The Philippine Coast Guard, in
21 appointing a marine surveyor or classification society to
22 conduct the inspection and survey of ships, shall inform the
23 marine surveyor or classification society of the specific
24 responsibilities and conditions of the authority delegated
25 to it.

1 is qualified for the position or is willing to serve on
2 board the vessel. This exemption shall not be granted to
3 ships engaged purely in coastwise trade.

4 Section 50. **Crew competence.** - Every member of the
5 crew of a Philippine flag vessel shall possess the
6 appropriate certificate of competency setting forth his
7 competence to serve in the capacity and perform the
8 functions involved at the level of responsibility, for the
9 position held, for the type, tonnage, power, means of
10 propulsion, and trading limitations of the ship concerned.

11 The certificate of competency, as well as any
12 endorsements thereto and any renewals thereof, shall be
13 issued by the Professional Regulations Commission. The
14 certificate of competency shall attest to the fact that the
15 seafarer to whom it is issued meets the requirements for
16 service, age, medical fitness training, qualification, and
17 examinations for the position held.

18 **Chapter 8**

19 **Insurance and Other Indemnity Cover**

20 Section 51. **Insurance and indemnity cover.** - Every
21 ship owner or bareboat charterer shall be required to
22 maintain adequate insurance coverage or protection and
23 indemnity coverage to meet the financial responsibility for
24 any liability which such ship owner or bareboat charterer
25 may incur for loss of or injury to human life.

1 **Chapter 9**

2 **Enforcement**

3 Section 52. **Report of any incident involving a**
4 **Philippine registered ship.** - When any Philippine flag
5 vessel sustains an accident or causes any incident involving
6 the loss of life, material loss of property, or serious
7 injury to any person, or receives any damage affecting her
8 seaworthiness or her efficiency, or if it should cause any
9 pollution or damage to the marine environment, regardless of
10 where such accident or incident may occur, the ship owner,
11 ship operator, bareboat charterer, ship manager, agent or
12 master of such vessel shall immediately, after the
13 occurrence of the accident or incident, send a report of the
14 accident or incident to the Philippine Coast Guard
15 detachment nearest the place of the accident or incident or,
16 in the case of seagoing vessels, to the Philippine Coast
17 Guard Headquarters in the port of Manila, stating:

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

25 The ship owner, ship operator, charterer, ship manager,

1 agent or master may be required to furnish such other
2 information as shall be called for.

3 Section 53. **Investigation of the accident or**
4 **incident.** - Immediately upon receipt of the report, the
5 Philippine Coast Guard shall convene the Board of Marine
6 Inquiry so that an investigation into the accident or
7 incident can be conducted. The investigation of the
8 accident or incident shall follow the rules of procedure of
9 the Board of Marine Inquiry.

10 Section 54. **Investigation report.** - Upon completion
11 of the investigation, the Board of Marine Inquiry shall
12 prepare an investigation report setting forth the findings
13 of fact gathered from the investigation and recommend the
14 filing of appropriate administrative, civil or criminal
15 charges against the offender.

16 If it should be determined by the Board of Marine
17 Inquiry that the offender is a non-Philippine national, it
18 may request, through proper diplomatic channels, the
19 assistance of any other State to clarify the circumstances
20 surrounding the accident or incident so that corresponding
21 charges may be brought against the offender.

22 Section 55. **Filing of charges.** - Upon completion of
23 the investigation and the preparation of the report, the
24 Board of Marine Inquiry shall take steps to initiate
25 administrative, civil or criminal action, as may be proper

1 in the circumstances, against the offending parties.

2
3 **Title III**

4 **Ship Mortgages**

5 **Chapter 1**

6 **Creation of the Ship Mortgage**

7 Section 56. **Application.** - The provisions of this
8 Title shall be applicable to:

9 a. Vessels entered in the Registry;

10 b. Vessels under construction that are provisionally
11 entered in the Registry;

12 c. Mortgaged vessels belonging to a foreign flag
13 whose mortgage is sought to be enforced under Philippine
14 law.

15 Section 57. **Requisites for a valid mortgage**
16 **constituted under Philippine law.** - The following
17 requisites are essential for a ship mortgage to be validly
18 created under Philippine law:

19 a. It is executed to secure the fulfillment of a
20 valid principal obligation;

21 b. The mortgagor is the registered owner of the
22 vessel to be mortgaged;

23 c. The vessel sought to be mortgaged is registered
24 under Philippine law;

25 d. The mortgagor has free disposal of the ship being

1 mortgaged, or is legally authorized for the purpose.

2 A mortgagor may execute a ship mortgage in order to
3 secure the fulfillment of the principal obligation of
4 another.

5 Section 58. **Subject matter of a mortgage.** - The
6 following property may be the subject matter of a ship
7 mortgage under Philippine law:

8 a. A vessel entered in the Registry; and

9 b. A vessel under construction provisionally entered
10 in the Registry.

11 Subject to the terms of the contract, a mortgage of a
12 vessel shall include all property of the mortgagor which is
13 appropriated to the vessel and on board at the time the ship
14 mortgage contract is entered into, or that which is later
15 substituted for such property.

16 In the case of a mortgage with respect to a vessel
17 under construction, the mortgage shall include all
18 materials, machinery and equipment which the mortgagor has
19 provided and are within the premises of the shipbuilder's
20 yard and are distinctly identified in the mortgage contract
21 as intended to be incorporated into the ship under
22 construction.

23 **Chapter 2**

24 **Formal Validity**

25 Section 59. **Formal validity of ship mortgages.** - A

1 ship mortgage created under Philippine law shall not be
2 valid and enforceable except as between the parties to the
3 contract unless:

- 4 a. It is executed in a public instrument;
- 5 b. It is recorded in the office of the Maritime
6 Industry Authority where the vessel is registered; and
- 7 c. The mortgage is annotated on the certificate of
8 Philippine registry of the vessel.

9 Section 60. **Registration of mortgages.** - Every ship
10 mortgage created under Philippine law shall be registered
11 with, and the application for registration of the ship
12 mortgage shall be submitted to, the Maritime Industry
13 Authority together with:

- 14 a. A notarized copy or authenticated copy of the
15 mortgage contract showing:
 - 16 (i) The name and description of the vessel being
17 mortgaged;
 - 18 (ii) The name, and place of residence of the owner
19 of the vessel;
 - 20 (iii) The name of the principal obligor whose
21 obligation is being secured;
 - 22 (iv) The name and address of the mortgagee;
 - 23 (v) The date of the mortgage contract;
 - 24 (vi) The amount secured by the mortgage or the
25 maximum amount for which the mortgage is

1 constituted; and

2 (vii) The maturity date of the principal obligation.

3 b. The power of attorney, partnership resolution or
4 board resolution authorizing the execution and registration
5 of the mortgage; and

6 c. The certificate of Philippine registry or the
7 provisional certificate of Philippine registry of the
8 vessel.

9 The Maritime Industry Authority may require the
10 submission of such other documents needed to support the
11 application for registration.

12 If the ship is outside Philippine territory, the
13 application for the registration of the mortgage and its
14 supporting documents may be submitted by the ship owner to
15 the nearest Philippine consular office which shall then have
16 the duty to forward the documents to the offices of the
17 Maritime Industry Authority in the port of Manila.

18 Section 61. **Annotation of mortgages.** - Upon receipt
19 of the application for the registration of the mortgage
20 together with all supporting documents, the Maritime
21 Industry Authority shall enter the mortgage in the Registry
22 and annotate the same on the vessel's certificate of
23 Philippine registry or provisional certificate of Philippine
24 registry.

25 If the ship is outside Philippine territory, the

1 Philippine consular officer concerned, upon the direction of
2 the Maritime Industry Authority, shall cause the annotation
3 of the mortgage on the vessel's certificate of Philippine
4 registry or provisional certificate of registry, as the case
5 may be.

6 Section 62. **Posting of the notice of mortgage.** -
7 Upon entry of the mortgage in the Registry, the Maritime
8 Industry Authority shall issue to the mortgagor two (2)
9 official copies of the notices evidencing the entry of the
10 mortgage in the Registry. The mortgagor, upon receipt of
11 the copies of the notices shall take steps to exhibit one
12 (1) official copy of the notice in a prominent place on
13 board the ship together with an authenticated copy of the
14 certificate of Philippine registry.

15 Failure to exhibit the notice as required in this
16 section shall not affect the validity of the mortgage but
17 the Maritime Industry Authority shall penalize the mortgagor
18 for its omission.

19 **Chapter 3**

20 **Ranking of Mortgages**

21 Section 63. **Ranking of mortgages.** - The ranking of
22 mortgages as between themselves shall be determined by the
23 order in time in which the successive mortgages are entered
24 in the Registry. A mortgage registered prior in time shall
25 have preference over those registered later in time.

1 **Chapter 4**

2 **Release of Mortgages**

3 Section 64. **Extinguishment of mortgages.** - The
4 mortgage shall be extinguished through any of the following
5 reasons:

6 a. Fulfillment or other discharge of the principal
7 obligation;

8 b. Loss or destruction of the ship mortgaged;

9 c. Deletion of the vessel from the Registry;

10 d. Enforcement of the mortgage through the judicial
11 or extra-judicial sale of the vessel;

12 e. Other causes that may give rise to the extinction
13 of either the principal or the mortgage obligation.

14 Section 65. **Enforcement of the mortgage through the**
15 **sale or foreclosure of the vessel.** - A mortgagee shall be
16 entitled to foreclose the ship mortgage if:

17 a. The principal obligor has failed to fully
18 discharge its obligation;

19 b. The mortgagor or any person in possession of the
20 vessel has substantially prejudiced the security;

21 c. The mortgagor is in material breach of its
22 obligations under the mortgage contract and, by the terms of
23 such contract, the mortgagee would be entitled to foreclose
24 on the security.

25 Section 66. **Sale of mortgaged vessels at public**

1 **auction.** - A vessel subject of a mortgage which is entered
2 in the Registry may be sold extra-judicially through a
3 public auction in accordance with the provisions of the
4 Chattel Mortgage Law, Act No. 1508 as amended, provided
5 that:

- 6 a. The mortgagor is a Philippine national;
- 7 b. Philippine law is made applicable to the mortgage;
- 8 and
- 9 c. The mortgage is sought to be enforced in
10 accordance with Philippine law.

11 Upon the vessel's sale at public auction and a record
12 of such sale is entered in the Registry of Ships, the
13 mortgagee shall immediately be entitled to take actual or
14 constructive possession of the vessel.

15 The right to proceed against the vessel extra-
16 judicially provided in this section does not preclude the
17 mortgagee from proceeding against the ship directly through
18 a judicial attachment leading to a sale at public auction in
19 accordance with the provisions set forth in the Rules of
20 Court.

21 Section 67. **Sale of mortgaged vessels through**
22 **judicial proceedings.** - Any mortgage constituted under
23 Philippine law or under any foreign law covering any vessel
24 found within the territory of the Philippines regardless of
25 registry, which is not covered by the provisions of the

1 immediately preceding section, shall be enforced only by
2 proceeding against the ship directly through an arrest by
3 judicial attachment leading to a sale at public auction
4 filed with the court of appropriate jurisdiction in any port
5 of the Philippines where the vessel may be found. Judicial
6 proceedings and the service of process shall be in
7 accordance with the procedure set forth in the Rules of
8 Court.

9 Upon issuance of the order of arrest against the
10 vessel, the mortgagee shall immediately be entitled to take
11 actual or constructive possession of the vessel.

12 This provision shall be applicable to all vessels found
13 within the territorial jurisdiction of the Philippines
14 regardless of its registry, the nationality of the
15 mortgagor, mortgagee or principal obligor, and the law under
16 which the mortgage contract has been created.

17 Section 68. **Effect of sale.** - The enforcement of a
18 mortgage through the sale of the vessel whether judicially
19 or extra-judicially shall release the mortgage and cause the
20 transfer of ownership of the vessel from the mortgagor to
21 the purchaser of the vessel at foreclosure.

22 If the vessel sold is entered in the Registry and the
23 purchaser is not qualified to maintain the vessel's
24 registration, the Maritime Industry Authority shall cause
25 the deletion of such registration and require the purchaser

1 to transfer the vessel's registration to another registry.

2 Section 69. **Collection of the deficiency or return**
3 **of the excess.** - If the value of the secured obligation
4 exceeds the foreclosure price of the vessel, the mortgagee
5 shall be entitled to collect the deficiency from the
6 principal obligor by filing an action in a court of
7 appropriate jurisdiction for the recovery of such
8 deficiency.

9 If the foreclosure price of the vessel exceeds the
10 value of the secured obligation, the mortgagee shall hold
11 the excess in trust for the mortgagor and shall return the
12 same to the mortgagor.

13 An appraisal of the vessel by a qualified marine
14 appraiser shall be conducted by the mortgagee prior to the
15 extra-judicial foreclosure of the vessel. The appraisal
16 made shall be the basis for determining the foreclosure
17 price of the vessel.

18 Section 70. **Distribution of the proceeds of the sale**
19 **of a mortgaged vessel.** - Proceeds of the sale of a
20 mortgaged vessel whether sold extra-judicially in accordance
21 with section 66 or judicially in accordance with section 67
22 shall be distributed to first satisfy the maritime claims
23 listed in sections 72, 74 and 76 of this Act before the
24 satisfaction of any obligation arising from any registered
25 mortgage.

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Title IV

Maritime Claims and Liens

Chapter I

Maritime Claims and the Creation of Liens

Section 71. **Application.** - The provisions of this Title shall apply to all Philippine flag vessels or foreign flag vessels against which a maritime claim shall be enforced.

Section 72. **Creation of maritime liens.** - Each of the following claims against the ship owner, bareboat charterer, manager or operator of a vessel shall be secured by a maritime lien against the vessel:

a. 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 the cost of repatriation and social insurance contributions payable on their behalf;

b. Claims for loss of life or personal injury occurring whether on land or on water in direct connection with the operation of the vessel;

c. Claims for reward for the salvage of the vessel;

d. Claims for port, canal, and other waterway dues, and pilotage dues;

e. Claims based on tort arising out of physical loss

1 or damage caused by the operation of the vessel other than
2 loss of or damage to cargo, containers, and passengers
3 effects carried on the vessel.

4 Section 73. **Exceptions.** - No maritime lien shall
5 attach to the vessel for claims set forth in subsections (b)
6 and (e) of the immediately preceding section which arise out
7 of or result from:

8 a. Damage in connection with the carriage by sea of
9 oil or other hazardous or noxious substances for which
10 compensation is payable to the claimants through compulsory
11 insurance or other means of securing the claims; or

12 b. Damage arising from the radioactive properties or
13 a combination of radioactive properties with toxic,
14 explosive or other hazardous properties or nuclear fuel or
15 of radioactive products or waste.

16 **Chapter 2**

17 **Priority of Liens**

18 Section 74. **Priority of maritime liens.** - Maritime
19 liens set forth in section 72 shall have priority over all
20 registered mortgages and no other claim shall take priority
21 over such maritime liens or registered mortgages except the
22 following:

23 a. Judicial costs and expenses arising out of the
24 arrest and subsequent judicial sale of the vessel, including
25 the costs for the upkeep of the vessel and the crew, their

1 wages, cost of repatriation and social insurance
2 contributions payable on their behalf incurred during the
3 period of arrest or attachment;

4 b. The cost of removal incurred by the Government in
5 the interest of safe navigation or the protection of the
6 marine environment when the judicial sale pertains to a
7 stranded or sunken vessel.

8 Section 75. **Shipbuilder's or ship repairer's right**
9 **of retention.** - A shipbuilder or ship repairer shall have
10 the right to retain a vessel until it obtains full
11 satisfaction of all obligations due to it.

12 This right of retention shall be extinguished when the
13 vessel ceases to be in the possession of the shipbuilder or
14 ship repairer.

15 The right of retention shall not be extinguished if:

16 a. An order has been issued for the arrest or seizure
17 of, and the same has been served on, such vessel;

18 b. The surrender of possession is required pursuant
19 to the provisions of the next succeeding section.

20 Section 76. **Sale of vessel which is subject to a**
21 **shipbuilder's or ship repairer's right of retention.** - If a
22 shipbuilder or ship repairer is in the possession of the
23 vessel at the time of its judicial sale, the shipbuilder or
24 ship repairer shall be required to surrender the vessel to
25 the purchaser at public auction. The shipbuilder or

1 repairer shall, however, enjoy a preference and be entitled
2 to the settlement of its claim after the satisfaction of all
3 claims listed in sections 72 and 74.

4 Section 77. **Other rules affecting the priority of**
5 **maritime liens.** - The provisions of section 74 setting
6 forth the priority of maritime liens shall be subject to the
7 following additional rules:

8 a. Maritime liens securing a claim for reward for the
9 salvage of a vessel shall take priority over all other
10 maritime liens provided in section 72 where such maritime
11 liens have arisen and attached to the vessel prior in time
12 to the salvage operations performed;

13 b. Maritime liens securing claims for reward for the
14 salvage of the vessel shall rank in the inverse order of the
15 time when the salvage operations occurred;

16 c. Maritime claims for reward for the salvage of the
17 vessel shall be deemed to have accrued on the date when each
18 salvage operation was terminated;

19 d. Maritime liens set forth in subsections (a), (b),
20 (d) and (e) of section 72 shall rank pari passu as amongst
21 themselves.

22 e. The action in personam against the ship owner,
23 ship operator, bareboat charterer or ship manager for the
24 satisfaction of the maritime claim shall survive if the
25 proceeds of the sale are insufficient to satisfy all claims.

1 lien securing such claim. However, any claimant holding a
2 maritime lien may not be subrogated to compensation payable
3 to the owner of a vessel arising from an insurance contract.

4 **Chapter 4**

5 **Enforcement of Liens**

6 Section 81. **Enforcement of maritime liens.** - The
7 maritime liens provided in section 72 which attach to any
8 vessel found within the territory of the Philippines shall
9 be enforced by proceeding against the ship directly through
10 a judicial action leading to a sale at public auction filed
11 with the court of appropriate jurisdiction in any port of
12 the Philippines where the vessel may be found. Judicial
13 proceedings and the service of process shall be in
14 accordance with the procedure set forth in the Rules of
15 Court.

16 This provision shall be applicable to all vessels found
17 within the territorial jurisdiction of the Philippines
18 regardless of its registry, the nationality of the claimant
19 and the law under which the maritime lien has been created.

20 Section 82. **Effect of the judicial sale of a vessel.**

21 - Any judicial sale of the vessel shall extinguish all
22 maritime liens and encumbrances attaching to the vessel as
23 well as all registered mortgages; Provided, that the vessel
24 is within the territorial jurisdiction of the Philippines at
25 the time of the judicial sale and the sale has been made in

1 accordance with the provisions of this Act.

2 Section 83. **Disposition of the proceeds of the sale of**
3 **the vessel subject to a maritime lien.** - The proceeds of
4 the judicial sale of a vessel shall be distributed to first
5 satisfy the claims listed in sections 72, 74 and 76 of this
6 Act before the satisfaction of any obligation arising from
7 any registered mortgage created in accordance with section
8 59, or any maritime claim provided in section 88 hereof.

9 Any amount left over from the proceeds of sale of the
10 vessel shall be held in trust for the ship owner, ship
11 operator, bareboat charterer, or ship manager.

12 Section 84. **Rights of a purchaser at judicial sale.**
13 - The purchaser at the judicial sale of the vessel shall
14 have the right to request the officer of the court
15 conducting the sale to issue a certificate to the effect
16 that the vessel is sold free from all registered mortgages,
17 or charges, except those assumed by the purchasers, and all
18 other liens and encumbrances that may have attached to the
19 vessel as of the date of the judicial sale.

20 The Maritime Industry Authority, with respect to
21 Philippine flag vessels, shall be obliged to:

22 a. Delete all registered mortgages and charges on the
23 basis of the certificate issued by the officer of the court
24 conducting the sale except those assumed by the purchaser;
25 and

1 natural or juridical, to proceed against the ship owner,
2 ship operator, bareboat charterer or ship manager for any of
3 the claims set forth in section 88 of this Act through an
4 action in personam.

5 Section 87. **Right to detain a ship.** - The
6 provisions for the arrest of ships under this Chapter shall
7 not affect the powers vested in the Philippine Coast Guard,
8 Philippine Navy, Philippine Ports Authority, Bureau of
9 Customs or other government agency to detain any ship under
10 any Philippine law or international convention or any
11 regulation issued pursuant to such law or international
12 convention.

13 Chapter 2

14 Right of Arrest

15 Section 88. **Maritime claims giving rise to the right**
16 **of arrest.** - A claimant asserting any of the following
17 maritime claims may enforce his claim directly against a
18 vessel by seeking its arrest through an attachment by
19 judicial action and asking the court of appropriate
20 jurisdiction for its sale in order to secure the
21 satisfaction of such claim:

22 a. Loss or damage caused by the operation of the
23 ship;

24 b. Loss of life or personal injury occurring whether
25 on land or on water in direct connection with the operation

1 of the ship;

2 c. Salvage operation or any salvage agreement,
3 including, if applicable, special compensation relating to
4 salvage operations in respect of a ship which by itself or
5 its cargo threatened damage to the environment;

6 d. Damage or threat of damage caused by the ship to
7 the environment, coastline or related interest; or measures
8 taken to prevent, minimize, or remove such damage; or
9 compensation for such damage; costs of reasonable measures
10 of reinstatement of the environment actually undertaken or
11 to be undertaken; loss incurred or likely to be incurred by
12 third parties in connection with such damage; and damage,
13 costs, or loss of a similar nature to the foregoing;

14 e. Costs or expenses relating to the raising,
15 removal, recovery, destruction or the rendering harmless of
16 a ship which is sunk, wrecked, stranded or abandoned,
17 including anything that is or has been on board such ship,
18 and costs or expenses relating to the preservation of an
19 abandoned ship and maintenance of its crew;

20 f. Any agreement relating to the use or hire of the
21 ship, whether contained in a charter party or otherwise;

22 g. Any agreement relating to the carriage of goods or
23 passengers on board the ship, whether contained in a charter
24 party or otherwise;

25 h. Loss of, or damage to, or in connection with

1 goods, including luggage, carried on board the ship;

2 i. General average;

3 j. Towage;

4 k. Pilotage;

5 l. Goods, materials, provisions, bunkers, equipment,
6 including containers, supplied or services rendered to the
7 ship for its operation, management, preservation or
8 maintenance;

9 m. Construction, reconstruction, repair, conversion,
10 or equipment of the ship;

11 n. Port, canal, dock, harbor and other waterway dues
12 and charges;

13 o. Wages and other sums due to the master, officers
14 and other members of the ship's complement in respect of
15 their employment on the ship, including costs of
16 repatriation and social insurance contributions payable on
17 their behalf;

18 p. Disbursements incurred on behalf of the ship or
19 its owners;

20 q. Insurance premiums, including mutual insurance
21 calls, in respect of the ship, payable by or on behalf of
22 the ship owner, ship operator, bareboat charterer, or ship
23 manager;

24 r. Any commissions, brokerages or agency fees payable
25 in respect of the ship by or on behalf of the ship owner,

1 ship operator, bareboat charterer, or ship manager;

2 s. Any dispute as to ownership or possession of the
3 ship;

4 t. Any dispute between co-owners of the ship as to
5 the employment or earnings of the ship;

6 u. Any mortgage or charge of the same nature on the
7 ship; and

8 v. Any dispute arising out of a contract for the sale
9 of the ship.

10 The procedure for the issuance of the order of arrest
11 and the service of process upon the vessel, its owner,
12 bareboat charterer, manager, operator, or any person acting
13 on its behalf, shall be made in accordance with the
14 provisions of the Rules of Court.

15 The distribution of the proceeds of any judicial sale
16 undertaken to satisfy the maritime claims set forth in this
17 section shall be made subject to the provisions of section
18 83.

19 Section 89. **Reason for the arrest.** - The court may
20 order the arrest of a vessel for the purpose of obtaining
21 security for the enforcement of a maritime claim set forth
22 in the preceding section regardless of where such maritime
23 claim may have arisen and what the nationality of the ship
24 is against which the maritime claim is being enforced.

25 The arrest shall be made notwithstanding the existence

1 of a jurisdiction clause or arbitration clause in the
2 contract giving rise to the claim providing that the
3 maritime claim for which the arrest has been made is to be
4 adjudicated or arbitrated in a State other than the
5 Philippines, or adjudicated in accordance with the law of
6 that State.

7 Section 90. **Exercise of the right of arrest.** - The
8 court may order the arrest of any Philippine flag vessel or
9 foreign flag vessel against which a maritime claim is
10 asserted if:

11 a. The person who owned the ship at the time the
12 maritime claim arose is liable for the claim, and is still
13 the owner of the ship at the time when the arrest is
14 effected; or

15 b. The bareboat charterer of the ship at the time
16 when the maritime claim arose is liable for the claim, and
17 is still the bareboat charterer or owner of the ship when
18 the arrest is effected; or

19 c. The maritime claim on the ship is based upon a
20 mortgage or charge of a similar nature; or

21 d. The maritime claim relates to the ownership or
22 possession of the ship; or

23 e. The maritime claim is made against the ship owner,
24 ship operator, bareboat charterer, or ship manager and is
25 secured by a maritime lien under section 72 hereof.

1 charterer, ship manager or any other person acting on its
2 behalf.

3 In cases involving any dispute between co-owners of the
4 ship as to the employment or earnings of the ship, or
5 arising from the ownership or possession of the ship, the
6 court may in its discretion determine whether to require a
7 bond or other security before permitting the person in
8 possession of the ship to continue trading with the ship or
9 to otherwise deal with the operation of the ship during the
10 period of the arrest.

11 Section 94. **Amount of bond or other security.** - The
12 parties may agree on the form and amount of the bond or
13 other security for the release of the ship and submit their
14 agreement to the court.

15 In the absence of any agreement between the parties as
16 to the sufficiency and form of the bond or other security,
17 the court shall determine its nature and the amount thereof.

18 For purposes of determining the amount of the bond or
19 other security, the same shall not exceed the amount of the
20 claim for which the ship has been arrested, or the value of
21 the ship, or the applicable limit of liability determined in
22 accordance with Title VI, Chapter 2 of this Act, whichever
23 is least.

24 Section 95. **Place of posting of the bond or other**
25 **security.** - The bond or other security for the release of

1 the vessel against which the claim is sought to be enforced
2 shall be posted with the court which issues the order for
3 the arrest of the vessel.

4 Section 96. **Release of the bond or other security**
5 **posted in a Philippine court.** - If a ship is arrested by a
6 foreign court for the same claim for which a bond or other
7 security has already been provided in a Philippine Court and
8 against which its release has been obtained, the bond or
9 other security so provided in the Philippine court shall, at
10 the discretion of such court, be released upon application
11 of the ship owner, ship operator, bareboat charterer or ship
12 manager.

13 Section 97. **Release of excess security.** - If a ship
14 has been released by a Philippine court on the basis of a
15 bond or other security posted with that court and the same
16 ship is later arrested by a foreign court for the same claim
17 and is likewise subsequently released upon the provision of
18 a bond or other security posted, the bond or other security
19 posted with the Philippine court shall, at the court's
20 discretion, be released to the extent that the total amount
21 of the bond or other security provided in the Philippine
22 court and that provided in the foreign court combined
23 exceeds the claim for which the ship has been arrested, or
24 the value of the ship, whichever is lower.

25 Section 98. **Condition for the release of excess**

1 **security.** - The release of the bond or other security
2 provided in the immediately preceding section shall not be
3 ordered by the Philippine court unless it is satisfied that
4 the bond or other security posted in the foreign court shall
5 actually be available and be freely transferable to satisfy
6 any judgment or order that may be issued in favor of the
7 claimant.

8 Section 99. **Reduction, modification or cancellation**
9 **of the bond.** - If a bond or other security has been
10 provided for the release of the ship, the person providing
11 the bond or security may, at any time, apply to the court to
12 have that security reduced, modified or cancelled. The
13 court, in its discretion and upon a determination of the
14 veracity of the claim filed, shall issue the appropriate
15 order retaining, reducing, modifying or canceling such bond
16 or other security.

17 Section 100. **No presumption of fault.** - Any request
18 for the ship to be released upon a bond or other security
19 being provided, or any application to limit liability made
20 by the ship owner, ship operator, bareboat charterer or ship
21 manager shall not be construed as an acknowledgment of
22 liability or a waiver of any defense which may be pleaded
23 against the claimant or a waiver of any right to limit the
24 liability of such ship owner, ship operator, bareboat
25 charterer or ship manager in accordance with the provisions

1 of Title VI, Chapter 2 of this Act or of any other law or
2 international convention.

3 **Chapter 4**

4 **Re-arrest, Multiple Arrest and** 5 **Arrest of Additional Vessel**

6 Section 101. **Re-arrest or multiple arrest of a ship.**

7 - If a ship has already been arrested and released, or a
8 bond or other security for its release has been provided in
9 order to secure the maritime claim sought to be enforced
10 against that ship, the same ship shall not be re-arrested
11 for the same maritime claim unless:

12 a. The nature or amount of the bond or other security
13 already provided is inadequate or insufficient or has
14 otherwise been prejudiced; or

15 b. The person who has already provided the security
16 will not, or is unlikely to, be able to fulfill some or all
17 of the obligations required; or

18 c. The ship arrested or the bond or other security
19 previously provided was released upon application or with
20 the consent of the claimant acting on reasonable grounds and
21 the maritime claim sought to be enforced against the ship
22 was not subsequently satisfied; or

23 d. The claimant could not, despite taking reasonable
24 steps, prevent the release of the ship, or the bond or other
25 security provided.

1 any unjustified, arbitrary, wrongful or unlawful arrest of
2 its ship and for which the claimant may be found liable.
3 Such loss or damage shall include but shall not be limited
4 to any loss or damage incurred by the ship owner, ship
5 operator, bareboat charterer or ship manager arising from
6 such arrest, or from any excessive security which may have
7 been demanded by the claimant, and provided for by such ship
8 owner, ship operator, bareboat charterer or ship manager.

9 Section 104. **Determination of the amount of the**
10 **claimant's bond.** - The court issuing the order of arrest
11 shall have jurisdiction to determine the extent of the
12 liability of the claimant which may arise from any loss or
13 damage caused by the arrest of the ship and the amount of
14 the bond to be required shall depend upon such determination
15 of liability.

16 If a bond or other security has been provided in
17 accordance with this section, the claimant may ask at any
18 time to have the bond or other security reduced, modified or
19 cancelled upon proof of the validity of the claim.

20 Section 105. **Determination of claimant's bond pending**
21 **proceedings in a foreign court.** - If the disposition of the
22 case on the merits for which the arrest has been effected
23 lies with a foreign court or with an arbitral tribunal, the
24 Philippine court ordering the arrest of the vessel may delay
25 the determination of the extent of the claimant's liability

1 which may arise from any loss or damage that may be
2 occasioned to the ship owner, ship operator, bareboat
3 charterer or ship manager because of the unjustified,
4 arbitrary, wrongful or unlawful arrest of the ship pending a
5 decision on the merits by such foreign court or arbitral
6 tribunal.

7 **Chapter 6**

8 **Jurisdiction**

9 Section 106. **Jurisdiction of the Philippine court on**
10 **the merits of the case.** - The Philippine court, which has
11 ordered the arrest of a vessel or has required the provision
12 of a bond or other security for the release of the ship,
13 shall have jurisdiction to determine the case on its merits.

14 Section 107. **Transfer of venue.** - The parties may
15 appear and adjudicate the claim before the Philippine court
16 exercising jurisdiction over the claim or, with leave of
17 court, may mutually agree to submit the dispute within an
18 agreed period of time to the jurisdiction of a foreign court
19 or to an arbitral tribunal which has jurisdiction over the
20 claim. Such agreement of the parties on the transfer of
21 venue to a foreign court or arbitral tribunal shall be
22 submitted to the Philippine court to allow for the
23 suspension of the proceedings.

24 Section 108. **Right of the court not to exercise**
25 **jurisdiction.** - Upon receipt of the order, in proper form

1 and substance, that a foreign court or arbitral tribunal has
2 accepted jurisdiction over the case, the Philippine court
3 which has issued the order for the arrest of the vessel, or
4 has required the provision of a bond or other security to
5 obtain the release of the ship, may, in its discretion,
6 suspend the exercise of jurisdiction over the claim in favor
7 of the foreign court or arbitral tribunal.

8 Section 109. **Transfer of the case to a foreign court**
9 **or arbitral tribunal.** - If the Philippine court, which has
10 ordered the arrest of the vessel or has required the
11 provision of a bond or other security to obtain the release
12 of the ship, refuses to exercise jurisdiction over the claim
13 in accordance with the provisions of section 106, the court
14 shall, upon application of the claimant, grant a period of
15 time within which the claimant shall bring proceedings
16 before a competent foreign court or arbitral tribunal.

17 If proceedings are not brought within the period of
18 time stipulated in the order, the ship arrested or the bond
19 or other security provided, upon request of the ship owner,
20 ship operator, bareboat charterer or ship manager, shall be
21 ordered released by the court.

22 Chapter 7

23 Recognition and Enforcement of Judgments

24 Section 110. **Recognition of foreign judgments.** - If
25 proceedings are brought before a foreign court of competent

1 jurisdiction or an arbitral tribunal, any final judgment or
2 arbitral award resulting from such proceedings shall be
3 recognized and given full force and effect by the Philippine
4 court having custody of the arrested ship or the bond or
5 other security provided for its release. The parties shall
6 be required to submit to the Philippine court a copy of the
7 final judgment or arbitral award in such form and substance
8 sufficient for its recognition and enforcement under
9 Philippine law.

10 Section 111. **Conditions for the recognition of the**
11 **foreign judgment.** - The recognition of such final judgment
12 or arbitral award shall be made on the condition that the
13 ship owner, ship operator, bareboat charterer or ship
14 manager has been given reasonable notice of the proceedings
15 filed with the foreign court or arbitral tribunal, has had
16 reasonable opportunity to defend itself in such proceedings,
17 and the final judgment or arbitral award resulting from such
18 proceedings is not contrary to Philippine law, morals,
19 public order or public policy.

20 No further restriction shall be imposed on the
21 recognition and enforcement of such foreign judgment or
22 arbitral award by the Philippine court which ordered the
23 arrest of the ship or for which the bond or other security
24 has been provided to obtain its release.

25 Section 112. **Enforcement of Judgments.** - A judgment

1 rendered in favor of the claimant whether by a Philippine
2 Court or a foreign court or arbitral tribunal shall be
3 enforced against the vessel through its judicial sale, or
4 against the bond or other security given as security for the
5 claim.

7 **Title VI**

8 **Limitation of Liability for Maritime Claims**

9 **Chapter 1**

10 **Right to Limit Liability**

11 Section 113. **Application.** - The following may invoke
12 the right to limit their liability in accordance with the
13 rules provided for in this Title for the claims set out in
14 the next succeeding section:

- 15 a. Ship owners;
- 16 b. Ship operators;
- 17 c. Bareboat charterers;
- 18 d. Ship managers;
- 19 e. Salvors with respect to claims set forth in
20 subsections (d), (e) and (f) of section 114;
- 21 f. Any person whose act, neglect or default the ship
22 owner, ship operator, bareboat charterer, ship manager or
23 salvor is responsible for; and
- 24 g. Insurers who assume the liability of any ship
25 owner, ship operator, bareboat charterer, ship manager, or

1 salvor.

2 Section 114. **Claims which are subject to limitation.**

3 - The following claims made against the persons set forth in
4 the preceding section or against the ship, whatever the
5 basis of liability may be, shall be subject to the
6 limitation of liability:

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

13 (b) Claims in respect of loss resulting from delay in
14 the carriage by sea of cargo, passengers or their luggage;

15 (c) Claims in respect of other loss resulting from the
16 infringement of rights, other than contractual rights,
17 occurring in direct connection with the operation of the
18 ship or of salvage operations;

19 (d) Claims in respect of loss or damage arising from
20 the raising, removal, destruction or the rendering harmless
21 of a ship which is sunk, wrecked or abandoned, including
22 anything that is or has been on board such ship;

23 (e) Claims in respect of loss or damage resulting from
24 the removal, destruction or the rendering harmless of the
25 cargo of the ship;

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

5 Section 115. **Right to invoke limit of liability.** -
6 The right to limit liability may be invoked by the ship
7 owner, ship operator, bareboat charterer, ship manager or
8 salvor, against any claimant in a judicial action who has
9 sought the arrest of its vessel in order to enforce a claim
10 which is subject to limitation.

11 Section 116. **Claims not subject to limitation.** - The
12 following claims shall not be subject to any limitation of
13 liability in accordance with this Title:

14 (a) Claims arising from the contract of salvage or
15 from any salvage operation rendered in accordance with
16 relevant Philippine law on salvage or any applicable
17 international salvage convention, including any claim for
18 special compensation payable under a contract of salvage, or
19 any contribution in general average;

20 (b) Claims for oil pollution damage within the meaning
21 of the applicable convention covering the civil liability
22 for oil pollution damage or any amendment thereto which is
23 in force;

24 (c) Claims subject to any international convention
25 governing or prohibiting the limitation of liability for

1 nuclear damage;

2 (d) Claims against the ship owner of a nuclear ship
3 for nuclear damage;

4 (e) Claims brought by employees against the ship
5 owner, ship operator, bareboat charterer, ship manager, or
6 salvor, where the duties of such employees are connected
7 with the ship or with the salvage operations, as the case
8 may be, or their heirs, successors, or assigns, if under the
9 law governing the contract of employment, the ship owner,
10 ship operator, bareboat charterer, ship manager, or salvor
11 is not entitled to limit his liability in respect of such
12 claims, or if the law governing the contract of employment
13 permits a limit of liability greater than that provided for
14 in this Title.

15 Section 117. **Conduct barring limitation.** - Any ship
16 owner, ship operator, bareboat charterer, ship manager or
17 salvor, or any person acting on their behalf, shall not be
18 entitled to limit liability if it is proven that the loss
19 resulted from the personal act or omission of such ship
20 owner, ship operator, bareboat charterer, ship manager, or
21 salvor, or any person acting on their behalf, and such act
22 or omission was committed with the intent to cause such
23 loss, or it was done recklessly and with the knowledge that
24 such loss would probably result.

25 Section 118. **Counterclaims; right to set off.** - When

1 a ship owner, ship operator, bareboat charterer, ship
2 manager, or salvor, who is entitled to limit his liability,
3 has a counterclaim against the claimant arising out of the
4 same occurrence, their respective claims shall be set off
5 against each other and the limits of liability shall only
6 apply to the balance of the claim, if any. The right of set
7 off can be invoked only if both parties are entitled to
8 limit their respective liabilities and their respective
9 claims do not fall within the provisions of section 116 or
10 117 of this Act.

11 Chapter 2

12 Limits of Liability

13 Section 119. **General Limits.** - The general limits of
14 liability for claims other than for passenger claims,
15 arising from any distinct occasion shall be calculated as
16 follows:

17 (a) In respect of claims for loss of life or personal
18 injury:

19 (i) 2,000,000 units of account for a ship with a
20 tonnage not exceeding 2,000 tons;

21 (ii) For a ship with a tonnage in excess thereof,
22 the following amount in addition to that
23 mentioned in (i);

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

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

3 For each additional ton in excess of 70,000
4 tons, 400 units of account

5 (b) In respect of any other claims:

6 (i) 1,000,000 units of account for a ship with a
7 tonnage not exceeding 2,000 tons;

8 (ii) For a ship with a tonnage in excess thereof the
9 following amount in addition to that mentioned
10 in (i):

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

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

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

17 The Maritime Industry Authority, with the approval of
18 the Secretary of the Department of Transportation and
19 Communication, may by regulation revise the limits of
20 liability provided for in this section to align such limits
21 with applicable international maritime conventions.

22 Section 120. **Claims for loss of life in excess of the**
23 **stipulated limit.** - If the amount calculated in accordance
24 with subsection (a) of the preceding section is insufficient
25 to pay in full all the claims for loss of life or personal

1 injury, the amount calculated in accordance with subsection
2 (b) shall be available for the payment of the unpaid balance
3 of the claims under subsection (a).

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

12 Section 121. **Salvor's limit of liability when not**
13 **operating from a ship.** - The limit of liability for any
14 salvor who is not operating from any ship or salvage tug, or
15 who is operating solely on the ship to, or in respect of,
16 which he is rendering salvage services, shall be calculated
17 in accordance with the provisions of section 119 of this Act
18 applying a tonnage of 1,500 tons.

19 Section 122. **Limit of liability for passenger claims.**
20 - The limit of liability of a ship owner, ship operator,
21 bareboat charterer, or ship manager, for passenger claims
22 relating to loss of life or personal injury arising out of
23 any distinct occasion, shall be an amount equivalent to
24 175,000 units of account multiplied by the number of
25 passengers which the ship is authorized to carry according

1 to the ship's certificate.

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

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

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

11 Section 123. **Formula for converting the unit of**
12 **account to Philippine pesos.** - The unit of account
13 mentioned in this Chapter shall be converted to Philippine
14 pesos according to the value of the Philippine peso on the
15 date the limitation fund is constituted, or payment is made,
16 or security is given. The equivalent value of the
17 Philippine peso shall be calculated in accordance with the
18 method of valuation applied by the International Monetary
19 Fund for its operations and transactions in effect on the
20 applicable date.

21 Section 124. **Aggregation of claims for loss of life**
22 **and personal injury and for other claims.** - The limits of
23 liability for loss of life and personal injury and for other
24 claims determined in accordance with section 119 hereof
25 shall apply to the aggregate of all claims which arise on

1 any distinct occasion against:

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

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

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

17 **Chapter 3**

18 **Limitation Fund**

19 Section 125. **Creation of a limitation fund.** - Any
20 person entitled to limit his liability in accordance with
21 section 113 and who is alleged to be liable for a claim
22 provided in section 114 hereof may, at any time during the
23 hearing of the case or after the arrest of his vessel,
24 constitute a fund with the court in which legal proceedings
25 have been instituted for the satisfaction of the claim

1 subject to limitation.

2 The fund shall be in an amount equivalent to the limits
3 of liability set forth in sections 119, 121, or 122 hereof,
4 as the case may be, together with any interest due thereon
5 from the date of the occurrence giving rise to the liability
6 until the date of the creation of the fund. The total
7 amount of the fund shall be subject to the rules on
8 aggregation of claims set forth in section 124 of this Act.

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

12 Section 126. **Form of the fund.** - The fund may be
13 created, either by depositing the sum with a bank or other
14 financial institution designated by the court, or by
15 providing a bond, or other security acceptable to the court.

16 The fund constituted by any of the persons mentioned in
17 section 113, subsections (a), (b), (c), (d) or (e) shall
18 likewise be deemed constituted in favor of the persons
19 mentioned in subsection (f) and (g) of that section.

20 Section 127. **Distribution of the fund.** - Subject to
21 the provisions of sections 119 and 120 hereof, the
22 limitation fund shall be distributed among the claimants in
23 proportion to their claims against the fund as determined by
24 the court.

25 Section 128. **Subrogation of rights.** - If at any time

1 before the fund is distributed the ship owner, ship
2 operator, bareboat charterer, ship manager or salvor, or
3 their respective insurers, settles a claim made against and
4 payable by the fund, such person shall, up to the amount
5 paid, acquire by subrogation the rights which the claimant
6 would have enjoyed under this Title.

7 Section 129. **Contingency fund for expected claim.** -
8 Where the ship owner, ship operator, bareboat charterer,
9 ship manager, or salvor, or their respective insurers,
10 establishes that it may be compelled to pay a claim, at a
11 later date, whether in whole or in part, and because of such
12 payment, the ship owner, ship operator, bareboat charterer,
13 ship manager or salvor, or their respective insurers, would
14 have enjoyed a right of subrogation if the claim had been
15 paid before the fund was distributed, the court having
16 jurisdiction over the claim and in which the fund has been
17 constituted may order that a sufficient sum from the fund be
18 provisionally set aside to enable the person who has been
19 subrogated to the rights of the claimant to enforce his
20 claim against the fund at such later date.

21 Section 130. **Bar to other actions.** - Where a
22 limitation fund has been constituted in accordance with
23 section 125 hereof, any person having made a claim against
24 the fund shall be barred from enforcing such claim against
25 any other assets of the persons mentioned in section 113

1 hereof and on whose behalf the fund has been constituted.

2 Section 131. **Release from arrest after the**
3 **constitution of the limitation fund.** - After a limitation
4 fund has been constituted in accordance with section 125 of
5 this Act, any ship or other property, belonging to a ship
6 owner, ship operator, bareboat charterer, ship manager or
7 salvor on whose behalf the fund has been constituted, which
8 has been arrested or attached in accordance with Title V of
9 this Act in order to satisfy a claim which is enforceable
10 against the fund or any other bond or security given, may be
11 released from arrest at the discretion of the court.

12 Such release shall, however, be mandatory if the
13 limitation fund has been constituted:

14 a. At the port where the occurrence took place;

15 b. If the occurrence took place out of port, at the
16 first port of call of the ship after such occurrence;

17 c. At the port of disembarkation in respect of claims
18 for loss of life or personal injury;

19 d. At the port of discharge in respect of damage to
20 cargo; or

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

22 The provisions of this section and of the immediately
23 preceding section shall apply only if the claimant may bring
24 a claim against the limitation fund before the court
25 administering that fund and the fund is actually available

1 and freely transferable to the claimant in respect of the
2 claim.

3 Section 132. **Coverage.** - The provisions of this
4 Title shall apply to all Philippine flag ships whether
5 seagoing or coastwise and to all foreign flag ships the
6 claims against which are sought to be enforced in any
7 Philippine court of appropriate jurisdiction.

8

9

Title VII

10

Final Provisions

11 Section 133. **Requisition of Vessels.** - The President
12 of the Philippines may, in times of war and other national
13 emergency, when the public interest so requires,
14 requisition, absolutely or temporarily, for any naval or
15 military purpose, any and all vessels of Philippine
16 registry. The Government shall pay the owner or operator of
17 the vessel, based on normal conditions at the time of
18 requisition:

19 a. The fair market value, if the vessel is taken
20 absolutely; or

21 b. The fair charter value, if the vessel is taken
22 temporarily, for the period commencing from the takeover by
23 the Government to the date the vessel is returned to its
24 owner or operator.

25 Section 134. **Repealing clause.** - The following laws

1 are hereby repealed:

2 a. Articles 573 to 585 and 719 to 736 of the Code of
3 Commerce of 1888;

4 b. Sections 801 to 821 and 829 of Republic Act No.
5 1937;

6 c. Republic Act No. 913;

7 d. Republic Act No. 1407;

8 e. Republic Act No. 6106;

9 f. Presidential Decree No. 214

10 g. Presidential Decree No. 1521;

11 The provisions of the following laws covering the
12 powers and functions of MARINA and the Philippine Coast
13 Guard are hereby amended insofar as they are inconsistent
14 with sections 6 and 7 of this Act:

15 a. Republic Act No. 5173, as amended;

16 b. Presidential Decree No. 601;

17 c. Presidential Decree No. 474, as amended,

18 d. Executive Order No. 125 and 125-A, as amended;

19 e. Section 10 of Republic Act No. 9295.

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

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

1 Section 135. **Separability clause.** - If, for any
2 reason, any section, subsection, clause or term of this Act
3 is held to be illegal, invalid, or unconstitutional, such
4 parts not affected by such declaration shall remain in full
5 force and effect.

6 Section 136. **Transitory provision.** - Every ship
7 currently registered under the laws of the Philippines and
8 granted the privilege to fly its flag shall be deemed to be
9 registered under this Act insofar as its registration is not
10 inconsistent with the provisions of this Act and such
11 registration shall continue to be valid until its expiration
12 unless sooner revoked by the Maritime Industry Authority.

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

22 Section 137. **Effective date.** - This Act shall take
23 effect after fifteen (15) days following its publication in
24 a newspaper of general circulation.