

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)

First Regular Session)



HOUSE BILL NO. **3647**

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Introduced by ANGKLA Partylist Representative JESULITO A. MANALO

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AN ACT ESTABLISHING THE SCOPE AND PROCEDURE FOR PHILIPPINE SHIP REGISTRY, RECOGNITION AND ENFORCEMENT OF MARITIME CLAIMS, AND LIMITATION OF LIABILITY, AS WELL AS PROVIDING ESSENTIAL INCENTIVES, WHICH COLLECTIVELY WILL PROMOTE A COMPREHENSIVE AND ORDERLY PHILIPPINE SHIP REGISTRY SYSTEM FOR THE REGULATION OF VESSELS CARRYING THE FLAG STATE.

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

EXPLANATORY NOTE

While we have always taken pride that the Philippines is widely known to be a major supplier of global maritime professionals on board vessels in the many parts of the world, records will show however that we only have about 200 vessels registered under the Philippine flag.

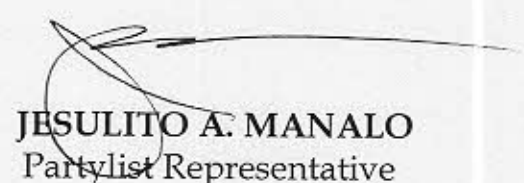
Other countries have attracted many foreign owned vessels to register under their flag states by reason of their simplified system of registration and the appealing incentives they offer.

Thus, this bill aims to help our country become more competitive and allow us to encourage more ship owners in other parts of the world to register their vessels under our flag state. In order to achieve this, we first must recognize that presently, there is a lack of a particular law completely addressing the registry system in the Philippines, which has been a perennial source of confusion and disorder. Clearly, there is a necessity to formulate policies and rules that adhere to the global standards and maritime conventions, particularly on ship registry.

Primarily, this bill will provide a legal framework for the rules on ship registry and the enforcement of maritime claims and limitations of liability. Once the system is organized, ample protection will be extended equally to ship owners carrying the Philippine flag and all other parties who have a legitimate claim against them. At the outset, this will benefit all our present domestic ship owners who are already registered under the Philippine registry.

Second and equally important, this bill endeavors to provide incentives to all vessels duly registered under the Philippine registry. Surely, a simple yet all-encompassing law compliant with the international standard, defining with specificity the appropriate system on registration, and providing for better incentives will encourage more Filipino ship owners to do wide business trading and shipping in the country flying the Philippine flag. Ultimately, our country will likewise attract more foreign ship owners to register their vessels under Philippines flag state. This will in turn boost more the economy of our country.

The enactment of a law is merely a beginning towards achieving a dream for our country to be among the globally competitive ship registry of choice in the world and be a real maritime power.



JESULITO A. MANALO
Partylist Representative
ANGKLA

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

HOUSE OF REPRESENTATIVES
House Bill No. 3647

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Introduced by ANGKLA Partylist Representative JESULITO A. MANALO

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AN ACT ESTABLISHING THE SCOPE AND PROCEDURE FOR
PHILIPPINE SHIP REGISTRY, RECOGNITION AND
ENFORCEMENT OF MARITIME CLAIMS, AND LIMITATION OF
LIABILITY, AS WELL AS PROVIDING ESSENTIAL INCENTIVES,
WHICH COLLECTIVELY WILL PROMOTE A COMPREHENSIVE
AND ORDERLY PHILIPPINE SHIP REGISTRY SYSTEM FOR THE
REGULATION OF VESSELS CARRYING THE FLAG STATE.

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

Title I
General Provisions

Chapter 1
Policies

Section 1. *Short Title.* - This Act shall be known as the
"Philippine Ship Registry System Act".

Section 2. *Declaration of Policy.* - It is the policy of the State:

- a. To ensure that Filipino owned and manned maritime fleets or vessels are strengthened and assisted to meet the minimum global standards for reliability, safety, competitiveness, and effectiveness;

- b. To provide protection to our merchant marine fleets, and help expand Philippine international trade;
- c. To encourage Philippine vessel acquisition, development, modernization and expansion through systemized and sustainable programs;
- d. To implement policies that will attract more ship owners to register under Philippine flag, thus ensuring the country's economic growth.

Section 3. *Implementing Agency.* - This Act shall be implemented by the Maritime Industry Authority or MARINA, through a specific section or department within its office that shall be created solely for the purpose of implementing the provisions of this Act.

Chapter 2 Definitions

Section 4. *Definition of Terms.* - For the purpose of this Act,

a. "Arrest" shall mean the attachment of a vessel by judicial process through an order of a competent court in order to secure the enforcement of a maritime claim, which attachment shall produce the effect of detaining or restricting the removal of a ship in execution or satisfaction of a judgment;

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

c. "Bareboat charterer" or "charterer" may be used interchangeably and shall refer to any person, commercial partnership or corporation which bareboat charters a Philippine flag vessel from another Philippine

national, or a vessel of foreign registered in a compatible registry, for its own use;

d. "Certificate of Philippine Registration" shall mean the document of registration of a vessel registered in accordance with Section 20 of this Act;

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

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

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

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

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

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

k. "Maritime Industry Authority" or "MARINA" shall refer to the government agency created in accordance with Presidential Decree No. 474, as amended;

l. "Maritime lien" shall refer to a charge that attaches to a ship which rises from a maritime claim against the ship, its owners, charterers,

managers, or operators that results in a demand for indemnity or remuneration from the ship or its owners, charterers, managers or operators and is enforceable by judicial action;

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

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

o. "Philippine Flag Vessel" shall mean any vessel duly registered under Philippine Laws and authorized to fly the Philippine flag;

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

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

r. "Register of Ships of the Philippines" or "Register" or "Registry" may be used interchangeably and shall refer to the official public register maintained by the Maritime Industry Authority which shall hold the record of all vessels under Philippine laws;

s. "Record of Ship Mortgages and Encumbrances" shall refer to the public record maintained by MARINA containing all details of the vessel's mortgage and encumbrances, as will be further described in details hereafter;

t. "Seagoing vessel" shall refer to any Philippine flag vessel of 500 gross tons or more, authorized to carry passengers or cargo, or both, in

trade between a Philippine port and a foreign port, or between two foreign ports;

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

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

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

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

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

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

under existing laws and bancas, sailboats, and other water-borne contrivance of less than three gross tons and not motorized; Provided, that this does not include those owned and/or operated by the Armed Forces of the Philippines and by foreign governments for military purposes; Provided further, that mobile offshore platforms used in petroleum exploration and development, such as mobile offshore drilling units and offshore production platforms, shall be considered as ships when they are mobile and not affixed to the seabed.

Title II. Ship Registry

Section 6. *The Philippine Ship Registry.*- The Philippine Ship Registry is hereby established, through which the State confers nationality, exercises its jurisdiction, protects and enforces private rights, and undertakes the national and international responsibilities of a flag State, over all ships flying the Philippine flag.

The Registry is comprised of the Register of Ships and the Record of Ship Mortgages and Encumbrances. It shall be maintained by the MARINA in accordance with the provisions of this Act, and the rules and regulations that may be issued pursuant thereto. There shall be one Registry for all domestic and international flag vessels.

Chapter I. Registration of Ships

Section 7. *Register of Ships.* - A Register of Ships shall be kept and maintained by MARINA, which shall record essential ship information, including but not limited to the following:

(1) name of the ship and its previous name and register, and its previous owner, if any;

(2) place or port of registration or home port and the official number or mark of identification of the ship;

(3) international call sign of the ship, if assigned;

(4) IMO number assigned to the vessel, if applicable;

(5) name of the builders, place and year of built;

(6) description of the main technical characteristics of the ship, including gross and net tonnage;

(7) name, address and, as appropriate, the nationality of the owner;

(8) date of deletion or suspension of the previous registration of the ship;

(9) name, address and, as appropriate, the nationality of the bareboat charterer and/or operator of the ship; and

(10) particulars of any mortgages or other similar encumbrances and charges upon the ship.

Section 8. *Effect of Registration.* - Registration of a ship under the Philippine registry:

(1) confers upon it the nationality and status of a Philippine ship;

(2) entitles it to the protection of the Philippine flag;

(3) imposes on it the duty to fly the Philippine flag; and

(4) obliges it to abide by all applicable laws, decrees, orders, rules and regulations of the Philippines.

Section 9. *One Ship, One Registry Rule.* - A ship may be registered with only one ship register at any one time. Before entering the ship in

the Register, MARINA shall assure itself that any previous registration has been deleted, or that the ship has been de-registered from any foreign registry.

In the case of a foreign flag ship under bareboat charter, MARINA shall ensure that the right to fly the flag of the former flag State is suspended for the duration of its registration with the Philippine Registry. Registration shall issue only upon the production of evidence indicating the suspension of its previous registration and nationality under the former flag State, and indicating the particulars of any registered encumbrances entered in the previous registry.

It is the duty of the owner, master, or agent of every ship in the Register to inform MARINA of any change in the facts pertaining to the ship and entered therein.

Section 10. *Who May Register.-*

(1) All ships operating within the maritime territory and jurisdiction of the Philippines, except transient foreign flag ships subject to such regulations as MARINA may prescribe, are mandated to be registered with the Philippine Registry, provided that it meets the conditions for the grant of registration imposed by this Act and the regulations pursuant hereto. This mandatory registration under the Philippine Flag is particularly required in the following:

- (a) The ship is five hundred (500) gross tons or more;
- (b) The ship is owned by a qualified person, as may be determined by MARINA;
- (c) The ship meets the requirements on safety, security, marine environmental protection, crew nationality, training, certification and competency, and crew welfare.

(2) Any other ship, including a foreign-owned ship, may also be registered in accordance with this Act, provided the following conditions are present:

- (a) it is used only in international voyages;
 - (b) it is managed by a qualified person residing in the Philippines, as may be determined by MARINA;
 - (c) it complies with the applicable provisions that govern the safety and security of Philippine ships and persons on board;
 - (d) it complies with the applicable provisions that govern the terms and conditions of employment on board Philippine flag vessels; and
 - (e) a majority of the crew are citizens or permanent residents of the Philippines, to the extent prescribed in regulations made by MARINA.
- (f) it is preferred that the ship owner, manager, operator, or bareboat charterer, on one hand, and all its crew officers, and employees have a valid, subsisting and duly implemented collective bargaining agreement that conforms to international labor standards, rules and conventions. In such case additional incentives for payment of tax tonnage shall be granted to the registered foreign-owned vessel, as stated in section 25 hereof.

Section 11. *Licensure.* – Every ship, regardless of size, intending to engage in the carriage of passengers or cargo, or both, between ports and places, in the coastal, internal, inland or sheltered waters of the Philippines, shall apply for a license to operate, Provided, that such ship is owned by a citizen of the Philippines or a corporation or association organized under the laws of the Philippines at least 60 percent (60%) of whose capital is owned by such citizens and the ship meets the other conditions for the grant of the license imposed by this Code and the regulations pursuant hereto.

Section 12. *Conditions for Registration.* - No ship shall be registered unless the following conditions are present, as determined by MARINA in accordance with this Act and regulations issued related hereto:

(1) Proof of Ownership.- There must be satisfactory proof of ownership and/or management by qualified persons.

(2) Seaworthiness.- A ship must comply with the general requirements for age, safety, security, navigation, manning, and protection and preservation of the marine environment in accordance with national and international standards for ships.

(3) Manning.- A ship must be manned by a crew with such level of skills and competencies as may be necessary in accordance with applicable international maritime conventions, rules, and standards as well as national law and regulations.

(4) Labor and social conditions.- A ship must meet the labor and social standards required by applicable international labor conventions, rules and standards as implemented by MARINA.

(5) Management.- A ship must be managed by a person or entity that is under the effective jurisdiction of the State.

(6) Payment of fees and dues.- No ship shall be registered without payment of the corresponding registration fees and tonnage dues as may be imposed by the State.

Section 13. *Documentary Requirements.* - Every ship owner, master or agent wishing to enroll a vessel for registry under the Philippine flag shall submit to MARINA the following documents:

(1) A written application for registration;

(2) A documentary proof of ownership over the vessel;

(3) Proof of authority to enroll the ship for registry, if applicable;

(4) A copy of a certification issued by a classification society showing the ship is in class, if existing and applicable; and

(5) Such other necessary documents that may be required by MARINA.

Section 14. *Issuance of Certificate of Philippine Registration.* No application for a Certificate of Philippine Registration shall be approved and issued until MARINA has been satisfied that all the conditions and documents required and mandated for registration under this Act or regulations issued hereto have been complied with. MARINA or its deputized authority shall inspect the vessel and all its documents and ensure that it is qualified for registration under this Act.

A certificate of Philippine registry shall be valid for a period of no more than three (3) years, and may be continuously renewed for a similar period provided the all the requirements for registration or its renewal are met.

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

Section 15. *Types of Registration.*- Registration of a ship may be permanent, provisional, or temporary in nature.

(1) Permanent Registration.- Except as provided in the succeeding sections, the registration of a ship and issuance of a Certificate of Philippine Registration is deemed to be permanent until the ship is actually de-registered or deleted from the Register.

(2) Provisional Registration.- Ships constructed and/or acquired abroad, before being brought to the Philippines, may be issued a

Provisional Certificate of Philippine Registration and a provisional tonnage certificate for conduction purposes.

(3) Temporary Registration.- The following may be issued a Temporary Certificate of Philippine registration:

(a) Any ship about to be built, or under construction in the Philippines;

(b) Any ship owned and/or operated by an entity duly registered with the Board of Investments under pertinent investment laws, rules and regulations, to be used exclusively for the purpose of transporting raw materials and/or finished products within Philippine waters as an essential element and operation in the manufacturing, processing, or other business activity or project registered by such entity with the Board of Investments; Provided, that such temporary registration applies only for the duration of such business activity or project, and shall not exceed one year, renewable for another year; Provided further, that the type of ship used or service undertaken cannot be provided by a Philippine ship owner;

(c) Any ship that is operated and managed under a bareboat charter; Provided, that in case of a foreign flag vessel bareboat-chartered by a qualified person for operation in Philippine waters, the ship may be temporarily registered with the Registry for the duration of the charter; Provided further, that for the duration of temporary registration with the Philippines, any registration with a foreign flag State is suspended; and Provided finally, that no ship under a bareboat charter shall be registered if, after the effectivity of its charter, it has undergone extensive structural modification in a manner that affects its safety and seaworthiness.

Section 16. *Markings, Name and Homeport.*- All ships duly registered according to the provisions of Act shall have their respective names plainly marked upon each side of the bow and the stern; and the homeport and IMO number upon the stern.

Section 17. *Change in Ownership of Ships.* - In case of a sale of a Philippine flag ship, the transferee shall present the bill of sale or other certificate evidencing the transfer of ownership to MARINA within fifteen (15) days after its execution, for appropriate recording in the Register.

Section 18. *Correction of Errors in the Registry.* - Errors in recording made in the Register shall be corrected in the following manner:

(1) Mere clerical errors without any effect on the meaning and substance of the document shall be corrected by the appropriate and designated officer of MARINA who shall write the correction above the errors and initial it.

(2) Any mistake or error that might affect the meaning and substance of the documents shall be corrected by order of MARINA after notice to, and hearing of, the interested parties.

Section 19. *Reconstitution of Lost Certificate.* - If the certificate of Philippine registration of a ship is lost or damaged, the owner, master or agent thereof may file an application with MARINA for the issuance of a replacement certificate. The replacement certificate shall indicate that the original certificate is considered cancelled and revoked. If after the issuance of the replacement certificate, the lost original certificate of Philippine registry is found, it shall be the duty of the owner, master, agent or any person having possession of the original certificate to surrender it to MARINA.

Section 20. *Cancellation or Revocation of Ship Registration.* -The registration of a Philippine flag vessel shall be cancelled from the Register, and its corresponding Certificate of Philippine Registration shall be revoked in any of the following cases:

(1) Certificate of Philippine Registration was illegally or fraudulently obtained;

(2) ship is sold, transferred and/or assigned to a person not qualified to register ships in the Philippines under the provisions of this Title or as may be determined by MARINA;

(3) in case of transfer of ownership over the ship, the new transferee or assignee has properly applied for change of ownership and is determined by MARINA as a qualified person to register ships;

(4) ship is sold by the order of a competent court;

(5) ship is sold for scrapping;

(6) ship is determined by MARINA to be unsafe and unserviceable beyond repair;

(7) the bareboat charter of the ship has expired, or has been cancelled or terminated for any reason, in which case the cancellation from the register of ships and revocation of the certificate of Philippine registry shall be automatic;

(8) ship has been declared lost or missing pursuant to a written and notarized notice submitted by the owner, master, or agent of a Philippine flag vessel to MARINA, containing advice of such loss and the probable cause thereof;

(9) gross violations of the safety, security, environment and other standards or requirements set by MARINA;

(10) ship owner, manager, agent or bareboat charterer is proven to have given or submitted to MARINA fabricated information or fraudulent documents relative to the registration or settlement of their fees or taxes;

(11) ship has engaged in illegal activities.

Section 21. *Inspection of the Register.* - The Register of Ships shall be open to public inspection during ordinary business hours, in the

offices of MARINA and online. All documents and information provided in connection with the registration of a ship are considered public documents. Upon request and payment of reasonable fees, authenticated copies of any document or instrument required to be filed under this Act and pertinent rules and regulations, or extracts thereof, shall be furnished to any person.

Section 22. *De-registration of Ships.* – A ship which is or has been registered in another State shall not be eligible for permanent registration in the Philippines, unless:

(1) A certificate has been issued by the former flag State to the effect that the ship has been de-registered; or

(2) A certificate has been issued by the former flag State to the effect that the ship will be de-registered on the day when such new registration is effected.

Except in case of forced sales, a Philippine flag vessel shall not be de-registered without the written consent of all holders of registered mortgages.

Chapter II Taxes and Fees

Section 23. *Processing Fee.* – A processing fee shall be paid by the owner, master or agent of the ship sought to be registered when the application for registration or when a renewal thereof is filed. The processing fee shall be collected to cover administrative costs for handling and processing the application. The processing fee shall be in such reasonable amount as may be determined by MARINA.

Section 24. *Registration fee.* – A registration fee shall be payable by the ship owner master or agent when the ship is first entered in the Registry and shall be paid when the Certificate of Philippine Registration is issued. The registration fee shall be fixed in such reasonable amount as determined by MARINA.

Section 25. *Tonnage Tax Fees.* - An annual tonnage tax fee shall likewise be paid by the owner, manager or bareboat charterer of the vessel in order for the issuance and continued possession of a valid and subsisting certificate of Philippine registration. The annual tonnage tax fee shall be computed at the rate of US\$0.10 per net register tonnage or its equivalent in Philippine Peso based on the present or latest exchange rate posted by the Bangko Sentral ng Pilipinas on the date of payment of the tonnage tax fees. The ship owner, master, or agent shall have the option whether to pay in US dollars or in Philippine Peso.

For foreign-owned vessels, if the owner, manager, or agent has satisfactorily established with MARINA compliance of the conditions stated in section 10 paragraph 2 (e) and (f) hereof, they shall enjoy an additional incentive. In such case, the tonnage tax fees due from them shall be reduced to the rate of US\$0.08 per net register tonnage or its equivalent in Philippine Peso based on the present or latest exchange rate posted by the Bangko Sentral ng Pilipinas on the date of payment of the tonnage tax fees, Provided that if MARINA determines that the conditions for the additional incentive is violated or proof shown for its existence is fabricated, the certification of Philippine registration may be revoked, in accordance with section 20 paragraph 10 hereof.

Section 26. *Adjustments in Fees and Taxes.* - MARINA may review the rates for the processing fee, registration fee, and tonnage tax fees from time to time and with the approval of the Department of Transportation and Communication, may, by regulation, adjust or increase the fees, but for a reasonable amount.

Section 27. *Exemption from duties and taxes.* - The importation by the owner, manager, agent or bareboat charterer of a vessel, and the spare parts and equipment needed for the repair and maintenance of such vessel shall be exempt from the payment of import duties and taxes, value added taxes and all other pertinent taxes.

In the case of a registered foreign-owned vessel, which is not doing trading and business within Philippine waters, the annual

tonnage tax fees they pay shall be in lieu of any income tax due from the ship owner, manager, agent or bareboat charterer and the withholding tax due on the lease or bareboat charter fees earned by the ship owner. Likewise, all crewing personnel of the registered foreign-owned vessel shall be exempt from income tax and all other taxes that may be imposed on their salaries and remunerations received by reason of or in connection with their employment with the ship owner, manager or bareboat charterer of the registered foreign-owned vessel.

Chapter III Record of Ship Mortgages and Encumbrances

Section 28. *Record of Ship Mortgages and Encumbrances.* - MARINA shall maintain a Record of Ship Mortgages and Encumbrances containing the details and documents regarding all transfers, mortgages, encumbrances, or other documents proving or affecting the title to any ship registered in the Register of Ships. All documents, certificates, receipts, or acknowledgments canceling or satisfying any such obligations in whole or in part shall likewise be recorded. The date and time of recording shall be expressly stated.

Section 29. *Effect of Recording.* - In order to be valid and enforceable, every mortgage, encumbrance, or other right over a Philippine flag vessel, whether permanent or temporary in nature, in favor of a person other than the registered ship-owner or his agent, must be entered into the Record. Priority in time of recording determines the priority in rights between different rights-holders.

Section 30. *Requirements of Recording.* - A ship mortgage, encumbrance, or other right shall be entered into the Record upon submission to MARINA of the following:

(1) A copy of the contract or other instrument evidencing such mortgage, encumbrance, or other rights, which contain all the essential details thereof;

(2) A copy of the Certificate of Philippine Registration;

(3) In case of a ship under construction, a copy of its Temporary Certificate of Philippine Registration, or if such has not yet been issued, a declaration stating the ship's name, the location of the shipyard, the yard number, and the dimensions and appropriate deadweight of the vessel upon completion.

Section 31. *Annotation of Mortgages and Encumbrances.* - Upon request of the mortgagee, holder of the right, or his agent, and submission of the necessary documents required in this Act for recording, MARINA shall cause the annotation of a ship mortgage, encumbrance, or other right on the back of the corresponding Certificate of Philippine Registry of the vessel concerned, referring to the entry number, date and time of entry, and nature or subject matter of the document as contained in the Record.

If a new or replacement certificate is issued, the annotations upon the previous certificate shall automatically be transferred and annotated upon the back of the new or replacement certificate.

Section 32. *Rights Over Vessels Under Construction.* - Any rights in respect to a vessel under construction in the Philippines may be entered and recorded after the keel has been laid or equivalent construction work has been performed.

Section 33. *Inspection of the Record.* - The Record shall be open to public inspection during ordinary business hours in the offices of MARINA and online. Upon request and payment of reasonable fees, extracts from the Record of Ship Mortgages and Other Rights, and/or authenticated copies of any document or instrument required to be filed under this Title and/or pertinent rules and regulations, or extracts thereof, shall be furnished to any person.

Title III
Maritime Liens and Encumbrances

Chapter 1.
Maritime Liens

Section 34. *Nature of Maritime Liens.* – Maritime liens arise and are enforceable whether the claims secured by such liens are against the owner, or against the demise or other charterer, manager or operator of the ship. Except in case of forced sale of the ship, the maritime liens shall follow the ship notwithstanding any change of ownership, registration, or flag.

Section 35. *Claims Secured by Maritime Liens.* – The following claims in relation to a ship shall be secured by maritime liens on the ship:

(1) claims for wages and other sums due to the master, officers and other members of the ship's complement in respect of their employment on the ship;

(2) claims in respect of loss of life or personal injury occurring, whether on land or on water, in direct connection with the operation of the ship;

(3) claims based on tort and not capable of being based on contract, in respect of loss or damage to property caused by the operation of the ship other than loss of or damage to cargo, containers and passengers' effects carried on the ship;

(4) claims for port, canal, and other waterway dues, tonnage dues, light dues, pilotage dues, other public taxes, dues and charges of the same character; and

(5) claims relating to the salvage, wreck removal and contribution in general average.

Section 36. *Claims Not Secured by Maritime Liens.* - No maritime lien shall attach to a ship to secure claims for damages in connection with the carriage of oil or other hazardous or noxious substances by sea for which compensation is payable to the claimants pursuant to international conventions, local laws, or compulsory insurance, or those which arose out of or which resulted from the radioactive properties or a combination of radioactive properties with toxic, explosive or other hazardous properties of nuclear fuel, or of radioactive produce or waste.

Section 37. *Priority of Maritime Liens.* - The maritime liens set out in Section 35 hereof shall take priority over registered mortgages, hypothèques, and charges. No other claim shall take priority over such maritime liens or over such mortgages, hypothèques, or charges except as may be specifically provided under this Act. The maritime liens set out in each of sub-sections (a) to (d) of Section 29 hereof shall rankequally as between themselves.

Section 38. *Maritime Liens in case of Salvage, Wreck Removal, or General Average Acts.* - Maritime liens securing claims for salvage, wreck removal and contribution to general average shall take priority over all other maritime liens which have attached to the ship prior to the time when the operations giving rise to the said liens were performed.

Such liens shall rank in the inverse order of the time when the claims secured thereby accrued. Claims for contribution to general average shall be deemed to have accrued on the date on which the general average act was performed, while claims for salvage shall be deemed to have accrued on the date on which the salvage operation was terminated.

In the event of a forced sale of a wreck of a ship, following its removal by MARINA, the costs of such removal shall be paid out of the proceeds of the sale before all other claims secured by maritime lien on the ship.

If at the time of the forced sale, the vessel is in the possession of a ship-builder or a ship-repairer who enjoys a right of retention, such a ship-builder or ship-repairer shall surrender possession of the ship to the purchaser but is entitled to obtain satisfaction of his claim out of the proceeds of the sale after the satisfaction of the claims of holders of maritime liens mentioned in Section 29 hereof.

Section 39. *Extinguishment of Maritime Liens.* – Maritime liens shall be extinguished after a period of one (1) year from the time when the claims secured thereby arose unless, prior to the expiration of such period, the ship has been arrested and the ownership thereof transferred through a forced sale ordered by a competent court or tribunal.

The period of one (1) year shall not be subject to suspension or interruption; Provided, that the time shall not run while the person enforcing the lien is prevented from arresting the ship legally or by circumstances beyond his control.

Maritime liens which arose prior to the effectivity of this Code shall be extinguished one (1) year after the date of such effectivity.

Section 40. *Rights of Retention.* – The following persons, when in possession of ship or ship that is under construction, shall have the right to retain such ship or ship under construction, without need of a court order:

(1) a shipbuilder, to secure claims arising out of the construction of, or other work carried out in relation to the ship; and

(2) a ship repairer, to secure claims arising out of the repair of, including the modification, conversion or reconstruction of the ship, or other work carried out in relation to the ship, affected during such possession.

Section 41. *Extinguishment of Rights of Retention.* – The rights of retention under the preceding section shall be extinguished when:

(1) the claim in respect of which said right has been exercised is met or is otherwise discharged;

(2) the ship ceases to be in the possession of the ship-builder or ship-repairer as the case may be; or

(3) the competent court orders the release of the ship.

Section 42. *Assignment or Subrogation.* - The assignment of or subrogation to a claim secured by a maritime lien results in the simultaneous assignment of or subrogation to such maritime lien.

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

Section 43. *Exclusions.* - The provisions of this Title shall not apply to:

(1) a claim for the enforcement of a maritime lien that is already the subject of a pending case and which is sought to be enforced under the provisions of Pres. Decree No.1521, or the Ship Mortgage Decree, at the time of the effectivity of this Code;

(2) a maritime lien which arose prior to the effectivity of this Act, unless such lien has already prescribed.

Chapter II Ship Mortgages

Section 44. *Application.*-The provisions of this Chapter shall apply to every mortgage wherever executed in respect of:

(1) a ship that is registered in the Philippines, or

(2) a ship that is under construction in the Philippines.

Section 45. *Subject of a Ship Mortgage.*— Unless otherwise stipulated, a ship mortgage shall include all the property of the mortgagor which is appropriated to the ship and on board at the time when the mortgage contract is entered into, or which is later substituted for such property.

In case the ship is under construction, the ship mortgage shall include all materials, machinery and equipment owned by the mortgagor that are within the premises of the builder's yard and distinctly identified as intended to be incorporated into the ship under construction.

Section 46. *Formal Validity.*— A ship mortgage shall not be valid unless it is made by or with the consent of the owner of the ship or ship under construction, and in writing and signed by the mortgagor and mortgagee. However, the ship mortgage may be validly made in the form of an electronic document as defined by law. Except as otherwise expressly provided in this Act, no other document for formal validity shall be required in order for the ship mortgage to be binding and effective upon the mortgagor and mortgagee.

Section 47. *Registration of Ship Mortgages.*— Every mortgage of a ship that is registered or under construction in the Philippines shall, on proper application, be registered in the Record of Mortgages and Encumbrances established in Section 28 hereof. If such a mortgage is not registered, it shall be unenforceable against the ship and third persons.

All entries in the Register of Mortgages and Encumbrances pertaining to the mortgage of a ship shall be annotated on the back of the Certificate of Philippine Registration, stating the time and date of transfer and the nature and subject matter of the encumbrance. All ship mortgages shall be registered in the order in which they are filed, indicating the date and time of registration.

MARINA shall, upon the registration of a mortgage, issue two official copies of the relevant entry in the Registry to the mortgagor.

Each official copy of the entry shall bear the official time and date of the registration of the mortgage.

If a ship mortgage is transferred or materially amended or if one mortgage is substituted for another, the transfer, amendment or substitution shall likewise be entered into the Record. Any transfer, amendment or substitution that is not entered into the Record shall be unenforceable against the ship and third persons.

Section 48. *Disclosure by the Mortgagor.*- Upon request of the mortgagee prior to the execution of the mortgage to which they are parties, the mortgagor shall provide in writing the details of any prior ship mortgage and any maritime lien that is known to the mortgagor, upon the ship which is the subject of the ship mortgage.

Section 49. *Priority between Ship Mortgages.*- Ship mortgages shall rank in the order of their being recorded with the Registry, the earlier before the latter.

Section 50. *Notification of De-registration of Subject of Ship Mortgage.* - Except in case of a forced sale upon order of a competent court, the de-registration of a ship shall not be permitted unless all registered ship mortgages are first deleted, or the written consent of all holders of such mortgages is obtained.

Where the de-registration of the ship is obligatory according to the provisions of this Act or its implementing regulations, MARINA shall notify the holders of registered ship mortgages of the pending de-registration in order to enable such holders to take appropriate action to protect their interests. Unless the said holders consent to a shorter period, the de-registration shall not be implemented until after a lapse of a reasonable time from notification in writing, which shall be not less than three (3) months.

There shall be no other requirements for formal validity except as stated in the preceding paragraphs.

Chapter III Enforcement of Mortgage

Section 51. *Grounds to Enforce a Ship Mortgage.*- A mortgagee shall be entitled to enforce the security represented by the ship under a mortgage in the following cases:

- (1) The mortgagor defaults in the discharge of the indebtedness or other obligations secured by the ship mortgage;
- (2) The mortgagor or any person in possession of the mortgaged property substantially prejudices the security of the mortgagee by any act or omission;
- (3) The mortgagor commits any breach of the mortgage contract which, by the terms of the contract, entitles the mortgagee to enforce the security.

Section 52. *Remedies of Mortgagees.*- The enforcement of the security under the mortgage may be carried out by:

- (1) Arresting the ship subject to the mortgage and applying for an order for its forced sale by competent court; or
- (2) Foreclosing the mortgage; or
- (3) Any other manner stipulated in the mortgage contract.

Section 53. *Arrest and Forced Sale of a Ship.*-A mortgagee entitled to enforce his mortgage, or a person exercising a maritime lien, may bring a proceeding *in rem* against the ship which is the subject of the mortgage or to which the maritime lien attaches, as the case may be, before a competent court having jurisdiction over the ship.

The petitioner shall be entitled to apply to the court *ex parte* for an order for the arrest of said ship. The petitioner's claim shall be supported by an affidavit stating the circumstances which entitle him to

enforce the mortgage or lien. An affidavit executed abroad must be duly authenticated. If the affidavit satisfactorily establishes the petitioner's claim, the competent court shall order the arrest of the ship.

The court may require the petitioner to post a bond or other security before issuing the order of arrest. If so required, the bond or security shall not exceed the amount of the mortgage debt or lien.

The court shall, after judgment, order the forced sale of the ship to satisfy the claim, unless the ship has been released in accordance with the next succeeding section.

The rules on preliminary attachment under the Rules of Court shall not apply in the arrest of ships.

Section 54. *Release of Arrested Ship.*-The court shall not release the arrested ship prior to rendition of judgment unless the mortgagor, the owner of the ship, or any person authorized to act on his behalf or of any other person interested in the ship:

(1) applies to the court for an order releasing the ship from arrest, by making a cash deposit, and if the same is not possible upon presentation of competent evidence, by filing a counter-bond or security in an amount double the value of the claim, to secure the payment of any judgment that the mortgagee may recover in the action, or

(2) proves that the arrest was improperly or irregularly made.

Section 55. *Notice of Forced Sale of a Ship.* - Prior to the forced sale of a ship, the court shall give, or cause to be given, at least thirty (30) days prior notice of the time and place of such sale, either in customary or electronic form, to the following:

(1) all holders of registered mortgages;

(2) such holders of maritime liens whose claims have been notified to the court and have not expired;

(3) all other persons having an interest in the ship, whose interests have been notified to the court.

Section 56. *Effect of Forced Sale of a Ship.*- In the event of the forced sale of a ship, all mortgages, except those assumed by the purchaser with the consent of the holders, and all liens and other encumbrances of whatsoever nature, shall cease to attach to the ship but shall attach to the proceeds of sale; *Provided*, that at the time of the sale, the ship is in the jurisdiction of the Philippines, and the sale has been effected in accordance with the laws of the Philippines.

Any charter party or contract for the use of the ship in existence at the time of the forced sale shall be deemed to be terminated, without prejudice to any claim the charterer may have against the owner of the ship at the time of the sale.

Section 57. *Bankruptcy Does Not Affect Ship Mortgage.* -The mortgage of a ship is not affected by the bankruptcy or rehabilitation of the mortgagor after the date of the registration of the mortgage.

Section 58. *Distribution of the Proceeds.*-The costs awarded by the competent court and expenses arising out of the arrest and sale of the ship shall be paid first out of the proceeds of such sale. Thereafter, the following claims shall be satisfied out of the balance of the proceeds of the sale in the order herein enumerated, observing also the preference among each category of claims, established in Sections 35 and 37 on maritime liens and Section 47 on ship mortgages:

- (1) maritime liens;
- (2) registered mortgages; and
- (3) rights of retention.

In case of deficiency, the mortgagee shall be entitled to file a suit *in personam* against the mortgagor.

Section 59. *Certificate of Release.*—When a ship registered in the Philippines has been the object of a forced sale in the Philippines, competent court having jurisdiction shall, at the request of the purchaser, issue a certificate to the effect that the ship is sold free of all mortgages, maritime liens, and other encumbrances, except those assumed by the purchaser.

Upon the production of the above-mentioned certificate, MARINA shall delete all registered mortgages from the Registry, except those assumed by the purchaser, or issue a certificate of de-registration for the purpose of registration, as the case may be.

Section 60. *Effect of the Forced Sale of a Ship in Foreign States.*—The forced sale in a foreign state of a ship registered in the Philippines shall be recognized and effective in the Philippines, provided that the procedure for such forced sale in that foreign state substantially corresponds to the appropriate procedure set out herein.

Chapter IV Foreign Liens and Mortgages

Section 61. *Foreign Maritime Liens.*— A claim governed by the law of a state other than the Philippines and recognized by such law as giving rise to a maritime lien or right of a similar nature against the owner, or against the demise or other charterer, manager or operator of a ship, shall be recognized by and enforceable in the Philippines; *Provided* said claim constitutes or corresponds substantially to a claim set out in this Title. The provisions of this Title relating to maritime liens, including priority, ranking of liens between themselves, and enforcement, shall also apply to such claims.

Section 62. *Foreign Mortgages.*— A foreign mortgage, or any mortgage or hypothec which relates to a ship of foreign registry, shall be recognized and enforceable in the Philippines, provided that:

- (1) such mortgage has been effected and registered or otherwise

recorded in accordance with the law of the state where the ship is registered;

(2) such register and any instruments or documents which are required to be deposited are open to public inspection, and that extracts of the register and copies of such instruments are obtainable from the registrar, and

(3) either the register or the loan agreement specifies:

(a) the name and address of the person in whose favor the mortgage has been effected or that it has been issued to bearer;

(b) the amount secured by the mortgage or the manner of calculating said amount;

(c) the date of the mortgage; and

(d) such other particulars which, according to the law of the state where the ship is registered, determine the rank in regard to other registered mortgages.

All matters relating to the procedure for enforcement of foreign mortgages shall be governed by this Act.

Section 63. *Priority and Ranking of Foreign Mortgages.*- Foreign mortgages shall be subordinate to maritime liens as set out in this Act.

The ranking of foreign registered mortgages as between themselves, and their effect as regard to third parties, shall be governed by the law of the state where the ship is registered.

Title IV
Limitation on Liability

Chapter 1
Right to Limit Liability

Section 64. *Application.* – The following may invoke the right to limit their liability in accordance with the rules provided for in this Title for the claims set out in the next succeeding section:

- (1) Ship owners;
- (2) Ship operators;
- (3) Bareboat charterers;
- (4) Ship managers;
- (5) Salvors with respect to claims set forth in subsections (d), (e) and (f) of Section 66;
- (6) Any person whose act, neglect or default the ship owner, ship operator, bareboat charterer, ship manager or salvor is responsible for; and
- (7) Insurers who assume the liability of any ship owner, ship operator, bareboat charterer, ship manager, or salvor.

They may heir right to limit liability against any claimant in a judicial action who has sought the arrest of their vessels in order to enforce a claim which is subject to limitation.

Section 65. *Claims which are subject to limitation.*– The following claims made against the persons set forth in the preceding section or against the ship, whatever the basis of liability may be, shall be subject to the limitation of liability:

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

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

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

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

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

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

Section 66. *Claims not subject to limitation.* - The following claims shall not be subject to any limitation of liability in accordance with this Title:

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

(2) Claims for oil pollution damage within the meaning of the

applicable convention covering the civil liability for oil pollution damage or any amendment thereto which is in force;

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

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

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

Section 67. *Conduct barring limitation.* - Any ship owner, ship operator, bareboat charterer, ship manager or salvor, or any person acting on their behalf, shall not be entitled to limit liability if it is proven that the loss resulted from the personal act or omission of such ship owner, ship operator, bareboat charterer, ship manager, or salvor, or any person acting on their behalf, and such act or omission was committed with the intent to cause such loss, or it was done recklessly and with the knowledge that such loss would probably result.

Section 68. *Counterclaims; right to set off.* - When a ship owner, ship operator, bareboat charterer, ship manager, or salvor, who is entitled to limit his liability, has a counterclaim against the claimant arising out of the same occurrence, their respective claims shall be set off against each other and the limits of liability shall only apply to the balance of the claim, if any. The right of set off can be invoked only if both parties are entitled to limit their respective liabilities and their respective claims do not fall within the provisions of sections 66 and 67 of this Act.

Chapter 2 Limits of Liability

Section 69. *General Limits.* - The general limits of liability for claims other than for passenger claims, arising from any distinct occasion shall be calculated as follows:

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

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

(b) For a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (a):

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

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

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

(2) In respect of any other claims:

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

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

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

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

account;

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

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

Section 70. *Claims for loss of life in excess of the stipulated limit.* - If the amount calculated in accordance with subsection (a) of the preceding section is insufficient to pay in full all the claims for loss of life or personal injury, the amount calculated in accordance with subsection (2) shall be available for the payment of the unpaid balance of the claims under subsection (1).

In this case, the unpaid balance for claims for loss of life and personal injury shall rank ratably with all other claims falling under subsection (2); Provided, however, that if there should be any claim arising from damage to harbor works, basins and waterways, and aids to navigation, these shall be satisfied first before any other claim falling under subsection (2) are satisfied, including any unsatisfied claims for loss of life or personal injury.

Section 71. *Salvor's limit of liability when not operating from a ship.* - The limit of liability for any salvor who is not operating from any ship or salvage tug, or who is operating solely on the ship to, or in respect of, which he is rendering salvage services, shall be calculated in accordance with the provisions of section 119 of this Act applying a tonnage of 1,500 tons.

Section 72. *Limit of liability for passenger claims.* - The limit of liability of a ship owner, ship operator, bareboat charterer, or ship manager, for passenger claims relating to loss of life or personal injury arising out of any distinct occasion, shall be an amount equivalent to

175,000 units of account multiplied by the number of passengers which the ship is authorized to carry according to the ship's certificate.

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

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

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

Section 73. *Formula for converting the unit of account to Philippine Peso.* - The unit of account mentioned in this Chapter shall be converted to Philippine Pesos according to the value of the Philippine Peso on the date the limitation fund is constituted, or payment is made, or security is given. The equivalent value of the Philippine Peso shall be calculated in accordance with the method of valuation applied by the International Monetary Fund for its operations and transactions in effect on the applicable date.

Section 74. *Aggregation of claims for loss of life and personal injury and for other claims.* - The limits of liability for loss of life and personal injury and for other claims determined in accordance with section 69 hereof shall apply to the aggregate of all claims which arise on any distinct occasion against:

(1) The ship owner, ship operator, bareboat charterer, or ship manager and any person whose act, neglect or default such ship owner, ship operator, bareboat charterer or ship manager is responsible for; or

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

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

Chapter 3 Limitation Fund

Section 75. *Creation of a limitation fund.*— Any person entitled to limit his liability in accordance with section 64 and who is alleged to be liable for a claim provided in section 65 hereof may, at any time during the hearing of the case or after the arrest of his vessel, constitute a fund with the court in which legal proceedings have been instituted for the satisfaction of the claim subject to limitation.

The fund shall be in an amount equivalent to the limits of liability set forth in sections 69, 71 and 72 hereof, as the case may be, together with any interest due thereon from the date of the occurrence giving rise to the liability until the date of the creation of the fund. The total amount of the fund shall be subject to the rules on aggregation of claims set forth in section 74 of this Act.

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

Section 76. *Form of the fund.* — The fund may be created, either by depositing the sum with a bank or other financial institution designated by the court, or by providing a bond, or other security acceptable to the court.

The fund constituted by any of the persons mentioned in section 64, subsections (a), (b), (c), (d) or (e) shall likewise be deemed constituted in favor of the persons mentioned in subsection (f) and (g) of that section.

Section 77. *Distribution of the fund.* - Subject to the provisions

of sections 69 and 70 hereof, the limitation fund shall be distributed among the claimants in proportion to their claims against the fund as determined by the court.

Section 78. *Subrogation of rights.* - If at any time before the fund is distributed the ship owner, ship operator, bareboat charterer, ship manager or salvor, or their respective insurers, settles a claim made against and payable by the fund, such person shall, up to the amount paid, acquire by subrogation the rights which the claimant would have enjoyed under this Title.

Section 79. *Contingency fund for expected claim.* -Where the ship owner, ship operator, bareboat charterer, ship manager, or salvor, or their respective insurers, establishes that it may be compelled to pay a claim, at a later date, whether in whole or in part, and because of such payment, the ship owner, ship operator, bareboat charterer, ship manager or salvor, or their respective insurers, would have enjoyed a right of subrogation if the claim had been paid before the fund was distributed, the court having jurisdiction over the claim and in which the fund has been constituted may order that a sufficient sum from the fund be provisionally set aside to enable the person who has been subrogated to the rights of the claimant to enforce his claim against the fund at such later date.

Section 80. *Bar to other actions.* - Where a limitation fund has been constituted in accordance with section 75 hereof, any person having made a claim against the fund shall be barred from enforcing such claim against any other assets of the persons mentioned in section 64 hereof and on whose behalf the fund has been constituted.

Section 81. *Release from arrest after the constitution of the limitation fund.* - After a limitation fund has been constituted in accordance with section 75 of this Act, any ship or other property, belonging to a ship owner, ship operator, bareboat charterer, ship manager or salvor on whose behalf the fund has been constituted, which has been arrested or attached in accordance with Title III of this Act in order to satisfy a claim which is enforceable against the fund or any

other bond or security given, may be released from arrest at the discretion of the court.

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

- (1) At the port where the occurrence took place;
- (2) If the occurrence took place out of port, at the first port of call of the ship after such occurrence;
- (3) At the port of disembarkation in respect of claims for loss of life or personal injury;
- (4) At the port of discharge in respect of damage to cargo; or
- (5) At the port where the arrest is made.

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

Title V Final Provisions

Section 82. *Implementing Rules and Regulations* - MARINA shall issue such administrative rules and regulations as may be necessary to implement the provisions of this Act.

Section 83. *Administrative Offenses and Penalties*. -To ensure faithful compliance with the rules and regulations issued in accordance with the preceding section, MARINA, through summary administrative proceedings, may identify, prohibit, and penalize such acts and activities that may reduce the efficiency and reliability of the Philippine Ship

Registry, impede the effectiveness of the exercise of Philippine jurisdiction and control over Philippine flag vessels, or otherwise interfere with its duties and responsibilities as a flag State and the implementation of this Title.

For this purpose, MARINA is authorized to impose an administrative fine of not less than Ten Thousand Pesos (PhP10,000.00) but not more than Five Hundred Thousand Pesos (PhP500,000.00), as well as the penalty of suspension, cancellation, or revocation of the relevant certificates, for violations of this Code and such rules and regulations that it may issue pursuant to this Title.

The range of fines shall be subject to review and revision every five (5) years from the date of effectivity of this Code, but in no case shall any increase exceed an amount equivalent to twenty percent (20%) of that previously imposed.

Section 84. *Repealing Clause.* - All existing laws, orders, decrees, rules and regulations or part thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.

Section 85. *Separability.* - If, for any reason, any section, subsection, clause or term of this Act is held to be illegal, invalid, or unconstitutional, such parts not affected by such declaration shall remain in full force and effect.

Section 86. *Transitory Provisions* - Every ship currently registered under the laws of the Philippines and granted the privilege to fly its flag shall be deemed to be registered under this Act in so far as its registration is not inconsistent with the provisions of this Act and such registration shall continue to be valid until its expiration unless sooner revoked by the Maritime Industry Authority. Any ship mortgage entered into in accordance with the provisions of the Ship Mortgage Decree or the Chattel Mortgage Law shall continue to be valid and effective and its registration shall be transferred to the Maritime Industry Authority in accordance with the provisions of this Act. Nothing in the transfer shall change or in any way alter or affect any

preference a registered mortgage may enjoy or the original date on which such mortgage was entered in the registry.

Section 87. *Effectivity Clause*- This Act shall take effect fifteen (15) days from its publication in at least two (2) national papers of general circulation.

Approved,