

Department of Legislative Services
Maryland General Assembly
2014 Session

FISCAL AND POLICY NOTE

House Bill 1368 (Delegate Bromwell)
Environmental Matters

State Boat Act - Dealer's License - Lienholder Exemption

This bill exempts from licensure as a vessel dealer under the State Boat Act a dealer who is a holder of a lien created under Title 16, Subtitle 2 of the Commercial Law Article, including an auctioneer and a company commonly known as a lien and recovery company, solely for the purposes of selling vessels in accordance with that title.

Fiscal Summary

State Effect: Special fund license fee revenues for the State Boat Act Fund decrease minimally beginning in FY 2015 due to the exemption. Based on information provided by the Department of Natural Resources (DNR), the revenue loss is likely less than \$500 annually. Expenditures are not directly affected.

Local Effect: None.

Small Business Effect: Meaningful for a limited number of small businesses.

Analysis

Current Law/Background:

State Boat Act and Dealers' Licenses

The State Boat Act, enacted in 1960, governs boating in the State. DNR Natural Resources Police enforce the law and its regulations. Generally, any revenue DNR collects under the State Boat Act accrues to the State Boat Act Fund and must be used

exclusively for the administration, functions, and objectives of the State Boat Act. Vessel excise taxes, however, accrue to the Waterway Improvement Fund.

A boat dealer license is required to engage in the business of buying, selling, or exchanging vessels in Maryland. A “dealer” is any person who (1) engages in whole or in part in the business of buying, selling, or exchanging new and unused vessels or used vessels, or both, either outright or on a conditional sale, bailment, lease, chattel mortgage, or otherwise and (2) has an established place of business for sale, trade, and display of vessels. In addition, a “dealer” is a yacht broker and a holder of a lien created under Title 16, Subtitle 2 of the Commercial Law Article who sells the vessel pursuant to that title, including an auctioneer and a company commonly known as a lien and recovery company.

Boat dealers are required to pay a license fee that may not exceed \$25 to DNR as well as a \$25 annual fee for renewal of the license. Prior to DNR issuing a boat dealer’s license, applicants are required to submit evidence of a bond or other security. This bond is for the use and benefit of DNR and any individual who sustains any loss due to a violation of the State Boat Act by the licensee or the licensee’s agent or employee. DNR may also use the bond to recover any penalty and interest charged to the licensee based on failure to pay the fees or taxes received by the applicant.

A licensed boat dealer is also required to collect the excise tax on all sales of vessels to be titled and numbered and on all sales of vessels to be federally documented for use in the State. If the vessel excise tax is not collected by a licensed dealer, the owner must remit the tax directly to DNR within 30 days of the date of sale.

Mechanics Lien for Parts and Services

Under provisions of the Commercial Law Article, any person who, with the consent of the owner, has custody of an aircraft, boat, or motor vehicle (property) and who, at the request of the owner, provides a service to or materials for the property, has a lien on the property for specified charges incurred, generally related to repair services, parts, and storage. The lienor may retain possession of the property subject to the lien until (1) the charges which give rise to the lien are paid or (2) the lien is discharged.

If the charges which give rise to a lien are due and unpaid for 30 days and the lienor is in possession of the property subject to the lien, the lienor may sell the property to which the lien attaches at public sale. The sale must be in a location convenient and accessible to the public and must be held during specified business hours. The lienor must publish notice of the time, place, and terms of the sale and a full description of the property to be sold once a week for the two weeks immediately preceding the sale in one or more newspapers of general circulation in the county where the sale is to be held. Generally,

the lienor must also send notice by certified or registered mail as least 10 days before the sale to the owner, all holders of perfected security interests in the property, and the person who incurred the charges which give rise to the lien.

DNR must issue a title, free and clear of any liens, to the purchaser of any boat sold under these provisions.

The sale of property subject to liens can be conducted by those businesses specified in the bill – auctioneers or “lien and recovery companies.”

Small Business Effect: The bill potentially exempts a limited number of businesses from State Boat Act licensing requirements. To the extent these entities are small businesses, they are relieved of the requirement to secure a \$25 license, post a bond or other security, and collect the vessel excise tax.

Additional Information

Prior Introductions: None.

Cross File: SB 1083 (Senator Klausmeier) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Natural Resources, Department of Legislative Services

Fiscal Note History: First Reader - March 6, 2014
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