

ADMIRALTY COMMITTEE

WHAT IS VESSEL “DOCUMENTATION”?

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“Documentation” is a federal registration and certification evidencing U.S. nationality of a vessel for international purposes and of qualification to engage in a specific trade. 46 U.S.C. § 12134. The Certificate of Documentation is a more recognizable form of registration to foreign authorities than a vessel simply state registered. Documentation is not conclusive evidence of ownership in a proceeding in which ownership is an issue. 46 U.S.C. § 12134 (3). A vessel operated only for pleasure may be documented and endorsed only for operation as such if the vessel is at least 5 net tons and wholly owned by U.S. citizens or entities. 46 U.S.C. § 12103; 46 U.S.C. § 12114. In general, a documented vessel may be placed under the command only of a citizen of the United States unless the vessel is documented with a recreational endorsement. 46 U.S.C. § 12131. During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the

Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States. 46 U.S.C. § 56301. Vessel documentation must be renewed annually and new application made upon sale of the vessel. A vessel which is not encumbered by a mortgage may be deleted from documentation at the request of the owner or *sua sponte* by the NVDC on failure to renew. Florida does not issue titles for documented vessels.

The U.S. Coast Guard National Vessel Documentation Center (NVDC), located in Falling Waters, West Virginia, is the entity authorized to issue certificates of documentation for eligible vessels. 46 U.S.C. § 12103. The NVDC operates a website at <http://www.uscg.mil/hq/cg5/nvdc>. A bill of sale, conveyance, mortgage, assignment, or related instrument that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed to be valid. 46 U.S.C. § 31321 (a)(1) The NVDC is charged with filing and recording and satisfaction of those documents, as well as maritime liens (which are valid regardless of recording), in the order they are filed and maintains appropriate indexes, for use by the public, of instruments filed or recorded, or both. 46 U.S.C. § 31321(e). The record for an individual vessel is identified by the vessel's official number (ON) and name, and the record index for the vessel is an “abstract”.

A person providing necessities to a vessel on the order of the owner or a person authorized by the owner has a maritime lien on the vessel and may bring a civil action in rem to enforce the lien. 46 U.S.C. §31342. “Necessaries” includes repairs, supplies, towage, and the use of a dry dock or marine railway. 46 U.S.C. § 31301 (4). A person claiming a lien on a vessel documented, or for which an application for documentation has been filed, may record notice of that person's lien claim on the vessel. To be recordable, the notice must state the nature of the lien, state the date the lien was established, state the amount of the lien, state the name and address of the person and be signed and acknowledged. 46 U.S.C. § 31343.

A preferred mortgage is a mortgage on a documented vessel or on a vessel for which application for documentation has been made which is in substantial compliance with 46 U.S.C. §31321 and is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel. 46 U.S.C. §31322 (a); 46 U.S.C. §31325(a). When a vessel is sold by order of a district court in a civil action in rem brought to enforce a preferred mortgage lien or a maritime lien, any claim in the vessel existing on the date of sale is terminated, and the vessel is sold free of all those claims. 46 U.S.C. §31326 (a). Each of the claims terminated under subsection (a) of this section attaches, in the same amount and in accordance with their priorities to the proceeds of the sale, except that a preferred mortgage lien has priority over all claims against the vessel (except for expenses and fees allowed by the court, costs imposed by the court, and preferred maritime liens). 46 U.S.C. §31326 (b)(1) . A “preferred maritime lien” is a maritime lien on a vessel arising before a preferred mortgage was filed, for damage arising out of maritime tort, for wages of a stevedore, for wages of the crew of the vessel, for general average, or for salvage, including contract salvage. 46 U.S.C. § 31301 (5).