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SENATE
S. No. **2524**

Introduced by Senator Miriam Defensor Santiago

EXPLANATORY NOTE

A strong and competitive merchant marine fleet is essential to the growth of our economy. However, the number and tonnage of Philippine-registered fleet continue to decline due to the country's unattractive tax incentives and lack of access to financing schemes. Instead, operators register their vessels elsewhere where they get better treatment and access to funds to boost their ship acquisition. The number of overseas shipping vessels registering under the Philippine flag has been declining at a rate of 9% annually from 2001 to 2007. It is important to have a flag registry which is attractive to ship owners and be a base for investments for our economy. An attractive registry can be a key to opening up ancillary businesses such as ship management, ship building, ship repair, bunkering, and other shipping-related businesses which can serve as a base of employment for our seafarers whose technical skills can be put to good use in these business areas. In order to make the Philippine flag an attractive registry, the existing legal framework must be reformed. We can only expand our fleet if we can provide a legal framework, which will encourage and allow ship owners to enter into long term vessel acquisition, development, modernization and expansion programs that is consistent with the international standards.

Tax Incentives

The tax structure of Philippine ships must be aligned with international practices to make the Philippine flag an attractive flag registry. 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.

Maritime Liens and Ship Mortgages

The access to financing has long been a concern of Philippine ship owners. They have asserted that Presidential Decree No. 1521, otherwise known as the 'Ship Mortgage Decree of

1978 is defective and unacceptable to foreign bankers because the liens are not clearly delineated and is not aligned with international standards.

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 financing for the construction and acquisition of ships difficult for Philippine ship owners.

Enforcement of 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. 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.

This bill, therefore, seeks to update our law on ship registration, fix 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 by aligning our maritime laws with the requirements of international maritime conventions and allow us to achieve uniformity with international standards. In view of the foregoing, the immediate enactment of this measure is earnestly

This bill was originally filed by Senator Mar Roxas during the Fourteenth Congress, Second Regular Session


MIRIAM DEFENSOR SANTIAGO

10 SEP 14 13:46

SENATE
S. No. **2524**

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Introduced by Senator Miriam Defensor Santiago

1 AN ACT
2 INSTITUTING SHIPPING INDUSTRY REFORMS, PROVIDING FOR THE
3 PURPOSE A CLEAR SYSTEM OF SHIP REGISTRATION AND INCENTIVES
4 THEREFOR, A COMPREHENSIVE MECHANISM FOR SHIP MORTGAGES,
5 MARITIME CLAIMS AND MARITIME LIENS, AND FURTHER DEFINING
6 THE PARAMETERS FOR SHIP ARREST AND MARITIME LIABILITY
7 LIMITATION AND FOR OTHER PURPOSES.

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

8 Title I

9 General Provisions

10 Chapter I

11 Policies

12 SECTION 1. *Short Title of the Act* - This Act shall be known as "*The Philippine*
13 *Shipping Industry Reforms Act*"

14 SEC. 2. *Declaration of Policies* - The State recognizes that shipping is a necessary
15 infrastructure which is vital to the economic development of our country. The Philippines needs
16 a strong and competitive merchant marine fleet owned and controlled by Filipinos, manned by
17 qualified Filipino officers and crew, which shall:

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

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

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

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

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

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

The State shall promote such other necessary administrative and executive policies that will ensure the continued growth of the Philippine merchant fleet in consonance with international practices and provide a mechanism for the early adoption and implementation of international maritime regulations and conventions.

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

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

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

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

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

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

3 (f) All ships that are within the territorial jurisdiction of the Philippines against which a
4 maritime claim that is subject to applicable limits of liability is sought to be enforced regardless
5 of the nationality of such ship.

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

9 Chapter 2

10 Definitions

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

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

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

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

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

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

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

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

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

i. "Compatible registry" shall mean a foreign registry which has entered into an agreement with the Maritime Industry Authority in order to determine and establish the requirements for the transfer of registration of ships from one registry to the other;

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

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

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

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

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

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

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

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

6 q. "Maritime claim" shall d e r to any of the claims provided in section 88 of this Act;

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

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

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

15 u. "Mortgagor" shall refer to a ship owner who constitutes a ship mortgage over a vessel
16 or a vessel under construction registered in its name iii order to secure the fulfillment of a
17 principal obligation;

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

20 w. "Philippine flag vessel" shall mean any vessel duly registered under Philippine laws
21 and authorized to fly the Philippine flag;

22 x. "Philippine national" shall refer to any individual who is a citizen of the Philippines, or
23 a commercial partnership or corporation organized under the laws of the Philippines, at least
24 60% of the capital of which is owned by citizens of the Philippines;

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

27 z. "Registry of Ships of the Philippines" shall refer to the official public register
28 maintained by the Maritime Industry Authority in accordance with section 15 hereof which shall

1 hold the record *of* all vessels and its encumbrances registered under Philippine laws and shall
2 hereafter be referred to as the “Registry”;

3 aa. “Seagoing vessel” shall refer to any Philippine flag vessel of 500 gross tons or more,
4 authorized to carry passengers or cargo, or both, in trade between a Philippine port and a foreign
5 port, or between two foreign ports;

6 bb. “Ship manager” shall mean any person, commercial partnership or corporation to
7 which the technical or commercial management, *or* both such technical and commercial
8 management, of a ship has been entrusted by the ship owner and for that purpose is in charge of
9 the operation of the ship which may include, but shall not be limited to, vessel maintenance and
10 upkeep, crewing, and passenger and cargo solicitation;

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

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

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

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

23 gg. “Unit of account” shall refer to the special drawing right (SDRs), which is an
24 international reserve asset created by the International Monetary Fund (IMF) in 1969 to
25 supplement the existing official reserves of member countries. SDRs are allocated to member
26 countries in proportion to their IMF quotas. The SDR also serves as the unit of account of the
27 IMF and some other international organizations. Its value is based on a basket of key
28 international currencies.

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

ii. “Vessel certificate” shall refer to the official document issued by the appropriate government agency attesting to the fact that the vessel complies with the requirements imposed by international conventions or government regulations on safety and protection of the marine environment.

Chapter 3

Regulatory Agencies

SEC. 5. *Implementing Agencies* - The implementation of this Act shall be vested in the Maritime Industry Authority and the Philippine Coast Guard.

SEC. 6. *Powers and Functions of the Maritime Industry Authority* - For the purposes of this Act, the Maritime Industry Authority shall have the following powers and functions:

a. Accredited and license ship owners and operators;

b. Maintain the Registry of Ships of the Philippines;

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

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

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

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

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

3 h. Deputize Philippine consular officers or maritime attaches for the registration of
4 vessels wanting to transfer to the Philippine registry but are outside the territorial jurisdiction of
5 the Philippines and the collection of fees incident to such registration;

6 i. Enter into cooperations with foreign registries to determine and establish the
7 requirements for registration, de-registration and enforcement in order to ensure the
8 compatibility of requirements of the Philippine registry with that of other foreign registries;

9 j. Issue certificates of public convenience to coastwise vessels;

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

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

15 m. Exercise such other functions necessary for or incidental to the exercise of its powers
16 and functions as mandated under this Act.

17 *Sec.7. Powers and Functions of the Philippine Coast Guard.* - For the purposes of this
18 Act, the Philippine Coast Guard shall have the following powers and functions:

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

22 b. Approve plans for the construction, repair or alteration of vessels, and the materials,
23 equipment and appliances of vessels in accordance with international conventions and domestic
24 regulations giving effect to such conventions on the safety of life at sea, marine pollution, load
25 line requirements and other related conventions;

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

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

3 e. Accredite and license surveyors and classification societies and deputize them to
4 perform such functions necessary to give effect to the requirements of international maritime
5 conventions and government regulations;

6 f. Issue certificates of inspection;

7 g. Determine the safe manning requirements of vessels and the certificates of competency
8 which each crew member should possess considering the type, tonnage, power, means of
9 propulsion and trading limitations of particular ships and, for this purpose, issue safe manning
10 certificates to ships;

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

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

16 j. Impose fines or otherwise penalize any vessel, ship owner, ship operator, bareboat
17 charterer, ship manager or classification society found violating the provisions of this Act:

18 k. Exercise such other functions necessary for or incidental to the exercise of its powers
19 and functions as mandated under this Act.

20 SEC. 8. *Issuance of Implementing Rules and Regulations* -. The Maritime Industry
21 Authority and the Philippine Coast Guard shall jointly issue the necessary rules and regulations
22 to implement the provisions of this Act; Provided, that such rules and regulations shall not
23 change or in any way amend or be contrary to the intent and purposes of this Act.

24 SEC. 9. *Power to Adopt Regulations to Conform to International Maritime Conventions* -
25 The Maritime Industry Authority and the Philippine Coast Guard acting by themselves, or in
26 conjunction with each other, shall recommend to the Department of Transportation and

1 Communications (DOTC), through the Secretary, the adoption of international maritime
2 conventions so that the appropriate recommendation can be made, and the relevant instrument of
3 ratification may be issued, by the Senate of the Philippines; *Provided*, That in case of a
4 subsequent amendment to any existing international convention or treaty to which the
5 Philippines is already a party, both the Maritime Industry Authority and the Philippine Coast
6 Guard are hereby empowered and authorized to amend and revise their respective rules and
7 regulations to conform with the amendments to the relevant convention or treaty without need of
8 further authorization; *Provided however*, That such power and authority to amend and revise
9 shall apply only if the original convention or treaty expressly allows for the same and shall be
10 limited only to the technical aspect of the convention or treaty.

11 Title II

12 **Vessels**

13 Chapter 1

14 Registration of Vessels

15 SEC. 10. *Registry of Ships of the Philippines*. - The Registry of Ships of the Philippines
16 shall be the official public registry of ships and shall contain all records of registrations,
17 deletions, transfers, bareboat charters, and mortgages of Philippine flag vessels. The Registry
18 shall be open to public inspection during regular business hours. Any person wishing to inspect
19 the Registry, or obtain extracts or copies of instruments deposited with the Registry, may do so
20 upon prior written application to and approval of the administrator of the Maritime Industry
21 Authority.

22 SEC. 11. *Vessel Eligibility*, - Vessels of any size, age or type that are classed by a
23 classification society, whether owned or chartered by Philippine national, may be registered
24 under the Philippine flag. Vessels that are more than twenty (20) years old on their first

1 application for registration shall be subject to a safety inspection as a pre-condition to the
2 issuance of a certificate of Philippine registry.

3 Vessels of a foreign registry that are covered by a bareboat charter may be registered
4 under the Philippine flag; Provided, that the duration of the bareboat charter is not less than one
5 (1) year and its registration under the foreign flag of primary registration shall not be abandoned,
6 but shall be deemed suspended, for the duration of the ship's registration under the Philippine
7 flag.

8 SEC. 12. *Vessel Ownership*. - Every vessel registered in accordance with this Act shall be
9 owned or chartered by one or more Philippine nationals and, in the case of corporations or
10 commercial partnerships, the president and corporate secretary or general manager and
11 partnership secretary thereof, as the case may be, shall be citizens and residents of the
12 Philippines.

13 SEC. 13. *Vessels Required to be Registered*. - Every coastwise vessel and seagoing vessel
14 shall be registered in accordance with the provisions of this ACL. To this end, it shall be the duty
15 of the ship owner, ship operator, bareboat charterer, or any person acting on behalf of every
16 vessel to apply with the Maritime Industry Authority for the registration of the vessel.

17 SEC. 14. *Where the Registration is to be Made*. -The registration of a coastwise vessel
18 shall be made at its home port or at the port where the nearest regional office of the Maritime
19 Industry Authority, or the nearest Philippine Coast Guard detachment deputized for the purpose,
20 is located. The registration of a seagoing vessel shall be made in the principal office of the
21 Maritime Industry Authority in the port of Manila. If the vessel is not within the territory of the
22 Philippines at the time of acquisition or bareboat charter, the application for registration shall be
23 made through the nearest Philippine consular office where the vessel may be found. The
24 Philippine consular office receiving the application shall have the duty to forward the same to the
25 principal office of the Maritime Industry Authority in the port of Manila.

SEC. 15. *The Registry of Ships of the Philippines.* - The Maritime Industry Authority shall maintain the following sub-registries for Philippine flag vessels:

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

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

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

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

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

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

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

SEC. 16. *Documents Required for the Registration of Vessels.* - Every ship owner or bareboat charterer wishing to enroll a vessel in the Registry shall be required to submit the following documents to the Maritime Industry Authority:

a. A written application for registration;

b. A notarized copy of the declaration of ownership;

c. A certified copy of the Certificate of Sole Proprietorship, or Articles of

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

e. The tonnage measurement certificate;

- f. The certificate issued by a classification society showing that the ship is in class;
- g. The vessel certificates required by international conventions and domestic regulations;
- h. The application for a provisional radio license;
- i. The application for vessel name;
- j. A certified copy of the cover note or certificate of entry in the name of the ship owner or bareboat charterer showing the current hull and machinery, and protection and indemnity insurance coverage.

SEC. 17. Additional Documents Required. -- In addition to the documents listed in the immediately preceding section, every ship owner or bareboat charterer shall be required to submit the following documents:

For new buildings:

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

For second hand tonnage:

- (i) A notarized copy of the bill of sale or other document of title evidencing the transfer,
- (ii) The certificate of deletion from the previous registry;
- (iii) The certificate of non-encumbrance issued by the previous registry;
- (iv) A safety inspection certificate if the vessel is more than twenty (20) years old;

For bareboat chartered or leased ships:

- (i) The proof of ownership and consent of the registered owner to the vessel's enrollment in the Registry;
- (ii) A certified true copy of the bareboat charter;
- (iii) If the bareboat charterer wishes to change the vessel's name, a letter requesting the change of name of the vessel from that appearing in its primary registry and the reason for the request;
- (iv) The written consent to the transfer of registry of the holders of all mortgages, hypothecations or similar charges against the vessel registered in the foreign registry;
- (v) Certified true copies of all mortgages, hypothecations, and charges, with an English translation of such documents;

- (vi) The written consent LO the bareboat charter registration of the appropriate authority of the country of primary registration of the vessel, or satisfactory evidence that such consent is not required;
- (vii) A transcript of the register or other document from the appropriate authority of the country of primary registration showing all recorded mortgages and encumbrances on the vessel appearing in that registry;
- (viii) A safety inspection certificate if the vessel is more than twenty (20) years old.
- (ix) Such other documents necessary to support the application for the enrollment of ships in the Registry as may be required by regulation.

Sec.18. *Data to be Listed in the Registry.* - The following data shall be listed, in such form and detail for all ships entered in the Registry of Ships:

- a. Name of vessel;
- b. Keel number;
- c. Hull material;
- d. Principal dimensions;
- e. Gross tonnage;
- f. Net tonnage;
- g. IMO number;
- h. Official number;
- i. Place of build;
- j. Year of build;
- k. Name and address of registered owner, ship operator, bareboat charterer, manager or other person responsible for the ship;
- l. Date of issuance of certificate of Philippine registry;
- m. Class of vessel;

1 In the *case of* second hand tonnage, the following additional data shall likewise be a
2 reference that encumbrances on the vessel appear in the primary registry listed in the Registry of
3 Ships:

- 4 a. Place of previous registry;
- 5 b. Name of previous owner.

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

- 8 a. Place of primary registry;
- 9 b. Name of registered owner appearing in the primary registry;
- 10 c. Name of the vessel as it appears in the primary registry;
- 11 d. A reference that encumbrances on the vessel appear in the primary registry.

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

14 *SEC. 19. Proceedings Prior to the Grant of a Certificate of Philippine Registry.* –No
15 application for a Certificate of Philippine Registry shall be approved and issued until:

- 16 a. An inspection of the vessel and its documents has been conducted; and
- 17 b. It is verified that the applicant meets the ownership requirements prescribed by this
18 Act.

19 The Maritime Industry Authority on its own or through the agency of the Philippine
20 Coast Guard, may conduct the inspection and investigation at any time in order to ascertain
21 whether the vessel is entitled to have, or to retain, the certificate of Philippine registry. Further
22 inquiries may be made through a formal administrative investigation of the vessel's owner,
23 operator, charterer, manager, master, crew or passengers to determine the ownership or title and
24 the intention to engage in legitimate trade of any vessel seeking a certificate of Philippine
25 registry.

1 SEC. 20. *Issuance of the Certificate of Philippine Registry.* -Upon the application for
2 registration and a satisfactory determination of eligibility, a certificate of Philippine registry shall
3 be issued to all vessels which are more than fifteen (15) gross tons. A certificate of Philippine
4 registry shall be valid for a period of no more than three (3) years, renewable for a similar period
5 or periods provided the vessel continues to meet all the requirements to be eligible for
6 registration.

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

10 SEC. 21. *Registration of Vessels between Three and fifteen Gross Tons.* - A vessel
11 between three (3) gross tons and fifteen (15) gross tons shall be registered with the Maritime
12 Industry Authority and a certificate of ownership shall be issued to it. The application for the
13 issuance of a certificate of Philippine registry shall be optional with the owner of such vessel.

14 SEC. 22. *Registration of Vessels of Three Gross Tons or Less.* - A vessel of three (3)
15 gross tons or less shall not be registered, unless requested by its owner. Neither shall a document
16 of registration of any kind be required for such vessel. The application for the issuance of a
17 certificate of ownership shall be optional with the owner of such vessel.

18 SEC. 23. *Provisional Registration of Vessels.* - A provisional certificate of Philippine
19 registry may be issued to ships applying for registration provided all documents listed in section
20 16 have been submitted and the submission of the additional documents required in section 17 is
21 pending.

22 The provisional certificate of Philippine registry shall be valid for a period of ninety (90)
23 days subject to a single renewal of another ninety (90) days. If the ship owner or bareboat
24 charterer fails to submit all required documents within the stipulated period, the provisional

1 certificate of Philippine registry shall automatically expire on the date appearing on the
2 provisional certificate.

3 SEC. 24. *Appointment of Consular Officials for the Provisional Registration of ships.* - If
4 the ship is outside Philippine territory, the application for registration and its supporting
5 documents enumerated in sections 16 and 17 may be submitted to the nearest Philippine consular
6 office which shall then have the duty to forward the documents to the offices of the Maritime
7 Industry Authority in the port of Manila. The Philippine consular officer, upon the ship owner's
8 or bareboat charterer's submission of all documents enumerated in section 16 may, at the
9 direction of the Maritime Industry Authority, issue a provisional certificate of registry to the
10 vessel.

11 SEC. 25. *Form and Contents of Certificate of Philippine Registry.* -The certificate of
12 Philippine registry shall contain the following information:

- 13 a. Name of the vessel;
- 14 b. Name and address of the registered owner or charterer;
- 15 c. Keel number;
- 16 d. Hull material;
- 17 e. Principal dimensions;
- 18 f. Gross tonnage;
- 19 g. Net tonnage;
- 20 h. IMO number;
- 21 i. Official number;
- 22 j. Year of build;
- 23 k. Date of issuance of certificate of Philippine registry;
- 24 l. List of registered encumbrances.

Such other information as may be determined by regulation may likewise be set forth in the certificate of Philippine registry. The certificate of Philippine registry issued to every ship which is bareboat chartered in shall, in addition, contain the following information:

- a. The fact that the ship is covered by a bareboat charter and the date of such charter;
- b. The name of the ship as it appears in its primary registry, if such name has been changed upon entry in the Philippine registry;
- c. The name of the registered owner or owners as it appears in the primary registry;
- d. A reference that registered encumbrances appear in the primary registry.

Chapter 2

Vessels Under Construction

SEC. 26. *Registration of Vessels Under Construction.* - Vessels under construction contracted by a Philippine national may be registered in accordance with the provisions of this Act. In order that the vessel may be the subject of registration under this Act, it is necessary that the keel of the vessel must have been laid and a keel number assigned by the shipyard at the time of application.

SEC. 27. *Documents Required for the Registration of Vessels Under Construction.* - Every ship owner wishing to enroll a vessel under construction in the Registry shall be required to submit the following documents:

- a. A written application for registration;
- b. A notarized copy of the declaration of ownership;
- c. A certified copy of the Certificate of Sole Proprietorship, or Articles of Partnership, or Articles of Incorporation of the ship owner or operator, as the case may be;
- d. The power of attorney, partnership, resolution or secretary's certificate authorizing enrollment of the ship in the Registry; and
- e. A notarized copy of the shipbuilding contract.

SEC. 28. *Document of Registration.* - A provisional certificate of registration shall be issued to a vessel under construction and shall be valid for the period during which the vessel is under construction.

SEC. 29. *Form and Contents of the Document of Registration.* - The provisional certificate of registration issued to a ship under construction shall contain the following information:

- a. Name of the vessel;
- b. Name and address of the registered owner;
- c. Keel number;
- d. Hull material;
- e. Principal dimensions of the vessel; and
- f. A list of registered encumbrances.

Chapter 3

Rights and Privileges Granted to Vessels of Philippine Registry

SEC. 30. *Privileges Conferred by a Certificate of Philippine Registry.* -A certificate of Philippine registry confers upon the vessel the following rights and privileges:

- a. The privilege to fly the flag of the Philippines;
- b. The privilege to engage, consistently with law, in Philippine coastwise trade in accordance with the corollary permits, certificates and licenses that may be issued to the vessel;
- c. The right to invoke the diplomatic and naval protection of Philippine authorities and the protection of the flag of the Philippines; and
- d. The right to invoke the exercise of jurisdiction and control by Philippine government authorities over all persons found on board the vessel, or over any incident involving the penal or disciplinary responsibility of the master or any member of the crew whether the same arises from

1 a crime or quasi-delict committed on board the vessel or from ally collision or other incident of
2 navigation concerning the ship.

3 Chapter 4

4 Registration Fees; and Tonnage Taxes

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

10
11 SEC. 32. *Registration fee.* - A registration fee shall be payable by the ship owner or
12 bareboat charterer when the ship is first entered in the Registry and shall be paid when the
13 Certificate of Philippine Registry is issued. The registration fee shall be computed on the basis of
14 the tonnage of the vessel and shall be in such amount as may be determined by regulation issued
15 by the Maritime Industry Authority and approved by the Secretary of the Department of
16 Transportation and Communications.

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

20 The registration fee shall be reviewed from time to time and, when deemed appropriate,
21 the Maritime Industry Authority shall submit a recommendation to the Secretary of the
22 Department of Transportation and Communications to adjust the same. Any adjustment in the
23 registration fee shall be subject to the prior approval of the Secretary of the Department of
24 Transportation and Communications.

SEC. 33. *Annual Tonnage Taxes for Seagoing Vessels.* - A tonnage tax shall be imposed and shall be payable annually by every ship owner or bareboat charterer, for every Philippine flag vessel it owns or charters commencing the year after the entry of such ship in the Registry. The tonnage tax shall be payable no later than January 31 of each year and shall be assessed in accordance with the following schedule:

Tonnage	Tonnage Tax
500 gross tons or less	P1,500.00
Over 500 gross tons	Plus P20.00 per ton

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

SEC. 34. *Exemption from Duties and Taxes.* - The importation by a ship owner or bareboat charterer of a vessel, and the spare parts and equipment needed for the repair and maintenance of such vessel shall be exempt from the payment of:

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

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

Chapter 5

De-registration or Suspension of Registration

of Philippine flag vessels

SEC. 36. *Sale, Bareboat Charter or other Transfer of Philippine Flag Vessels.* - A ship owner may freely sell, transfer, bareboat charter out or otherwise dispose of a vessel registered in his name.

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

- a. If it is transferred to a natural or juridical person who does not meet the ownership requirements imposed by this Act; or
- b. If it commits any act inimical to the security or interests of the Philippines; or
- c. If it is entered in a foreign registry without the prior approval of the Maritime Industry Authority; or
- d. If its bareboat charter party is not extended or renewed; or
- e. If it is sold for scrap; or
- f. If it is lost.

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

- a. A written request to delete the ship's registration;
- b. A notarized copy of the bill of sale;
- c. The original certificate of registry;
- d. The original radio station license; and
- e. A certification from the appropriate agency showing that all outstanding taxes, fees and charges due to the government have been paid.

If the bareboat charter is not extended or renewed, the documents listed in the immediately preceding paragraph shall likewise be submitted by the bareboat charterer, however, in lieu of the notarized copy of the bill of sale, a statement from the charterer shall be submitted saying that the bareboat charter has been terminated or that it has expired and the same has not been renewed.

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

4 SEC. 38. *De-registration of a ship which is Subject of a Mortgage.* - No ship shall be
5 deleted from the Registry unless:

- 6 a. All mortgages are discharged; or
- 7 b. The written consent of all mortgagees to the deletion from the Registry is obtained.

8 If the de-registration of the vessel is obligatory in accordance with the preceding section,
9 all holders of registered mortgages shall be notified by the Maritime Industry Authority of the
10 pending de-registration in order to enable such holders to take appropriate action to protect their
11 respective interests. If the consent of the holders is not obtained, deregistration shall not be
12 implemented earlier than three (3) months after notice to such holders of registered mortgages is
13 given.

14 SEC. 39. *Suspension of a Ship's Registry.* - The registration of a vessel which has been
15 bareboat chartered out to a non-Philippine national shall be suspended for the duration of the
16 bareboat charter. However, a ship which has been bareboat chartered out to a non-Philippine
17 national shall continue to be subject to Philippine law for all transactions affecting the sale,
18 transfer, mortgage, encumbrance or other disposition of the vessel, the enforcement of any lien
19 or claim against the vessel, or any other transaction affecting the private rights of the owner of
20 the vessel.

21 SEC. 40. *Documents Required in Order Suspending Registration.* - The ship owner shall
22 be required to submit the following documents to effect the suspension of such registration:

- 23 a. A written request to suspend the ship's registration;
- 24 b. A notarized copy of the bareboat charter;
- 25 c. The original certificate of registry;

1 d. The original radio station license; and

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

4 Chapter 6

5 Operation of Vessels

6 SEC. 41. *Ship Construction.* Every new building registered under Philippine laws shall be
7 constructed in accordance with standards for ship construction set forth in international maritime
8 conventions and implemented through government regulations. Ship construction shall be under
9 the supervision of the Philippine Coast Guard *or* a classification society appointed by the ship
10 owner. The classification society shall oversee the construction of the ship and ensure that the
11 construction regulations provided in international maritime conventions and those issued by the
12 Philippine Coast Guard covering the structural strength and integrity of all parts of the ship's hull
13 and its appendages as well as the safety and reliability of the main propulsion, steering systems
14 and auxiliary systems of the ship are followed.

15 SEC. 42. *Navigation and Communication Equipment.* - Every Philippine flag vessel shall
16 have on board such navigation and communication equipment and apparatus required by
17 international maritime convention for the safe navigation of ships. Every equipment and
18 apparatus that shall be required to be installed on board shall be suited for the type, tonnage,
19 power, means of propulsion and trading limitations of the particular ship.

20 SEC. 43. *Equipment to Prevent Marine Pollution.* - Every Philippine flag vessel shall
21 have on board equipment and apparatus to prevent, reduce, or control pollution to the marine
22 environment emanating from ships. Every equipment and apparatus required to be installed on
23 board shall be suited for the type, tonnage, power, means of propulsion and trading limitations of
24 the particular ship.

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

SEC. 45. *Scope of Inspections and Surveys.* - The inspections and surveys shall be conducted in accordance with international maritime conventions and government regulations, and shall include, but shall not be limited to, an inspection and survey of the ship's:

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

SEC. 46. *Extent of Authority of Marine Surveyor or Classification Society.* - The Philippine Coast Guard, in appointing a marine surveyor or classification society to conduct the inspection and survey of ships, shall inform the marine surveyor or classification society of the specific responsibilities and conditions of the authority delegated to it.

SEC. 47. *Issuance of Certificates.* - The marine surveyor or classification society, pursuant to the functions delegated to it by the Philippine Coast Guard, shall have the authority to issue vessel certificates to every Philippine flag vessel and for this purpose, the vessel certificates issued by such marine surveyor or classification society shall be deemed to have met the requirements of this Act. Copies of the vessel certificates shall be submitted to the Philippine Coast Guard which shall, upon verification of compliance, issue a certificate of inspection in favor of the complying vessel confirming the findings of the marine surveyor or classification society.

SEC. 48. *Availability of Vessel Certificates.* - The vessel certificates mentioned in the immediately preceding section shall be readily available on board the vessel for examination at all times.

Chapter 7

Manning Requirements

SEC. 49. *Citizenship of crew.* - Every member of the crew of a coastwise or seagoing vessel shall be a citizen of the Philippines. An exemption from this requirement may be obtained from the Philippine Coast Guard upon written application from the ship owner or operator and proof that no Philippine citizen is qualified for the position or is willing to serve on board the vessel. This exemption shall not be granted to ships engaged purely in coastwise trade.

SEC. 50. *Crew Competence.* - Every member of the crew of a Philippine flag vessel shall possess the appropriate certificate of competency setting forth his competence to serve in the capacity and perform the functions involved at the level of responsibility, for the position held, for the type, tonnage, power, means of propulsion, and trading limitations of the ship concerned. The certificate of competency, as well as any endorsements thereto and any renewals thereof, shall be issued by the Professional Regulations Commission. The certificate of competency shall attest to the fact that the seafarer to whom it is issued meets the requirements for service, age, medical fitness training, qualification, and examinations for the position held.

Chapter 8

Insurance and Other Indemnity Cover

SEC. 51. *Insurance and Indemnity Cover.* - Every ship owner or bareboat charterer shall be required to maintain adequate insurance coverage or protection and indemnity coverage to

1 meet the financial responsibility for any liability which such ship owner or bareboat charterer
2 may incur for loss of or injury to human life and/or damage to environment.

3 Chapter 9

4 Enforcement

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

- 14 a. The name of the vessel;
15 b. The port from which the vessel belongs;
16 c. The place where the incident occurred;
17 d. The nature and probable cause of the incident;
18 e. The number and names of those who perished; and
19 f. The estimated amount of loss or damage to the vessel, the cargo or the marine environment.
20 The ship owner, ship operator, charterer, ship manager, agent or master may be required to
21 furnish such other information as shall be called for.

22 SEC. 53. *Investigation of the Accident or Incident.* - Immediately upon receipt of the
23 report, the Philippine Coast Guard shall convene the Board of Marine Inquiry so that an
24 investigation into the accident or incident can be conducted. The investigation of the accident or
25 incident shall follow the rules of procedure of the Board of Marine Inquiry.

SEC. 54. *Investigation Report.* - Upon completion of the investigation, the Board of Marine Inquiry shall prepare an investigation report setting forth the findings of fact gathered from the investigation and recommend the filing of appropriate administrative, civil or criminal charges against the offender. If it should be determined by the Board of Marine Inquiry that the offender is a now Philippine national, it may request, through proper diplomatic channels, the assistance of any other State to clarify the circumstances surrounding the accident or incident so that corresponding charges may be brought against the offender.

SEC. 55. *Filing of Charges.* - Upon completion of the investigation and the preparation of the report, the Board of Marine Inquiry shall take steps to initiate administrative, civil or criminal action, as may be proper in the circumstances, against the offending parties; *Provided,* That should the investigation and report indicate that there are government officials who had been negligent in the performance of their functions, the Board of Marine Inquiry shall immediately transmit its findings to the Office of the Ombudsman for proper action.

Title III

Ship Mortgages

Chapter 1

Creation of the Ship Mortgage

SEC. 56. Application. - The provisions of this Title shall be applicable to:

- a. Vessels entered in the Registry;
- b. Vessels under construction that are provisionally entered in the Registry;
- c. Mortgaged vessels belonging to a foreign flag whose mortgage is sought to be enforced under Philippine law.

SEC. 57. Requisites for a Valid Mortgage Constituted under Philippine Law. – The following requisites are essential for a ship mortgage to be validly created under Philippine law:

- a. It is executed to secure the fulfillment of a valid principal obligation;
- b. The mortgagor is the registered owner of the vessel to be mortgaged;

- 1 c. The vessel sought to be mortgaged is registered under Philippine law;
2 d. The mortgagor has free disposal of the ship being mortgaged, or is legally authorized for the
3 purpose.

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

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

- 8 a. A vessel entered in the Registry; and
9 b. A vessel under construction provisionally entered in the Registry.

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

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

17 Chapter 2

18 Formal Validity

19 SEC. 59. *Formal Validity of Ship Mortgages.* - A ship mortgage created under Philippine
20 law shall not be valid and enforceable except as between the parties to the contract unless:

- 21 a. It is executed in a public instrument;
22 b. It is recorded in the office of the Maritime Industry Authority where the vessel is registered;
23 and
24 c. The mortgage is annotated on the certificate of Philippine registry of the vessel.

SEC. 60. *Registration of Mortgages.* - Every ship mortgage created under Philippine law shall be registered with, and the application for registration of the ship mortgage shall be submitted to, the Maritime Industry Authority together with:

a. A notarized copy or authenticated copy of the mortgage contract showing:

(i) The name and description of the vessel being mortgaged;

(ii) The name, and place of residence of the owner of the vessel;

(iii) The name of the principal obligor whose obligation is being secured;

(iv) The name and address of the mortgagee;

(v) The date of the mortgage contract;

(vi) The amount secured by the mortgage or the maximum amount for which the mortgage is constituted; and

(vii) The maturity date of the principal obligation.

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

c. The certificate of Philippine registry or the provisional certificate of Philippine registry of the vessel.

The Maritime Industry Authority may require the submission of such other documents needed to support the application for registration. If the ship is outside Philippine territory, the application for the registration of the mortgage and its supporting documents may be submitted by the ship owner to the nearest Philippine consular office which shall then have the duty to forward the documents to the offices of the Maritime Industry Authority in the port of Manila.

SEC. 61. *Annotation of Mortgages.* - Upon receipt of the application for the registration of the mortgage together with all supporting documents, the Maritime Industry Authority shall enter the mortgage in the Registry and annotate the same on the vessel's certificate of Philippine registry or provisional certificate of Philippine registry. If the ship is outside Philippine territory, the Philippine consular officer concerned, upon the direction of the Maritime Industry Authority,

1 shall cause the annotation of the mortgage on the vessel's certificate of Philippine registry or
2 provisional certificate of registry, as the case may be.

3 SEC. 62. *Posting of the Notice of Mortgage.* - Upon entry of the mortgage in the
4 Registry, the Maritime Industry Authority shall issue to the mortgagor two (2) official copies
5 of the notices evidencing the entry of the mortgage in the Registry, The mortgagor, upon of the
6 copies of the notices shall take steps to exhibit one (1) original copy of the notice in a prominent
7 place on board the ship together with an authenticated copy of the certificate of Philippine
8 registry. Failure to exhibit the notice as required in this section shall not affect the validity of
9 the mortgage but the Maritime Industry Authority shall penalize the mortgagor for its omission.

10 Chapter 3

11 Ranking of Mortgages

12 SEC. 63. *Ranking of Mortgages.* - The ranking of mortgages as between themselves shall
13 be determined by the order in time in which the successive mortgages are entered in the Registry.
14 A mortgage registered prior in time shall have preference over those registered later in time.

15 Chapter 4

16 Release of Mortgages

17 SEC. 64. *Extinguishment of Mortgages.* - The mortgage shall be extinguished through
18 any of the following reasons:

- 19 a. Fulfillment or other discharge of the principal obligation;
- 20 b. Loss or destruction of the ship mortgaged;
- 21 c. Deletion of the vessel from the Registry;
- 22 d. Enforcement of the mortgage through the judicial or extra-judicial sale of the vessel;

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

SEC. 65. *Enforcement of the Mortgage through the Sale or Foreclosure of the Vessel.* - A mortgagee shall be entitled to foreclose the ship mortgage if:

- a. The principal obligor has failed to fully discharge its obligation;
- b. The mortgagor or any person in possession of the vessel has substantially prejudiced the security;
- c. The mortgagor is in material breach of its obligations under the mortgage contract and, by the terms of such contract, the mortgagee would be entitled to foreclose the security.

SEC. 66. *Sale of Mortgaged Vessels at Public Auction.* - A vessel subject of a mortgage which is entered in the Registry may be sold extra-judicially through a public auction in accordance with the provisions of the Chattel Mortgage Law, Act No. 1508 as amended, provided that:

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

Upon the vessel's sale at public auction and a record of such sale is entered in the Registry of Ships, the mortgagee shall immediately be entitled to take actual or constructive possession of the vessel. The right to proceed against the vessel extra-judicially provided in this section does not preclude the mortgagee from proceeding against the ship directly through a judicial attachment leading to a sale at public auction in accordance with the provisions set forth the Rules of Court.

SEC. 67. *Sale of Mortgaged Vessels through Judicial Proceedings.* - Any mortgage constituted under Philippine law or under any foreign law covering any vessel found within the territory of the Philippines regardless of registry, which is not covered by the provisions of the

1 immediately preceding section, shall be recovered only by proceeding against the ship directly
2 through an arrest by judicial attachment leading to a sale at public auction filed with the court of
3 appropriate jurisdiction in any port of the Philippines where the vessel may be found. Judicial
4 proceedings and the service of process shall be in accordance with the procedure set forth in the
5 Rules of Court. Upon issuance of the order of arrest against the vessel, the mortgagee shall
6 immediately be entitled to take actual or constructive possession of the vessel. This provision
7 shall be applicable to all vessels found within the territorial jurisdiction of the Philippines
8 regardless of its registry, the nationality of the mortgagor, mortgagee or principal obligor, and
9 the law under which the mortgage contract has been created.

10 SEC. 68. *Effect of sale.* - The enforcement of a mortgage through the sale of the vessel
11 whether judicially or extra-judicially shall release the mortgage and cause the transfer of
12 ownership of the vessel from the mortgagor to the purchaser of the vessel at foreclosure, If
13 the vessel sold is entered in the Registry and the purchaser is not qualified to maintain the
14 vessel's registration, the Maritime Industry Authority shall cause the deletion of such registration
15 and require the purchaser to transfer the vessel's registration to another registry.

16 SEC. 69. *Collection of the Deficiency or Return of the Excess.* - If the value of the
17 secured obligation exceeds the foreclosure price of the vessel, the mortgagee shall be entitled to
18 collect the deficiency from the principal obligor by filing an action in a court of appropriate
19 jurisdiction for the recovery of such deficiency.

20 If the foreclosure price of the vessel exceeds the value of the secured obligation, the
21 mortgagee shall hold the excess in trust for the mortgagor and shall return the *same* to the
22 mortgagor.

23 An appraisal of the vessel by a qualified marine appraiser shall be conducted by the
24 mortgagee prior to the extra-judicial foreclosure of the vessel. The appraisal made shall be the
25 basis for determining the foreclosure price of the vessel.

SEC. 70. *Distribution of the Proceeds of the Sale of a Mortgaged Vessel.* -- Proceeds of the sale of a mortgaged vessel whether sold extra-judicially in accordance with section 66 judicially in accordance with section 67 shall be distributed to first satisfy the maritime claims stated in sections 72, 74 and 76 of this Act before the satisfaction of any obligation arising from any registered mortgage.

Title IV

Maritime Claims and Liens

Chapter I

Maritime Claims and the Creation of Liens

SEC. 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.

SEC. 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;

Claims based on tort arising out of physical loss or damage caused by the operation of the vessel other than loss of or damage to cargo, containers, and passengers

e. effects carried on the vessel.

Chapter 2

Priority of Liens

SEC. 73. *Priority of Maritime Liens.* - Maritime liens set forth in section 72 shall have priority over all registered mortgages and no other claim shall take priority over such maritime liens or registered mortgages except the following:

a. Judicial costs and expenses arising out of the arrest and subsequent judicial sale of the vessel, including the costs for the upkeep of the vessel and the crew, their wages, cost of repatriation and social insurance contributions payable on their behalf incurred during the period of arrest or attachment;

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

SEC. 74. *Shipbuilder's or Ship Repairer's Right of Retention.* - A shipbuilder or ship repairer shall have the right to retain a vessel until it obtains full satisfaction of all obligations due to it. This right of retention shall be extinguished when the vessel ceases to be in the possession of the shipbuilder or ship repairer. The right of retention shall not be extinguished if:

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

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

SEC. 75. *Sale of Vessel which is Subject to a Shipbuilder's or Shop Repairer's Right of Retention.* - If a shipbuilder or ship repairer is in the possession of the vessel at the time of *its* judicial sale, the shipbuilder or ship repairer shall be required to surrender the vessel to the purchaser at public auction. The shipbuilder or repairer shall, however, enjoy a preference and be

entitled to the settlement of its claim after the satisfaction of all claims listed in Sections 72 and 73.

SEC. 76. *Other Rules Affecting the Priority of Maritime Liens.* - The provisions of section 73 setting forth the priority of maritime liens shall be subject to the following additional rules:

- a. Maritime liens securing a claim for reward for the salvage of a vessel shall take priority over all other maritime liens provided in section 72 where such maritime liens have arisen and attached to the vessel prior in time to the salvage operations performed;
- b. Maritime liens securing claims for reward for the most recent salvage of the vessel shall rank take priority among other salvage operations that occurred on earlier dates;
- c. Maritime claims for reward for the salvage of the vessel shall be deemed to have accrued on the date when each salvage operation was terminated;
- d. Maritime liens set forth in subsections (a), (b), (d) and (e) of section 72 shall rank equally as amongst themselves.
- e. The action *in personam* against the ship owner, ship operator, bareboat charterer or ship manager for the satisfaction of the maritime claim shall survive if the proceeds of the sale are insufficient to satisfy all claims.

SEC. 77. *Effect of Any Voluntary Sale or Transfer of Ownership of the Vessel.* - The voluntary sale or transfer of a ship which is subject to a maritime lien shall not extinguish the maritime lien, ownership, registry, or flag. Maritime liens shall follow the ship, notwithstanding any change of

Chapter 3
Extinguishment of Liens

SEC. 78. *Extinguishment of Maritime Liens.* - Maritime liens shall be extinguished after one year unless the vessel to which it attaches has been subject to an arrest which leads to its judicial sale.

1 The one-year period shall be counted as follows:

2 a. In the case of crew wages, from the time of the claimant's discharge from the vessel;

3 b. In the case of other maritime liens, from the time when the claims arise.

4 The one-year period shall not be subject to suspension or interruption except when the
5 arrest or attachment of the vessel is not permitted by law.

6 SEC. 79. *Assignment of or Subrogation to a Maritime Claim.* - The assignment of a
7 maritime claim by a claimant, or the subrogation of a third party to the rights of a claimant to a
8 maritime claim, shall entail the simultaneous assignment of, or subrogation to, the maritime lien
9 securing such claim. However, any claimant holding a maritime lien may not be subrogated to
10 compensation payable to the owner of a vessel arising from an insurance contract.

11 Chapter 4

12 Enforcement of Liens

13 SEC. 80. *Enforcement of Maritime Liens.* - The maritime liens provided in section 72
14 which attach to any vessel found within the territory of the Philippines shall be enforced by
15 proceeding against the ship directly through a judicial action leading to a sale at *public* auction
16 filed with the court of appropriate jurisdiction in any port of the Philippines where the vessel
17 may be found. Judicial proceedings and the service of process shall be in accordance with the
18 procedure set forth in the Rules of Court. This provision shall be applicable to all vessels found
19 within the territorial jurisdiction of the Philippines regardless of its registry, the nationality of the
20 claimant and the law under which the maritime lien has been created.

21 SEC. 81. *Effect of the judicial Sale of a Vessel.* -Any judicial sale of the vessel shall
22 extinguish all maritime liens and encumbrances attaching to the vessel as well as all registered
23 mortgages; *Provided*, that the vessel is within the territorial jurisdiction of the Philippines at the
24 time of the judicial sale and the sale has been made in accordance with the provisions of this Act.

1 SEC. 82. *Disposition of the Proceeds of the Sale of the Vessel Subject to a Maritime Lien.*

2 - The proceeds of the judicial sale of a vessel shall be distributed to first satisfy the liens listed in
3 Sections 72, 73 and 75 of this Act before the satisfaction of any obligation arising from any
4 registered mortgage created in accordance with Section 59, or any maritime claim provided in
5 Section 87 hereof. Any amount left over from the proceeds of sale of the vessel shall be held in
6 trust for the ship owner, ship operator, bareboat charterer, or ship manager.

7 SEC. 83. *Rights of a Purchaser at Judicial Sale.* - The purchaser at the judicial sale of the
8 vessel shall have the right to request the officer of the court conducting the sale to issue a
9 certificate to the effect that the vessel is sold free from all registered mortgages, or charges,
10 except those assumed by the purchasers, and all other liens and encumbrances that may have
11 attached to the vessel as of the date of the judicial sale.

12 The Maritime Industry Authority, with respect to Philippine flag vessels, shall be obliged
13 to:

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

16 b. Issue a new certificate of registration to the purchaser or to de-register the vessel for purposes
17 of new registration in another State. If the vessel belongs to a foreign registry, the officer of the
18 court conducting the sale of the vessel shall issue the certificate stipulated in the first paragraph
19 of this section in such form and substance as may be required by the foreign registry to:

20 a. Delete all registered mortgages in that registry; and

21 b. Issue a new certificate of registration to the purchaser or to de-register the vessel for purposes
22 of a new registration in another *State*.

23 Title V

24 Arrest of Vessels

25 Chapter 1

26 General *Provisions*

1 SEC. 84. Application. - The provisions of this Chapter shall apply to all Philippine flag
2 vessels and to foreign flag vessels found within the territory of the Philippines, for which an
3 order of arrest has been issued by a Philippine court.

4 SEC. 85. *Exceptions.* - The provisions of this Chapter shall not prejudice the right of any
5 person, whether natural or juridical, to proceed against the ship owner, ship operator, bareboat
6 charterer or ship manager for any of the claims set forth in section 88 of this Act through an
7 action in personam.

8 SEC. 86. *Right to Detain a Ship.* - The provisions for the arrest of ships under this
9 Chapter shall not affect the powers vested in the Philippine Coast Guard, Philippine Navy,
10 Philippine Ports Authority, Bureau of Customs or other government agency to detain any ship
11 under any Philippine law or international convention or any regulation issued pursuant to such
12 law or international convention.

13 Chapter 2

14 Right of Arrest

15 SEC. 87. *Maritime Claims Giving Rise to the Right of Arrest.* - A claimant asserting any
16 of the following maritime claims may enforce his claim directly against a vessel by seeking its
17 arrest through an attachment by judicial action and asking the court of appropriate jurisdiction
18 for its sale in order to secure the satisfaction of such claim:

- 19 a. Loss of damage caused by the operation of the ship;
- 20 b. Loss of life or personal injury occurring whether on land or on water in direct connection with
21 the operation of the ship;
- 22 c. Salvage operation or any salvage agreement, including, if applicable, special compensation
23 relating to salvage operations in respect of a ship which by itself or its cargo threatened damage
24 to the environment;

- 1 d. Damage or threat of damage caused by the ship to the environment, coastline or related
2 interest; or measures taken to prevent, minimize, or remove such damage; or compensation for
3 such damage; costs of reasonable measures of reinstatement of the environment actually
4 undertaken or to be undertaken; loss incurred or likely to be incurred by third parties in
5 connection with such damage; and damage, costs, or loss of a similar nature to the foregoing:
- 6 e. Costs or expenses relating to the raising, removal, recovery, destruction or the rendering
7 harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or
8 has been on board such ship, and costs or expenses relating to the preservation of an abandoned
9 ship and maintenance of its crew;
- 10 f. Any agreement relating to the use or hire of the ship, whether contained in a charter party or
11 otherwise;
- 12 g. Any agreement relating to the carriage of goods or passengers on board the ship, whether
13 contained in a charter party or otherwise;
- 14 h. Loss of, or damage to, or in connection with goods, including luggage, carried on board the
15 ship;
- 16 i. General average;
- 17 j. Towage;
- 18 k. Pilotage;
- 19 l. Goods, materials, provisions, bunkers, equipment, including containers, supplied or services
20 rendered to the ship for its operation, management, preservation or maintenance;
- 21 m. Construction, reconstruction, repair, conversion, or equipment of the ship;
- 22 n. Port, canal, dock, harbor and other waterway dues and charges;
- 23 o. Wages and other sums due to the master, officers and other members of the ship's complement
24 in respect of their employment on the ship, including costs of repatriation and social insurance
25 contributions payable on their behalf;
- 26 p. Disbursements incurred on behalf of the ship or its owners;
- 27 q. Insurance premiums, including mutual insurance calls, in respect of the ship, payable by or on
28 behalf of the ship owner, ship operator, bareboat charterer, or ship manager;

1 r. Any commissions, brokerages or agency fees payable in respect of the ship by or on behalf of
2 the ship owner, ship operator, bareboat charterer, or ship manager;

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

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

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

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

7 The procedure for the issuance of the order of arrest and the service of process upon the vessel,
8 its owner, bareboat charterer, manager, operator, or any person acting on its behalf, shall be
9 made in accordance with the provisions of the Rules of Court. The distribution of the proceeds of
10 any judicial sale undertaken to satisfy the maritime claims set forth in this section shall be made
11 subject to the provisions of section 83.

12 SEC. 88. *Reason for the Arrest.* - The court may order the arrest of a vessel for the
13 purpose of obtaining security for the enforcement of a maritime claim set forth in the preceding
14 section regardless of where such maritime claim may have arisen and what the nationality of the
15 ship is against which the maritime claim is being enforced. The arrest shall be made
16 notwithstanding the existence of a jurisdiction clause or arbitration clause in the contract giving
17 rise to the claim providing that the maritime claim for which the arrest has been made is to be
18 adjudicated or arbitrated in a State other than the Philippines, or adjudicated in accordance with
19 the law of that State.

20 SEC. 89. *Exercise of the Right of Arrest.* - The court may order the arrest of any
21 Philippine flag vessel or foreign flag vessel against which a maritime claim is asserted if:

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

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

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

- 1 d. The maritime claim relates to the ownership or possession of the ship; or
2 e. The maritime claim is made against the ship owner , ship operator, bareboat charterer, or ship
3 manager and is secured by a maritime lien under Section 72 hereof.

4 SEC. 90. *Arrest of a Related Vessel* -The court may also order the arrest of any other ship
5 which when the arrest is effected, is found within the territory of the Philippines and is owned by
6 the same person liable for the maritime claim and who, at the time the claim arose, was the ship
7 owner, ship operator, bareboat charterer, or ship manager of the vessel in respect of which the
8 claim has arisen. The arrest of a related vessel will not be allowed when the maritime claim
9 sought to be enforced relates to the ownership or possession of the ship.

10 SEC. 91. *Arrest of a Vessel that has been Transferred to Another Party*. -The arrest of a
11 ship which is not owned by the person liable for the claim shall be permissible only if a final
12 judgment on the maritime claim has been issued by a Philippine court and such judgment can be
13 enforced against that ship through its judicial sale.

14 Chapter 3

15 Release from Arrest

16 SEC. 92. *Release from Arrest: Posting of a Bond or other Security*. - A ship which has
17 been arrested shall be released from arrest when a bond or ocher sufficient security, which the
18 court has determined to be necessary for the preservation of the rights of the parties, has been
19 provided by the ship owner, ship operator, bareboat charterer, ship manager or any other person
20 acting on its behalf. In cases involving any dispute between co-owners of the ship as to the
21 employment or earnings of the ship, or arising from the ownership or possession of the ship, the
22 court may in its discretion determine whether to require a bond or other security before
23 permitting the person in possession of the ship to continue trading with the ship or to otherwise
24 deal with the operation of the ship during the period of the arrest.

1 SEC. 93. *Amount of Bond or other Security.* - The parties may agree to the form and
2 amount of the bond or other security for the release of the ship and submit their agreement to the
3 court. In the absence of any agreement between *the* parties as to the sufficiency and form of the
4 bond or other security, the court shall determine its nature and the amount thereof. For purposes
5 of determining the amount of the bond or other security, the same shall not exceed the amount of
6 the claim for which the ship has been arrested, or the value of the ship, or the applicable limit of
7 liability determined in accordance with Title VI, Chapter 2 of this Act, whichever is least.

8 SEC. 94. *Place of Posting of the Bond or other Security.* - The bond or other security for
9 the release of the vessel against which the claim is sought *to* be enforced shall be posted with the
10 court which issues *the* order *for* the arrest of the vessel.

11 SEC. 95. *Release of the Bond or other Security Posted in a Philippine Court.* - If a ship is
12 arrested by a foreign court for the same claim for which a bond or other security has already been
13 provided in a Philippine Court and against which its release has been obtained, the bond or other
14 security so provided in the Philippine court shall, at the discretion of such court, be released upon
15 application of the ship owner, ship operator, bareboat charterer or ship manager.

16 SEC. 96. *Release of Excess Security.* - *If* a ship has been released by a Philippine court on
17 the basis of a bond or other security posted with that court and the same ship is later arrested by a
18 foreign court for the same claim and is likewise subsequently released upon the provision of a
19 bond or other security posted, the bond or other security posted with the Philippine court shall, at
20 the court's discretion, be released to the extent that the total amount of the bond or other security
21 provided in the Philippine court and that provided in the foreign court combined exceeds the
22 claim for which the ship has been arrested., or the value the ship, whichever is lower.

23 SEC. 97. *Condition for the Release of Excess Security* - The release of the bond or other
24 security provided in the immediately preceding section shall not he ordered by the Philippine

1 court unless it is satisfied that the bond or other security posted in the foreign court shall actually
2 be available and be freely transferable to satisfy any judgment or order that may be issued in
3 favor of the claimant.

4 SEC. 98. *Reduction, Modification or Cancellation of the Bond.* - If a bond or other
5 security has been provided for the release of the ship, the person providing the bond or security
6 may, at any time, apply to the court to have that security reduced, modified or cancelled. The
7 court, in its discretion and upon a determination of the veracity of the claim filed, shall issue the
8 appropriate order retaining, reducing, modifying or canceling such bond or other security.

9 SEC. 99. *No Presumption of Fault.* - Any request for the ship to be released upon a bond
10 or other security being provided, or any application to limit liability made by the ship owner,
11 ship operator, bareboat charterer or ship manager shall not be construed as an acknowledgment
12 of liability or a waiver of any defense which may be pleaded against the claimant or a waiver of
13 any right to limit the liability of such ship owner, ship operator, bareboat charterer or ship
14 manager in accordance with the provisions of Title VI, Chapter 2 of this Act or of any other law
15 or international convention.

16 Chapter 4

17 Re-arrest, Multiple Arrest and

18 Arrest of Additional Vessel

19 SEC. 100. *Rearrest or Multiple Arrest of a Ship.* - If a ship has already been arrested and
20 released, or a bond or other security for its release has been provided in order to secure the
21 maritime claim sought to be enforced against that ship, the same ship shall not be rearrested
22 for the same maritime claim unless:

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

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

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

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

SEC. 101. *Arrest of Additional Vessel.* - Any other ship owned by the ship owner, ship operator, bareboat charterer or ship manager which would otherwise be subject to arrest in respect of the same maritime claim shall not be arrested unless any of the conditions enumerated in the immediately preceding section exists with respect to the vessel originally arrested.

Chapter 5

Security Against Arbitrary Arrest

For purposes of this section and that of the immediately preceding section, "release" shall not include the unlawful release or the escape from arrest of an arrested vessel.

SEC. 102. *Claimant's Bond.* - In order to protect the rights of the ship owner, ship operator, bareboat charterer or ship manager from any unjustified, arbitrary, wrong or unlawful arrest of its vessel or for permitting the continued arrest of its vessel, the court may require the claimant who seeks the arrest, or who has procured *the* arrest, of a vessel to provide a bond or other security of a kind, for an amount, and up011 such terms, as may be determined by the court. The bond or other security provided shall be used to cover any loss which may be incurred by the ship owner, ship operator, bareboat charterer or ship manager as a result of any unjustified, arbitrary, wrongful or unlawful arrest of its ship and for which the claimant may be found liable. Such loss or damage shall include but shall not be limited to any loss or damage

1 incurred by the ship owner, ship operator, bareboat charterer or ship manager arising from such
2 arrest, *or* from any excessive security which may have been demanded by the claimant, and
3 provided for by such ship owner, ship operator, bareboat charterer or ship manager.

4 SEC. 103. *Determination of the Amount of the Claimant's Bond.* - The court issuing the
5 order of arrest shall have jurisdiction to determine the extent of the liability of the claimant
6 which may arise from any loss or damage caused by the arrest of the ship and the amount of the
7 bond to be required shall depend upon such determination of liability. If a bond or other security
8 has been provided in accordance with this section, the claimant may ask at any time to have the
9 bond or other security reduced, modified or cancelled upon proof of the validity of the claim.

10 SEC. 104. *Determination of Claimant Bond Pending Proceedings in a Foreign Court.* - If
11 the disposition of the case on the merits for which the arrest has been effected lies with a foreign
12 court or with an arbitral tribunal, the Philippine court ordering the arrest of the vessel may delay
13 the determination of the extent of the claimant's liability which may arise from any loss or
14 damage that may be occasioned to the ship owner, ship operator, bareboat charterer or ship
15 manager because of the unjustified, arbitrary, wrongful or tribunal.

16 Chapter 6

17 Jurisdiction

18 SEC. 105. *Jurisdiction of the Philippine Court on the Merits of the Case.* - The
19 Philippine court, which has ordered the arrest of a vessel or has required the provision of a bond
20 or other security for the release of the ship, shall have jurisdiction to determine the case on its
21 merits.

22 SEC. 106. *Transfer of Venue.* - The parties may appear and adjudicate the claim before
23 the Philippine court exercising jurisdiction over the claim or, with leave of court, may mutually
24 agree to submit the dispute within an agreed period of time to the jurisdiction of a foreign court

1 or to an arbitral tribunal which has jurisdiction over the claim. Such agreement of the parties on
2 the transfer of venue to a foreign court or arbitral tribunal shall be submitted to the Philippine
3 court to allow for the suspension of the proceedings.

4 SEC. 107. *Right of the Court Not to Exercise Jurisdiction.* - Upon receipt of the order, in
5 proper forum and substance, that a foreign court or arbitral tribunal has accepted jurisdiction
6 over the case, the Philippine court which has issued the order for the arrest of the vessel, or has
7 required the provision of a bond or other security to obtain the release of 19 the ship, may, in its
8 discretion, suspend the exercise of jurisdiction over the claim in favor of 20 the foreign court or
9 arbitral tribunal.

10 SEC. 108. *Transfer of the Case to a Foreign Court or Arbitral Tribunal.* - If the
11 Philippine court, which has ordered the arrest of the vessel 01- has required the provision of a
12 bond or other security to obtain the release of the ship, refuses to exercise jurisdiction over the
13 claim in accordance with the provisions of section 106, the court shall, upon application of the
14 claimant, grant a period of time within which the claimant shall bring proceedings before a
15 competent foreign court or arbitral tribunal. If proceedings are not brought within the period of
16 time stipulated in the order, the ship arrested or the bond or other security provided, upon request
17 of the ship owner, ship operator, bareboat, charterer or ship manager, shall be ordered released
18 by the court.

19 Chapter 7

20 Recognition and Enforcement of Judgments

21 SEC. 109. *Recognition of Foreign Judgments.* - If proceedings are brought before a
22 foreign court of competent jurisdiction or an arbitral tribunal, any filial judgment or arbitral
23 award resulting from such proceedings shall be recognized and given full force and effect by the
24 Philippine court having custody of the arrested ship or the bond or other security provided for its

1 release. The parties shall be required to submit *to* the Philippine court a copy of the final
2 judgment or arbitral award in such form and substance sufficient for its recognition and
3 enforcement under Philippine law.

4 SEC. 110. *Conditions for the Recognition of the Foreign judgment.* -The recognition of
5 such Final judgment or arbitral award shall be made on the condition that the ship owner, ship
6 operator, bareboat charterer or ship manager has been given reasonable notice of the proceedings
7 filed with the foreign court or arbitral tribunal, has had reasonable opportunity to defend itself in
8 such proceedings, and the filial judgment or arbitral award resulting from such proceedings is not
9 contrary to Philippine law, morals, public order or public policy, No further restriction shall be
10 imposed on the recognition and enforcement of such foreign judgment or arbitral award by the
11 Philippine court which ordered the arrest of the ship or for which the bond or other security has
12 been provided to obtain its release.

13 SEC. 111. *Enforcement of judgments.* - A judgment rendered in favor of the claimant
14 whether by a Philippine Court or a foreign court or arbitral tribunal shall be enforced against
15 the vessel through its judicial sale, or against the bond or other security given as security for
16 the claim.

17 Title VI
18 Limitation of Liability for Maritime Claims
19 Chapter 1
20 Right to Limit Liability

21 SEC. 112. *Application.* - The following may invoke the right to limit their liability in
22 accordance with the rules provided for in this Title for the claims set out in the next succeeding
23 section:

24 a. Ship owners;

- 1 b. Ship operators;
- 2 c. Bareboat charterers;
- 3 d. Ship managers;
- 4 e. Salvors with respect to claims set forth in subsections (d), (e) and (f) of Section
- 5 113;
- 6 f. Any *person* whose act, neglect or default the ship owner, ship operator, bareboat charterer,
- 7 ship manager or salvor is responsible for; and
- 8 g. Insurers who assume the liability of any ship owner, ship operator, bareboat, charterer, ship
- 9 manager, or salvor.

10 SEC. 113. *Claims which are Subject to Limitation.* - The following claims made against
11 the persons set forth in the preceding section or against the ship, whatever the basis of liability
12 may be, shall be subject to the limitation of liability:

13 (a) Claims in respect of loss of life or personal injury, or loss of or damage to property,
14 including damage to harbor works, basins, waterways and aids to navigation, occurring on board
15 or in direct connection with the operation of the ship or with salvage operations and
16 consequential loss resulting therefrom;

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

19 (c) Claims in respect of other loss resulting from the infringement of rights, other than
20 contractual rights, occurring in direct connection with the operation of the ship or of salvage
21 operations;

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

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

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

SEC. 114. *Right to Invoke Limit of liability.* - The right to limit liability may be invoked by the ship owner, ship operator, bareboat charterer, ship manager or salvor, against any claimant in a judicial action who has sought the arrest of its vessel in order to enforce a claim which is subject to limitation.

SEC. 115. *Claims Not Subject to Limitation.* - The following claims shall not be subject to any limitation of liability in accordance with this Title:

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

(b) Claims for oil pollution damage and/or other environmental damage;

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

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

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

SEC. 116. *Conduct Barring Limitation.* .- Any ship owner, ship operator, bareboat charterer, ship manager or salvor, or any person acting on their behalf, shall not be entitled to limit liability if it is proven that the loss resulted from the personal act or omission of such ship owner, ship operator, bareboat charterer, ship manager, or salvor, or any person acting on their behalf, and such act or omission was committed with the intent to cause such loss, or it was done negligently and with the knowledge that such loss would probably result.

SEC. 117. *Counterclaims; Right to Set off:* - When a ship owner, ship operator, bareboat charterer, ship manager, or salvor, who is entitled to limit his liability, has a counterclaim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the limits of liability shall only apply to the balance of the claim, if any. The right of set off can be invoked only if both parties are entitled to limit their respective liabilities and their respective claims do not fall within the provisions of section 115 or 116 of this Act.

Chapter 2

Limits of Liability

SEC. 118. *General Limits.* - The general limits of liability for claims other than for passenger claims, arising from any distinct occasion shall be calculated as follows:

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

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

(ii) For a ship with a tonnage in excess thereof, the following amount in addition

to that mentioned in (i);

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

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

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

(b) In respect of any other claims:

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

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

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

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

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

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

SEC. 119. *Claims for LOSS of Life in Excess of the Stipulated Limit.* - If the amount calculated in accordance with subsection (a) of the preceding section is insufficient to pay in full all the claims for loss of life or personal injury, the amount calculated in accordance with subsection (b) shall be available for the payment of the unpaid balance of the claims under subsection (a).

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

SEC. 120. *Salvor's Limit of Liability when Not Operating of a Ship.* - The limit of liability for any salvor who is not operating from *any* ship or salvage tug, or who is operating solely on the ship to, or in respect of, which he is rendering salvage services, shall be calculated in accordance with the provisions of Section 118 of this Act applying a tonnage of 1,500 tons.

SEC. 121. *Limit of Liability for Passenger Claims.* - The limit of liability of a ship owner, ship operator, bareboat charterer, or ship manager, for passenger claims relating to loss of life or personal injury arising out of any distinct occasion, shall be an amount equivalent to 175,000

units of account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate. Claims for loss of life or personal injury to passengers of a ship shall mean any such claims brought by or on behalf of:

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

SEC. 122. *Formula for Converting the Unit of Account to Philippine Pesos.* - The unit or account mentioned in this Chapter shall be converted to Philippine pesos according to the value of the Philippine peso 011 the date the limitation fund is constituted, or payment is made, or security is given. The equivalent value of the Philippine peso shall be calculated in accordance with the method of valuation applied by the International Monetary Fund for its operations and transactions in effect on the applicable date.

Sec. 123. *Aggregation of Claims for Loss of Life and Personal Injury and for other Claims.* - The limits of liability for loss of life and personal injury and for other claims determined in accordance with section 118 hereof shall apply to the aggregate of all claims which arise 011 any distinct occasion against:

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

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

4 Chapter 3

5 Limitation Fund

6 SEC. 124. *Creation of a Limitation Fund.* - Any person entitled to limit his liability in
7 accordance with Section 112 and who is alleged to be liable for a claim provided in Section 113
8 hereof may, at any time during the hearing of the case or after the arrest of his vessel, constitute a
9 fund with the court in which legal proceedings have been instituted for the satisfaction of the
10 claim subject to limitation. The fund shall be in an amount equivalent to the limits of liability set
11 forth in Sections 118, 120, or 121 hereof, as the case may be, together with any interest due
12 thereon from the date of the occurrence giving rise to the liability until the date of the creation of
13 the fund. The total amount of the fund shall be subject to the rules on aggregation of claims set
14 forth in Section 123 of this Act. Any fund created shall be available only for the payment of
15 claims in respect of which limitation of liability can be invoked.

16 SEC. 125. *Form of the Fund* - The fund may be created, either by depositing the sum
17 with a universal bank designated by the court, or by providing a bond, or other security
18 acceptable to the court.

19 The fund constituted by any of the persons mentioned in Section 112, subsections (a), (b),
20 (c), (d) or (e) shall likewise be deemed constituted in favor of the persons mentioned in
21 subsection (f) and (g) of that section.

22 SEC. 126. *Distribution of the Fund.* - Subject to the provisions of Sections 118 and 119
23 hereof, the limitation fund shall be distributed *among* the claimants in proportion to their claims
24 against the fund as determined by the court.

1 SEC. 127. *Subrogation of Rights.* - If at any time before the fund is distributed the ship
2 owner, ship operator, bareboat charterer, ship manager or salvor, or their respective insurers,
3 settles a claim made against and payable by the fund, such person shall, up to the amount paid,
4 acquire by subrogation the rights which the claimant would have enjoyed under this Title.

5
6 SEC. 128. *Contingency Fund for Expected Claim.* - Where the ship owner, ship operator,
7 bareboat charterer, ship manager, or salvor, or their respective insurers, establishes that it may be
8 compelled to pay a claim, at a later date, whether in whole or in part, and because of such
9 payment, the ship owner, ship operator, bareboat charterer, ship manager or salvor, or their
10 respective insurers, would have enjoyed a right of subrogation if the claim had been paid before
11 the fund was distributed, the court having jurisdiction over the claim and in which the fund has
12 been constituted may order that a sufficient sum from the fund be provisionally set aside to
13 enable the person who has been subrogated to the rights of the claimant to enforce his claim
14 against the fund at such later date.

15 SEC. 129. *Bar to Other Actions.* - Where a limitation fund has been constituted in
16 accordance with Section 124 hereof, any person having made a claim against the fund shall be
17 barred from enforcing such claim against any other assets of the persons mentioned in Section
18 112 thereof and on whose behalf the fund has been constituted.

19 SEC. 130. *Release from Arrest After the Constitution of the Limitation Fund.* - After a
20 limitation fund has been constituted in accordance with Section 124 of this Act, any ship or other
21 property, belonging to a ship owner, ship operator, bareboat charterer, ship manager or salvor
22 whose behalf the fund has been constituted, which has been arrested *or* attached in accordance
23 with Title V of this Act in order to satisfy a claim which is enforceable against the fund or any
24 other bond or security given, may be released from arrest at the discretion of the court. Such
25 release shall, however, be mandatory if the limitation fund has been constituted:

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

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

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

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

e. At the port where the arrest is made.

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

SEC. 131. Coverage. - The provisions of this Title shall apply to all Philippine flagships whether seagoing or coastwise and to all foreign flagships the claims against which are sought to be enforced in any Philippine court of appropriate jurisdiction.

Title VII

Final Provisions

SEC. 132. Requisition of Vessels. -The President of the Philippines may, in times of war and other national emergency, when the public interest so requires, requisition, absolutely or temporarily, for any naval or military purpose, any and all vessels of Philippine registry. The Government shall pay the owner or operator of the vessel, based on normal conditions at the time of requisition:

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

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

SEC. 133. *Repealing Clause* -The following laws are hereby repealed:

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

1 b. Sections 801 to 821 and 829 of Republic Act No. 1937 or the “Tariff and Customs
2 Code”;

3 c. Republic Act No. 913 or “An Act to Amend Section One of Commonwealth Act No.
4 606 by Defining the Term “Lease” or “Charter” and for Other Purposes”;

5 d. Republic Act No. 1407 or the “Philippine Overseas Shipping Act”;

6 e. Republic Act No. 6106 or “An Act Amending Republic Act No. 1407, As Amended, to
7 Prescribe the Rules for Financing the Acquisition or Construction of Vessels to be Used for
8 Overseas Shipping, to Allow the Creation of a Maritime Lien Thereon, and For Other Purposes”;

9 f. Presidential Decree No. 214 or an act “Further Amending the Philippine Overseas
10 Shipping Act of 1955”;

11 g. Presidential Decree No. 1521 of “The Ship Mortgage Decree of 1978”;

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

15 a. Republic Act No. 5173, as amended of “An Act Creating a Philippine Coast Guard,
16 Prescribing its Powers and Functions, Appropriating the Necessary Funds Therefor, and for
17 Other Purposes”;

18 b. Presidential Decree No. 601 or the “Revised Coast Guard Law of 1974”;

19 c. Presidential Decree No. 474 or the “Maritime Industry Decree of 1974”, as
20 amended;

21 d. Executive Order No. 125 or the order “Reorganizing the Ministry of Transportation
22 and Communications, Defining its Powers and Functions and for Other Purpose” and 125-A, as
23 amended, which amended E.O.N o. 125;

24 e. Section 10 of Republic Act No. 9295 or the “Domestic Shipping Development Act”.
25 Further, Section 14 of Republic Act No. 9295 is hereby amended insofar as it is inconsistent with
26 Section 51 of this Act.

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

4 SEC. 134. *Separability Clause.* - If, for any reason, any section, subsection, clause or
5 term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such
6 declaration shall remain in full force and effect.

7 SEC. 135. *Transitory Provision.* - Every ship currently registered under the laws or the
8 Philippines and granted the privilege to fly its flag shall be deemed to be registered under this
9 Act in so far as its registration is not inconsistent with the provisions of this Act and such
10 registration shall continue to be valid until its expiration unless sooner revoked by the Maritime
11 Industry Authority. Any ship mortgage entered into in accordance with the provisions of the Ship
12 Mortgage Decree or the Chattel Mortgage Law shall continue to be valid and effective and its
13 registration shall be transferred to the Maritime Industry Authority in accordance with the
14 provisions of this Act. Nothing in the transfer shall change or in any way alter or affect any
15 preference a registered mortgage may enjoy or the original date on which such mortgage was
16 entered in the registry.

17 SEC. 136. *Effectivity.* - This Act shall take effect after fifteen (15) days following its
18 publication in a newspaper of general circulation

Approved,