


SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
Third Regular Session)



16 JAN 12 P3:10

SENATE
S. No. 3076

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

AN ACT
INSTITUTING SHIPPING INDUSTRY REFORMS, PROVIDING FOR THE
PURPOSE A CLEAR SYSTEM OF SHIP REGISTRATION AND INCENTIVES
THEREFOR, A COMPREHENSIVE MECHANISM FOR SHIP MORTGAGES,
MARITIME CLAIMS AND MARITIME LIENS, AND FURTHER DEFINING
THE PARAMETERS FOR SHIP ARREST AND MARITIME LIABILITY
LIMITATION

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 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 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

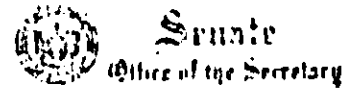
that a law on maritime liens and mortgages cannot be properly enforced in accordance with international practices unless the appropriate procedure is provided. This can only be done if Philippine law can provide for a legal framework that refines the present grounds for the arrest of ships which are 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.

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


MIRIAM DEFENSOR SANTIAGO
28

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

1 Title I

2 General Provisions

3 Chapter I

4 Policies

5 SECTION 1. *Short Title.* – This Act shall be known as "The Philippine
6 Shipping Industry Reforms Act."

7 SECTION 2. *Declaration of Policies.* – The State recognizes that shipping is a
8 necessary infrastructure which is vital to the economic development of our country. The
9 Philippines needs a strong and competitive merchant marine fleet owned and controlled
10 by Filipinos, manned by qualified Filipino officers and crew, which shall:

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

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

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

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

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

12 (f) Serve as a naval and military auxiliary in times of war and other national
13 emergencies. The State shall promote such other necessary administrative and executive
14 policies that will ensure the continued growth of the Philippine merchant fleet in
15 consonance with international practices and provide a mechanism for the early adoption
16 and implementation of international maritime regulations and conventions.

17 SECTION 3. *Scope of the Act.* – Unless otherwise indicated, this Act shall apply
18 to:

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

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

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

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

7 Chapter 2

8 Definitions

9 SECTION 4. *Definition of Terms.* – In this Act, the term–

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

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

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

23 d. "Board of Marine Inquiry" shall refer to the Board of Marine Inquiry created in
24 accordance with Presidential Decree No. 601, Section 7;

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

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

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

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

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

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

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

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

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

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

1 o. "International maritime convention" or "international convention" may be used
2 interchangeably and shall refer to any written treaty or agreement, or any protocol or
3 amendment thereto, affecting the maritime industry which has been agreed to and
4 approved by States as members of the International Maritime Organization or other
5 international agency, which the Philippines has ratified and which is in force;

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

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

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

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

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

19 u. "Mortgagor" shall refer to a ship owner who constitutes a ship mortgage over a
20 vessel or a vessel under construction registered in its name in order to secure the
21 fulfilment of a principal obligation;

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

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

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

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

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

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

13 bb. "Ship manager" shall mean any person, commercial partnership or corporation
14 to which the technical or commercial management, or both such technical and
15 commercial management, of a ship has been entrusted by the ship owner and for that
16 purpose is in charge of the operation of the ship which may include, but shall not be
17 limited to, vessel maintenance and upkeep, crewing, and passenger and cargo solicitation;

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

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

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

1 ff. "Tonnage" or "gross tonnage" may be used interchangeably unless otherwise
2 indicated and shall refer to the ship's gross tonnage calculated in accordance with the
3 tonnage measurement rules provided in the applicable international convention on the
4 tonnage measurement of ships;

5 gg. "Unit of account" shall refer to the special drawing right (SDRs), which is an
6 international reserve asset created by the International Monetary Fund (IMF) in 1969 to
7 supplement the existing official reserves of member countries. SDRs are allocated to
8 member countries in proportion to their IMF quotas. The SDR also serves as the unit of
9 account of the IMF and some other international organizations. Its value is based on a
10 basket of key international currencies.

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

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

21 Chapter 3

22 Regulatory Agencies

23 SECTION 5. *Implementing Agencies.* – The implementation of this Act shall be
24 vested in the Maritime Industry Authority and the Philippine Coast Guard.

1 **SECTION 6. *Powers and Functions of the Maritime Industry Authority.*** – For the
2 purposes of this Act, the Maritime Industry Authority shall have the following powers
3 and functions:

4 **a. Accredite and license ship owners and operators;**

5 **b. Maintain the Registry of Ships of the Philippines;**

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

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

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

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

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

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

20 **i. Enter into cooperation with foreign registries to determine and establish the**
21 **requirements for registration, de-registration and enforcement in order to ensure the**
22 **compatibility of requirements of the Philippine registry with that of other foreign**
23 **registries;**

24 **j. Issue certificates of public convenience to coastwise vessels;**

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

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

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

8 **SECTION 7. *Powers and Functions of the Philippine Coast Guard.*** – For the
9 purposes of this Act, the Philippine Coast Guard shall have the following powers and
10 functions:

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

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

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

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

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

4 f. Issue certificates of inspection;

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

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

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

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

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

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

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

15 **Title II**

16 **Vessels**

17 **Chapter 1**

18 **Registration of Vessels**

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

1 SECTION 11. *Vessel Eligibility.* – Vessels of any size, age or type that are classed
2 by a classification society, whether owned or chartered by Philippine national, may be
3 registered under the Philippine flag. Vessels that are more than twenty (20) years old on
4 their first application for registration shall be subject to a safety inspection as a pre-
5 condition to the issuance of a certificate of Philippine registry.

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

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

16 SECTION 13. *Vessels Required to be Registered.* – Every coastwise vessel and
17 seagoing vessel shall be registered in accordance with the provisions of this Act. To this
18 end, it shall be the duty of the ship owner, ship operator, bareboat charterer, or any person
19 acting on behalf of every vessel to apply with the Maritime Industry Authority for the
20 registration of the vessel.

21 SECTION 14. *Where the Registration is to be Made.* – The registration of a
22 coastwise vessel shall be made at its home port or at the port where the nearest regional
23 office of the Maritime Industry Authority, or the nearest Philippine Coast Guard
24 detachment deputized for the purpose, is located. The registration of a seagoing vessel

1 shall be made in the principal office of the Maritime Industry Authority in the port of
2 Manila. If the vessel is not within the territory of the Philippines at the time of acquisition
3 or bareboat charter, the application for registration shall be made through the nearest
4 Philippine consular office where the vessel may be found. The Philippine consular office
5 receiving the application shall have the duty to forward the same to the principal office of
6 the Maritime Industry Authority in the port of Manila.

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

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

13 b. "The Bareboat Charter Registry of Vessels" in which all records of registrations
14 and deletions' of ships which are bareboat chartered into the Philippines shall be made.

15 This sub-registry shall also note down the following details:

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

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

18 and

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

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

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

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

4 a. A written application for registration;

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

6 c. A certified copy of the Certificate of Sole Proprietorship, or Articles of
7 Incorporation;

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

10 e. The tonnage measurement certificate;

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

12 g. The vessel certificates required by international conventions and domestic
13 regulations;

14 h. The application for a provisional radio license;

15 i. The application for vessel name;

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

19 **SECTION 17. *Additional Documents Required.*** – In addition to the documents
20 listed in the immediately preceding section, every ship owner or bareboat charterer shall
21 be required to submit the following documents:

22 For new buildings:

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

24 For second hand tonnage:

1 (ii) A notarized copy of the bill of sale or other document of title evidencing the
2 transfer,

3 (iii) The certificate of deletion from the previous registry;

4 (iv) The certificate of non-encumbrance issued by the previous registry; and

5 (v) A safety inspection certificate if the vessel is more than twenty (20) years
6 old.

7 For bareboat chartered or leased ships:

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

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

11 (iii) If the bareboat charterer wishes to change the vessel's name, a letter
12 requesting the change of name of the vessel from that appearing in its primary registry
13 and the reason for the request;

14 (iv) The written consent to the transfer of registry of the holders of all mortgages,
15 hypothecations or similar charges against the vessel registered in the foreign registry;

16 (v) Certified true copies of all mortgages, hypothecations, and charges, with an
17 English translation of such documents;

18 (vi) The written consent to the bareboat charter registration of the appropriate
19 authority of the country of primary registration of the vessel, or satisfactory evidence that
20 such consent is not required;

21 (vii) A transcript of the register or other document from the appropriate authority
22 of the country of primary registration showing all recorded mortgages and encumbrances
23 on the vessel appearing in that registry;

24 (viii) A safety inspection certificate if the vessel is more than twenty (20) years
25 old, and

1 (ix) Such other documents necessary to support the application for the enrolment
2 of ships in the Registry as may be required by regulation.

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

- 5 a. Name of vessel;
- 6 b. Keel number;
- 7 c. Hull material;
- 8 d. Principal dimensions;
- 9 e. Gross tonnage;
- 10 f. Net tonnage;
- 11 g. International Maritime Organization (IMO) number;
- 12 h. Official number;
- 13 i. Place of build;
- 14 j. Year of build;
- 15 k. Name and address of registered owner, ship operator, bareboat charterer,
16 manager or other person responsible for the ship;
- 17 l. Date of issuance of certificate of Philippine registry; and
- 18 m. Class of vessel.

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

- 22 a. Place of previous registry; and
- 23 b. Name of previous owner.

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

- 1 a. Place of primary registry;
- 2 b. Name of registered owner appearing in the primary registry;
- 3 c. Name of the vessel as it appears in the primary registry; and
- 4 d. A reference that encumbrances on the vessel appear in the primary registry.

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

7 SECTION 19. *Proceedings Prior to the Grant of a Certificate of Philippine*
8 *Registry.* – No application for a Certificate of Philippine Registry shall be approved and
9 issued until:

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

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

20 SECTION 20. *Issuance of the Certificate of Philippine Registry.* – Upon the
21 application for registration and a satisfactory determination of eligibility, a certificate of
22 Philippine registry shall be issued to all vessels which are more than fifteen (15) gross
23 tons. A certificate of Philippine registry shall be valid for a period of no more than three
24 (3) years, renewable for a similar period or periods provided the vessel continues to meet
25 all the requirements to be eligible for registration. In the case of bareboat chartered

1 vessels, the certificate of Philippine registry shall be valid for a period of no more than
2 three (3) years or the period of the bareboat charter, whichever is shorter.

3 SECTION 21. *Registration of Vessels between Three and Fifteen Gross Tons.* – A
4 vessel between three (3) gross tons and fifteen (15) gross tons shall be registered with the
5 Maritime Industry Authority and a certificate of ownership shall be issued to it. The
6 application for the issuance of a certificate of Philippine registry shall be optional with
7 the owner of such vessel.

8 SECTION 22. *Registration of Vessels of Three Gross Tons or Less.* – A vessel of
9 three (3) gross tons or less shall not be registered, unless requested by its owner. Neither
10 shall a document of registration of any kind be required for such vessel. The application
11 for the issuance of a certificate of ownership shall be optional with the owner of such
12 vessel.

13 SECTION 23. *Provisional Registration of Vessels.* – A provisional certificate of
14 Philippine registry may be issued to ships applying for registration provided all
15 documents listed in Section 16 have been submitted and the submission of the additional
16 documents required in Section 17 is pending.

17 The provisional certificate of Philippine registry shall be valid for a period of
18 ninety (90) days subject to a single renewal of another ninety (90) days. If the ship owner
19 or bareboat charterer fails to submit all required documents within the stipulated period,
20 the provisional certificate of Philippine registry shall automatically expire on the date
21 appearing on the provisional certificate.

22 SECTION 24. *Appointment of Consular Officials for the Provisional Registration*
23 *of ships.* – If the ship is outside Philippine territory, the application for registration and its
24 supporting documents enumerated in Sections 16 and 17 may be submitted to the nearest

1 Philippine consular office which shall then have the duty to forward the documents to the
2 offices of the Maritime Industry Authority in the port of Manila. The Philippine consular
3 officer, upon the ship owner's or bareboat charterer's submission of all documents
4 enumerated in Section 16 may, at the direction of the Maritime Industry Authority, issue
5 a provisional certificate of registry to the vessel.

6 **SECTION 25. *Form and Contents of Certificate of Philippine Registry.*** – The
7 certificate of Philippine registry shall contain the following information:

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

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

- 24 a. The fact that the ship is covered by a bareboat charter and the date of such
25 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; and
- d. A reference that registered encumbrances appear in the primary registry.

Chapter 2

Vessels Under Construction

SECTION 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.

SECTION 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.

1 SECTION 28. *Document of Registration.* – A provisional certificate of registration
2 shall be issued to a vessel under construction and shall be valid for the period during
3 which the vessel is under construction.

4 SECTION 29. *Form and Contents of the Document of Registration.* – The
5 provisional certificate of registration issued to a ship under construction shall contain the
6 following information:

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

13 Chapter 3

14 Rights and Privileges Granted to
15 Vessels of Philippine Registry

16 SECTION 30. *Privileges Conferred by a Certificate of Philippine Registry.* – A
17 certificate of Philippine registry confers upon the vessel the following rights and
18 privileges:

- 19 a. The privilege to fly the flag of the Philippines;
- 20 b. The privilege to engage, consistently with law, in Philippine coastwise trade in
21 accordance with the corollary permits, certificates and licenses that may be issued to the
22 vessel;
- 23 c. The right to invoke the diplomatic and naval protection of Philippine authorities
24 and the protection of the flag of the Philippines; and

1 d. The right to invoke the exercise of jurisdiction and control by Philippine
2 government authorities over all persons found on board the vessel, or over any incident
3 involving the penal or disciplinary responsibility of the master or any member of the crew
4 whether the same arises from a crime or quasi-delict committed on board the vessel or
5 from ally collision or other incident of navigation concerning the ship.

6 Chapter 4

7 Registration Fees; and Tonnage Taxes

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

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

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

23 The registration fee shall be reviewed from time to time and, when deemed
24 appropriate, the Maritime Industry Authority shall submit a recommendation to the

1 DOTC Secretary to adjust the same. Any adjustment in the registration fee shall be
2 subject to the prior approval of the DOTC Secretary.

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

8	Tonnage	Tonnage Tax
9	500 gross tons or less	P1,500.00
10	Over 500 gross tons	Plus P20.00 per ton

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

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

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

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

1 Chapter 5

2 De-registration or Suspension of Registration

3 of Philippine flag vessels

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

7 SECTION 37. *Deletion from the Registry of Ships of the Philippines.* – A ship
8 shall be deleted from the Registry of Ships for any of the following reasons:

9 a. If it is transferred to a natural or juridical person who does not meet
10 the ownership requirements imposed by this Act; or

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

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

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

16 e. If it is sold for scrap; or

17 f. If it is lost.

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

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

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

23 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
3 taxes, fees and charges due to the government have been paid.

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

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

12 SECTION 38. *De-registration of a ship which is Subject of a Mortgage.* – No ship
13 shall be deleted from the Registry unless:

14 a. All mortgages are discharged; or

15 b. The written consent of all mortgagees to the deletion from the Registry is
16 obtained.

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

23 SECTION 39. *Suspension of a Ship's Registry.* – The registration of a vessel which
24 has been bareboat chartered out to a non-Philippine national shall be suspended for the
25 duration of the bareboat charter. However, a ship which has been bareboat chartered out

1 to a non-Philippine national shall continue to be subject to Philippine law for all
2 transactions affecting the sale, transfer, mortgage, encumbrance or other disposition of
3 the vessel, the enforcement of any lien or claim against the vessel, or any other
4 transaction affecting the private rights of the owner of the vessel.

5 SECTION 40. *Documents Required in Order Suspending Registration.* – The ship
6 owner shall be required to submit the following documents to effect the suspension of
7 such registration:

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

14 Chapter 6

15 Operation of the Vessels

16 SECTION 41. *Ship Construction.* – Every new building registered under Philippine
17 laws shall be constructed in accordance with standards for ship construction set forth in
18 international maritime conventions and implemented through government regulations.
19 Ship construction shall be under the supervision of the Philippine Coast Guard or a
20 classification society appointed by the ship owner. The classification society shall
21 oversee the construction of the ship and ensure that the construction regulations provided
22 in international maritime conventions and those issued by the Philippine Coast Guard
23 covering the structural strength and integrity of all parts of the ship's hull and its
24 appendages as well as the safety and reliability of the main propulsion, steering systems
25 and auxiliary systems of the ship are followed.

1 SECTION 42. *Navigation and Communication Equipment.* – Every Philippine flag
2 vessel shall have on board such navigation and communication equipment and
3 apparatus required by international maritime convention for the safe navigation of
4 ships. Every equipment and apparatus that shall be required to be installed on board shall
5 be suited for the type, tonnage, power, means of propulsion and trading limitations of the
6 particular ship.

7 SECTION 43. *Equipment to Prevent Marine Pollution.* – Every Philippine flag
8 vessel shall have on board equipment and apparatus to prevent, reduce, or control
9 pollution to die marine environment emanating from ships. Every equipment and
10 apparatus required to be installed on board shall be suited for the type, tonnage, power,
11 means of propulsion and trading limitations of the particular ship.

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

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

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

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

10 Chapter 8

11 Insurance and Other Indemnity Cover

12 SECTION 51. *Insurance and Indemnity Cover.* – Every ship owner or bareboat
13 charterer shall be required to maintain adequate insurance coverage or protection and
14 indemnity coverage to meet the financial responsibility for any liability which such ship
15 owner or bareboat charterer may incur for loss of or injury to human life and/or damage
16 to environment.

17 Chapter 9

18 Enforcement

19 SECTION 52. *Report of any Incident Involving a Philippine Registered Ship.* –
20 When any Philippine flag vessel sustains an accident or causes any incident involving
21 the loss of life, material loss of property, or serious injury to any person, or receives any
22 damage affecting her seaworthiness or her efficiency, or if it should cause any pollution
23 or damage to the marine environment, regardless of where such accident or incident
24 may occur, the ship owner, ship operator, bareboat charterer, ship manager, agent or

1 master of such vessel shall immediately, after the occurrence of the accident or incident,
2 send a report of the accident or incident to the Philippine Coast Guard detachment nearest
3 the place of the accident or incident or, in the case of seagoing vessels, to the Philippine
4 Coast Guard Headquarters in the port of Manila, stating:

- 5 a. The name of the vessel;
- 6 b. The port from which the vessel belongs;
- 7 c. The place where the incident occurred;
- 8 d. The nature and probable cause of the incident;
- 9 e. The number and names of those who perished; and
- 10 f. The estimated amount of loss or damage to the vessel, the cargo or the marine
11 environment.

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

14 SECTION 53. *Investigation of the Accident or Incident.* – Immediately upon receipt
15 of the report, the Philippine Coast Guard shall convene the Board of Marine
16 Inquiry so that an investigation into the accident or incident can be conducted. The
17 investigation of the accident or incident shall follow the rules of procedure of the Board
18 of Marine Inquiry.

19 SECTION 54. *Investigation Report.* – Upon completion of the investigation, the
20 Board of Marine Inquiry shall prepare an investigation report setting forth the findings of
21 fact gathered from the investigation and recommend the filing of appropriate
22 administrative, civil or criminal charges against the offender. If it should be determined
23 by the Board of Marine Inquiry that the offender is a non-Philippine national, it may
24 request, through proper diplomatic channels, the assistance of any other State to clarify

1 the circumstances surrounding the accident or incident so that corresponding charges may
2 be brought against the offender.

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

10 Title III

11 Ship Mortgages

12 Chapter 1

13 Creation of the Ship Mortgage

14 SECTION 56. *Application.* – The provisions of this Title shall be applicable to:

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

19 SECTION 57. *Requisites for a Valid Mortgage Constituted under Philippine Law.*

20 – The following requisites are essential for a ship mortgage to be validly created under
21 Philippine law:

- 22 a. It is executed to secure the fulfilment of a valid principal obligation;
23 b. The mortgagor is the registered owner of the vessel to be mortgaged;
24 c. The vessel sought to be mortgaged is registered under Philippine law;

1 d. The mortgagor has free disposal of the ship being mortgaged, or is legally
2 authorized for the purpose.

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

5 SECTION 58. *Subject Matter of a Mortgage.* – The following property may be the
6 subject matter of a ship mortgage under Philippine law:

7 a. A vessel entered in the Registry; and

8 b. A vessel under construction provisionally entered in the Registry.

9 Subject to the terms of the contract, a mortgage of a vessel shall include all property
10 of the mortgagor which is appropriated to the vessel and on board at the time the ship
11 mortgage contract is entered into, or that which is later substituted for such property, In
12 the case of a mortgage with respect to a vessel under construction, the mortgage shall
13 include all materials, machinery and equipment which the mortgagor has provided and
14 are within the premises of the shipbuilder's yard and are distinctly identified in the
15 mortgage contract as intended to be incorporated into the ship under construction.

16 Chapter 2

17 Formal Validity

18 SECTION 59. *Formal Validity of Ship Mortgages.* – A ship mortgage created under
19 Philippine law shall not be valid and enforceable except as between the parties to the
20 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
23 is registered; and

24 c. The mortgage is annotated on the certificate of Philippine registry of the vessel.

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

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

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

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

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

8 (iv) The name and address of the mortgagee;

9 (v) The date of the mortgage contract;

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

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

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

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

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

23 SECTION 61. *Annotation of Mortgages.* – Upon receipt of the application for the
24 registration of the mortgage together with all supporting documents, the Maritime
25 Industry Authority shall enter the mortgage in the Registry and annotate the same on the

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

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

14 Chapter 3

15 Ranking of Mortgages

16 SECTION 63. *Ranking of Mortgages.* – The ranking of mortgages as between
17 themselves shall be determined by the order in time in which-the successive mortgages
18 are entered in the Registry. A mortgage registered prior in time shall have preference
19 over those registered later in time.

20 Chapter IV

21 Release of Mortgages

22 SECTION 64. *Extinguishment of Mortgages.* – The mortgage shall be extinguished
23 through any of the following reasons:

24 a. Fulfillment or other discharge of the principal obligation;

- 1 b. Loss or destruction of the ship mortgaged;
- 2 c. Deletion of the vessel from the Registry;
- 3 d. Enforcement of the mortgage through the judicial or extra-judicial sale of the
- 4 vessel; or
- 5 e. Other causes that may give rise to the extinction of either the principal or the
- 6 mortgage obligation.

7 **SECTION 65. *Enforcement of the Mortgage through the Sale or Foreclosure of the***
8 ***Vessel.*** – A mortgagee shall be entitled to foreclose the ship mortgage if:

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

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

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

22 Upon the vessel's sale at public auction and a record of such sale is entered in the
23 Registry of Ships, the mortgagee shall immediately be entitled to take actual or
24 constructive possession of the vessel. The right to proceed against the vessel extra-
25 judicially provided in this section does not preclude the mortgagee from proceeding

1 against the ship directly through a judicial attachment leading to a sale at public auction
2 in accordance with the provisions set forth the Rules of Court.

3 **SECTION 67. *Sale of Mortgaged Vessels through Judicial Proceedings.*** – Any
4 mortgage constituted under Philippine law or under any foreign law covering any vessel
5 found within the territory of the Philippines regardless of registry, which is not covered
6 by the provisions of the immediately preceding section, shall be recovered only by
7 proceeding against the ship directly through an arrest by judicial attachment leading to a
8 sale at public auction filed with the court of appropriate jurisdiction in any port of the
9 Philippines where the vessel may be found. Judicial proceedings and the service of
10 process shall be in accordance with the procedure set forth in the Rules of Court. Upon
11 issuance of the order of arrest against the vessel, the mortgagee shall immediately be
12 entitled to take actual or constructive possession of the vessel. This provision shall be
13 applicable to all vessels found within the territorial jurisdiction of the Philippines
14 regardless of its registry, the nationality of the mortgagor, mortgagee or principal obligor,
15 and the law under which the mortgage contract has been created.

16 **SECTION 68. *Effect of sale.*** – The enforcement of a mortgage through the sale of
17 the vessel whether judicially or extra-judicially shall release ownership of the vessel from
18 the mortgagor to the purchaser of the vessel at foreclosure. If the vessel sold is entered in
19 the Registry and the purchaser is not qualified to maintain the vessel's registration, the
20 Maritime Industry Authority shall cause the deletion of such registration and require the
21 purchaser to transfer the vessel's registration to another registry.

22 **SECTION 69. *Collection of the Deficiency or Return of the Excess.*** – If the value
23 of the secured obligation exceeds the foreclosure price of the vessel, the mortgagee shall

1 be entitled to collect the deficiency from the principal obligor by filing an action in a
2 court of appropriate jurisdiction for the recovery of such deficiency.

3 If the foreclosure price of the vessel exceeds the value of the secured obligation,
4 the mortgagee shall hold the excess in trust for the mortgagor and shall return the same to
5 the mortgagor.

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

9 SECTION 70. *Distribution of the Proceeds of the Sale of a Mortgaged Vessel.* –
10 Proceeds of the sale of a mortgaged vessel whether sold extra-judicially in
11 accordance with Section 66, or judicially in accordance with Section 67 shall be
12 distributed to first satisfy the maritime claims stated in Sections 72, 74, and 76 of this Act
13 before the satisfaction of any obligation arising from any registered mortgage.

14 Title IV
15 Maritime Claims and Liens
16 Chapter I

17 Maritime Claims and the Creation of Liens

18 SECTION 71. *Application.* – The provisions of this Title shall apply to all
19 Philippine flag vessels or foreign flag vessels against which a maritime claim shall be
20 enforced.

21 SECTION 72. *Creation of Maritime Liens.* – Each of the following claims against
22 the ship owner, bareboat charterer, manager or operator of a vessel shall be secured by a
23 maritime lien against the vessel:

- 1 a. Claims for wages and other sums due to the Master, officers and other members
2 of the vessel's complement in respect of their employment on the vessel including the
3 cost of repatriation and social insurance contributions payable on their behalf;
- 4 b. Claims for loss of life or personal injury occurring whether on land or on water
5 in direct connection with the operation of the vessel.
- 6 c. Claims for reward for the salvage of the vessel;
- 7 d. Claims for port, canal, and other waterway dues, and pilotage dues;
- 8 e. Claims based on tort arising out of physical loss or damage caused by the
9 operation of the vessel other than loss of or damage to cargo, containers, and passengers'
10 effects carried on the vessel.

11 Chapter 2

12 Priority of Liens

13 SECTION 73. *Priority of Maritime Liens.* – Maritime liens set forth in Section 72
14 shall have priority over all registered mortgages and no other claim shall take priority
15 over such maritime liens or registered mortgages except the following:

- 16 a. Judicial costs and expenses arising out of the arrest and subsequent judicial sale
17 of the vessel, including the costs for the upkeep of the vessel and the crew, their wages,
18 cost of repatriation and social insurance contributions payable on their behalf incurred
19 during the period of arrest or attachment; and
- 20 b. The cost of removal incurred by the government in the interest of safe
21 navigation or the protection of the marine environment when the judicial sale pertains to
22 a stranded or sunken vessel.

23 SECTION 74. *Shipbuilder's or Ship Repairer's Right of Retention.* – A shipbuilder
24 or ship repairer shall have the right to retain a vessel until it obtains full satisfaction of all
25 obligations due to it. This right of retention shall be extinguished when the vessel ceases

1 to be in the possession of the shipbuilder or ship repairer. The right of retention shall not
2 be extinguished if:

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

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

7 SECTION 75. *Sale of Vessel which is Subject to a Shipbuilder's or Shop Repairer's*
8 *Right of Retention.* – If a shipbuilder or ship repairer is in the possession of the vessel at
9 the time of its judicial sale, the shipbuilder or ship repairer shall be required to surrender
10 the vessel to the purchaser at public auction. The shipbuilder or repairer shall, however,
11 enjoy a preference and be entitled to the settlement of its claim after the satisfaction of all
12 claims listed in Sections 72 and 73.

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

16 a. Maritime liens securing a claim for reward for the salvage of a vessel shall take
17 priority over all other maritime liens provided in Section 72 where such maritime
18 liens have arisen and attached to the vessel prior in time to the salvage operations
19 performed;

20 b. Maritime liens securing claims for reward for the most recent salvage of the
21 vessel shall take priority among other salvage operations that occurred on earlier dates;

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

24 d. Maritime liens set forth in subsections (a), (b), (d) and (e) of section 72 shall
25 rank equally as amongst themselves; and

1 e. The action in person and against the ship owner, ship operator, bareboat
2 charterer or ship manager for the satisfaction of the maritime claim shall survive if the
3 proceeds of the sale are insufficient to satisfy all claims.

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

8 Chapter 3

9 Extinguishment of Liens

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

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

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

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

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

19 SECTION 79. *Assignment of or Subrogation to a Maritime Claim.* – The
20 assignment of a maritime claim by a claimant, or the subrogation of a third party to the
21 rights of a claimant to a maritime claim, shall entail the simultaneous assignment of, or
22 subrogation to, the maritime lien securing such claim. However, any claimant holding a
23 maritime lien may not be subrogated to compensation payable to the owner of a vessel
24 arising from an insurance contract.

1 Chapter 4

2 Enforcement of Liens

3 SECTION 80. *Enforcement of Maritime Liens.* – The maritime liens provided in
4 Section 72 which attach to any vessel found within the territory of the Philippines shall
5 be enforced by proceeding against the ship directly through a judicial action leading to a
6 sale at public auction filed with the court of appropriate jurisdiction in any port of the
7 Philippines where the vessel may be found. Judicial proceedings and the service of
8 process shall be in accordance with the procedure set forth in the Rules of Court. This
9 provision shall be applicable to all vessels found within the territorial jurisdiction of the
10 Philippines regardless of its registry, the nationality of the claimant and the law under
11 which the maritime lien has been created.

12 SECTION 81. *Effect of the Judicial Sale of a Vessel.* – Any judicial sale of the
13 vessel shall extinguish all maritime liens and encumbrances attaching to the vessel as
14 well as all registered mortgages; Provided, that the vessel is within the territorial
15 jurisdiction of the Philippines at the time of the judicial sale and the sale has been made
16 in accordance with the provisions of this Act.

17 SECTION 82. *Disposition of the Proceeds of the Sale of the Vessel Subject to a*
18 *Maritime Lien.* – The proceeds of the judicial sale of a vessel shall be distributed to first
19 satisfy the liens listed in Sections 72, 73 and 75 of this Act before the satisfaction of
20 any obligation arising from any registered mortgage created in accordance with Section
21 59, or any maritime claim provided in Section 87 hereof. Any amount left over from the
22 proceeds of sale of the vessel shall be held in trust for the ship owner, ship operator,
23 bareboat charterer, or ship manager.

1 SECTION 83. *Rights of a Purchaser at Judicial Sale.* – The purchaser at the
2 judicial sale of the vessel shall have the right to request the officer of the court
3 conducting the sale to issue a certificate to the effect that the vessel is sold free from
4 all registered mortgages, or charges, except those assumed by the purchasers, and all
5 other liens and encumbrances that may have attached to the vessel as of the date of the
6 judicial sale.

7 The Maritime Industry Authority, with respect to Philippine flag vessels, shall be
8 obliged to:

- 9 a. Delete all registered mortgages and charges on the basis of the certificate issued
10 by the officer of the court conducting the sale except those assumed by the purchaser; and
- 11 b. Issue a new certificate of registration to the purchaser or to de-register the
12 vessel for purposes of new registration in another State.

13 If the vessel belongs to a foreign registry, the officer of the court conducting the
14 sale of the vessel shall issue the certificate stipulated in the first paragraph of this section
15 in such form and substance as may be required by the foreign registry to:

- 16 a. Delete all registered mortgages in that registry; and
- 17 b. Issue a new certificate of registration to the purchaser or to de-register the
18 vessel for purposes of a new registration in another State.

19 Title V

20 Arrest of Vessels

21 Chapter I

22 General Provisions

23 SECTION 84. *Application.* – The provisions of this Chapter shall apply to all
24 Philippine flag vessels and to foreign flag vessels found within the territory of the
25 Philippines, for which an order of arrest has been issued by a Philippine court.

1 SECTION 85. *Exceptions.* – The provisions of this Chapter shall not prejudice the
2 right of any person, whether natural or juridical, to proceed against the ship owner, ship
3 operator, bareboat charterer or ship manager for any of the claims set forth in Section 88
4 of this Act through an action in persona.

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

10 Chapter 2

11 Right of Arrest

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

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

17 b. Loss of life or personal injury occurring whether on land or on water in direct
18 connection with the operation of the ship;

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

22 d. Damage or threat of damage caused by the ship to the environment, coastline or
23 related interest; or measures taken to prevent, minimize, or remove such damage; or
24 compensation for such damage; costs of reasonable measures of reinstatement of
25 the environment actually undertaken or to be undertaken; loss incurred or likely to

1 be incurred by third parties in connection with such damage; and damage, costs, or
2 loss of a similar nature to the foregoing;

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

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

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

11 h. Loss of, or damage to, or in connection with goods, including luggage, carried
12 on board the ship;

13 i. General average;

14 j. Towage;

15 k. Pilotage;

16 l. Goods, materials, provisions, bunkers, equipment, including containers,
17 supplied or services rendered to the ship for its operation, management, preservation or
18 maintenance;

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

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

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

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

1 q. Insurance premiums, including mutual insurance calls, in respect of the ship,
2 payable by or on behalf of the ship owner, ship operator, bareboat charterer, or ship
3 manager;

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

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

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

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

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

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

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

1 SECTION 89. *Exercise of the Right of Arrest.* – The court may order the arrest of
2 any Philippine flag vessel or foreign flag vessel against which a maritime claim is
3 asserted if:

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

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

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

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

12 e. The maritime claim is made against the ship owner, ship operator, bareboat
13 charterer, or ship manager and is secured by a maritime lien under Section 72 hereof.

14 SECTION 90. *Arrest of a Related Vessel.* – The court may also order the arrest of
15 any other ship which when the arrest is effected, is found within the territory of the
16 Philippines and is owned by the same person liable for the maritime claim and who, at
17 the time the claim arose, was the ship owner, ship operator, bareboat charterer, or ship
18 manager of the vessel in respect of which the claim has arisen. The arrest of a related
19 vessel will not be allowed when the maritime claim sought to be enforced relates to the
20 ownership or possession of the ship.

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

1 Chapter 3

2 Release from Arrest

3 SECTION 92. *Release from Arrest: Posting of a Bond or other Security.* – A ship
4 which has been arrested shall be released from arrest when a bond or other sufficient
5 security, which the court has determined to be necessary for the preservation of the rights
6 of the parties, has been provided by the ship owner, ship operator, bareboat charterer,
7 ship manager or any other person acting on its behalf. In cases involving any dispute
8 between co-owners of the ship as to the employment or earnings of the ship, or arising
9 from the ownership or possession of the ship, the court may in its discretion determine
10 whether to require a bond or other security before permitting the person in
11 possession of the ship to continue trading with the ship or to otherwise deal with the
12 operation of the ship during the period of the arrest.

13 SECTION 93. *Amount of Bond or other Security.* – The parties may agree to the
14 form and amount of the bond or other security for the release of the ship and submit their
15 agreement to the court. In the absence of any agreement between the parties as to the
16 sufficiency and form of the bond or other security, the court shall determine its nature and
17 the amount thereof. For purposes of determining the amount of the bond or other security,
18 the same shall not exceed the amount of the claim for which the ship has been arrested, or
19 the value of the ship, or the applicable limit of liability determined in accordance with
20 Title VI, Chapter 2 of this Act, whichever is least.

21 SECTION 94. *Place of Posting of the Bond or other Security.* – The bond or other
22 security for the release of the vessel against which the claim is sought to be enforced shall
23 be posted with the court which issues the order for the arrest of the vessel.

1 **SECTION 95. *Release of the Bond or other Security Posted in a Philippine Court.***

2 – If a ship is arrested by a foreign court for the same claim for which a bond or other
3 security has already been provided in a Philippine Court and against which its release has
4 been obtained, the bond or other security so provided in the Philippine court shall, at the
5 discretion of such court, be released upon application of the ship owner, ship operator,
6 bareboat charterer or ship manager.

7 **SECTION 96. *Release of Excess Security.*** – If a ship has been released by a

8 Philippine court on the basis of a bond or other security posted with that court and the
9 same ship is later arrested by a foreign court for the same claim and is likewise
10 subsequently released upon the provision of a bond or other security posted, the bond or
11 other security posted with the Philippine court shall, at the court's discretion, be released
12 to the extent that the total amount of the bond or other security provided in the Philippine
13 court and that provided in the foreign court combined exceeds the claim for which the
14 ship has been arrested, or the value the ship, whichever is lower.

15 **SECTION 97. *Condition for the Release of Excess Security.*** – The release of the

16 bond or other security provided in the immediately preceding section shall not be ordered
17 by the Philippine court unless it is satisfied that the bond or other security posted in the
18 foreign court shall actually be available and be freely transferable to satisfy any judgment
19 or order that may be issued in favor of the claimant.

20 **SECTION 98. *Reduction, Modification or Cancellation of the Bond.*** – If a bond or

21 other security has been provided for the release of the ship, the person providing the bond
22 or security may, at any time, apply to the court to have that security reduced, modified or
23 cancelled. The court, in its discretion and upon a determination of the veracity of the

1 claim filed, shall issue the appropriate order retaining, reducing, modifying or canceling
2 such bond or other security.

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

10 Chapter 4

11 Re-arrest, Multiple Arrest and

12 Arrest of Additional Vessel

13 SECTION 100. *Rearrest or Multiple Arrest of a Ship.* – If a ship has already been
14 arrested and released, or a bond or other security for its release has been provided in
15 order to secure the maritime claim sought to be enforced against that ship, the same ship
16 shall not be rearrested for the same maritime claim unless:

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

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

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

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

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

8 Chapter 5

9 Security Against Arbitrary Arrest

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

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

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

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

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

17 Chapter 6

18 Jurisdiction

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

23 SECTION 106. *Transfer of Venue.* – The parties may appear and adjudicate the
24 claim before the Philippine court exercising jurisdiction over the claim or, with leave of

1 court, may mutually agree to submit the dispute within an agreed period of time to the
2 jurisdiction of a foreign court or to an arbitral tribunal which has jurisdiction over the
3 claim. Such agreement of the parties on the transfer of venue to a foreign court or arbitral
4 tribunal shall be submitted to the Philippine court to allow for the suspension of the
5 proceedings.

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

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

21

Chapter 7

22

Recognition and Enforcement of Judgments

1 SECTION 109. *Recognition of Foreign Judgments.* – If proceedings are brought
2 before a foreign court of competent jurisdiction or an arbitral tribunal, any filial
3 judgment or arbitral award resulting from such proceedings shall be recognized and given
4 full force and effect by the Philippine court having custody of the arrested ship or the
5 bond or other security provided for its release. The parties shall be required to submit
6 to the Philippine court a copy of the final judgment or arbitral award in such form
7 and substance sufficient for its recognition and enforcement under Philippine law.

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

18 SECTION 111. *Enforcement of judgments.* – A judgment rendered in favor of the
19 claimant whether by a Philippine Court or a foreign court or arbitral tribunal shall be
20 enforced against the vessel through its judicial sale, or against the bond or other security
21 given as security for the claim.

22

Title VI

23

Limitation of Liability for Maritime Claims

1 Chapter 1

2 Right to Limit Liability

3 SECTION 112. *Application.* – The following may invoke the right to limit their
4 liability in accordance with the rules provided for in this Title for the claims set out in the
5 next succeeding section:

6 a. Ship owners;

7 b. Ship operators;

8 c. Bareboat charterers;

9 d. Ship managers;

10 e. Sailors with respect to claims set forth in subsections (d), (e) and (f) of Section
11 113;

12 f. Any person whose act, neglect or default the ship owner, ship operator, bareboat
13 charterer, ship manager or sailor is responsible for; and

14 g. Insurers who assume the liability of any ship owner, ship operator, bareboat,
15 charterer, ship manager, or sailor.

16 SECTION 113. *Claims which are Subject to Limitation.* – The following claims
17 made against the persons set forth in the preceding section or against the ship, whatever
18 the basis of liability may be, shall be subject to the limitation of liability:

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

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

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

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

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

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

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

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

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

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

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

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

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

8 SECTION 116. *Separability Clause.* – If any provision of this Act is held invalid
9 or unconstitutional, the same shall not affect the validity and effectivity of the other
10 provisions hereof.

11 SECTION 117. *Repealing Clause.* – All laws, decrees, orders, and issuances, or
12 portions thereof, which are inconsistent with the provisions of this Act, are hereby
13 repealed, amended or modified accordingly.

14 SECTION 118. *Effectivity Clause.* – This Act shall take effect fifteen (15) days
15 after its publication in the *Official Gazette* or in two (2) newspapers of general
16 circulation.

Approved,

/ld,emg&ts 25Nov2015