

During the 2013 session of the Virginia General Assembly Senator Wagner introduced Senate Bill 1117 to begin the process of enacting the Uniformed Certificate of Titling for Vessels Act in Virginia (UCOTVA). During this same time, I was selected by the National Association of State Boating Law Administrators (NASBLA) to be the Chairman of the Vessel Identification Registration and Titling Committee. I made a comment in jest that since I was the chair of the NASBLA committee that would work to support states in implementing UCOTVA that Virginia would be the first state to enact it. Little did I know that being the first state to enact it was closer than I imagined.

Shortly thereafter, I met E.M. Miller of the Uniformed Law Commission who informed me that he was going to be working with Senator Wagner who is a senior Senator with a strong background in boating. Senator Wagner was willing to introduce a bill to enact UCOTVA in Virginia. Additionally, E. M. was the former head of the Virginia Legislative Services Division and had a good relationship established with the Virginia General Assembly which was another major advantage for the process. At that point, it appeared to be lining up to be a pretty simple change to implement.

Virginia was already a titling state and the Code of Virginia sections that covered registration and titling meshed well with the UCOTVA language up to about 85% which made the transition fairly easy for the agency. The process would be virtually unchanged for the average boater. Additionally, since we were a titling state the changes that needed to take place within the titling and registration sections of the agency were minimal and there was no increase in cost to make minor changes in our internal processes to follow UCOTVA. This lined Virginia up as the perfect platform to be the first state to enact the uniform code.

The bill went through the General Assembly with very few modifications and was passed. Fortunately, when it was in the House Agriculture Chesapeake and Natural Resources Committee, the decision was made to put a 1-year delayed enactment clause on this law so that the state would have time to implement it. Additionally, since it was such a voluminous change, it gave everyone involved time to review the change and find any potential problems or unintended results that we didn't envision. Some minor problems were found in wording and in the definitions as we transferred language from the original Code of Virginia language to the required language that is necessary to comply with uniform language. There is plenty of wiggle room within the language, but essentially a state's current code language has to be incorporated to fit the construct of the uniform language which is what makes it a uniform code.

The process that we used in Virginia served us well and made the legislative process fairly seamless. We used meetings well ahead of the legislative session to work with our legislative services staff, the agency legislative staff, E.M. Miller's and his staff, along with agency representatives from boat titling and registration, the boating safety education staff, law enforcement, and the State Boating Law Administrator. We started the process by ensuring what UCOTVA was and why it was important to the states. Then, we began using the uniformed code template and our legislative services staff transferred existing code language into the uniformed code templates. Whenever there were issues with overlap, redundancy, or the need for change we all reviewed the document to ensure accuracy and intent was valid. Finally, the senate bill language was completed so the senate bill that was introduced would be valid and without loose ends. The final document was around 26 pages long which became cumbersome to continually read and re-read for accuracy. In retrospect it would be wise to have a couple of people in

reserve that haven't been involved in the process as final reviewers because being intimate with a document causes things to be easily overlooked.

Since the legislature in their wisdom used a one-year delayed enactment clause in the language of the bill, which I would strongly recommend, it allowed for a more gradual implementation and gave us the ability to revisit any language or make minor administrative changes to the document. Again, working through Senator Wagner, he reintroduced the bill in the following year as an administrative bill to clean up the definitions and some minor wording edits and the bill "sailed" through with no issues.

Since the implementation of UCOTVA in Virginia, there has been little change in how business is conducted. The primary change has been that people attempting to transfer large vessels has decreased because of the requirement to post a security bond in order to do a transaction on a larger and more expensive vessel. The other change is that several boats have been branded as damaged hulls, which was one of the key selling points for UCOTVA because it offers some consumer protection.

Branding titles seems to be a major point of contention for many states because they assume that the branding provision is run by the state. Much like capacity plates on boats, this is not a liability the state wants to assume nor was it intended to be such. The branding provision is there so that when there is a catastrophic event like a super-storm Sandy or hurricane Katrina, that the market won't be flooded with boats for sale that have severely damaged hulls. This is much like the problem with people who deal in flood damaged vehicles. The branding provision is an industry driven provision whereby insurance companies, boat brokers, and dealers have the ability to brand a hull damaged when it is going to be salvaged or when the hull has been damaged beyond repair so as to hurt the vessels integrity. There is the ability for states to brand

a title when through a law enforcement investigation or accident investigation a boat's hull is damaged so as to affect its integrity; however, it's not the states responsibility to have to take this on because industry will do a good job of it on their own as we have seen here in Virginia already. The primary benefit of branding hulls is that it protects the boating consumer from purchasing a damaged boat from a fly-by-night salesman who is on the prowl to make a quick buck from an unsuspecting buyer who wants a nice boat for a great deal. Boats, as with almost anything, follows the same rule that if it seems too good to be true, it probably is.

Virginia is still in the process of ironing out electronic titles and how to store them appropriately. We are working with the Virginia Department of Motor Vehicles to determine and our license vender to see what systems are available for our use that would accommodate boat titles. What this will do moving forward is hold the title electronically for any vessel that is under a lien. Previously, if a boat owner came in with a new vessel with a lien on it, they would register and title the boat and walk out of the transaction with a freshly printed title for the boat regardless of the lien status. Under UCOTVA, states must hold electronic titles on vessels that are under a lien. What this does is set up states so that they can apply for preferred mortgage status so that bank can offer preferred mortgages at lower interest rates to boat owners. This is important because it bolsters boat sales within the state and offers a way for a state to provide a service that the Coast Guard provides through documenting a vessel. The reason is that the banks are assured that the title is secure and tied to the vessel it belongs to. Without UCOTVA and electronic titling this was not possible and the preferred mortgage status was unattainable for states.

What is a preferred mortgage? Currently there are two methods whereby lenders can secure boat loans. The boat's size determines which method is most appropriate. Basically, if a

boat is at 25 feet and less it is titled and a security interest is placed on the boat by the title or registration. For boats of about 26 feet and greater a title alone [previously] didn't protect a lender. Typically, a boat would have to be federally documented and a First Preferred Ship's Mortgage could be obtained. UCOTVA is going to allow states to have this same privilege and once they meet the provision of UCOTVA, they have the ability to apply to the U. S. Coast Guard for a preferred ship's mortgage status state which offers advantages to the consumer and to the state where the boat is registered and titled. This is much like a lender who mortgages property. A bank would never dream of entering into a real estate loan without a deed of trust. Lastly, this eliminates the extremely long backlog of waiting on a federal document to be processed through the Coast Guard and allows a boat owner to seek state title thereby making the process quick and painless.

So what is UCOTVA and why does it matter? It sounds and feels a little intimidating when you embark on it, but if you use good planning, if you have a good relationship with some representatives in your legislature, and you work closely with your Uniform Law Commission representative you can make it a fairly painless process that will reap rewards for your state and help protect your state's boaters. It will also benefit your state over time by allowing you to become a preferred mortgage state thereby titling higher end boats at the state level which helps bolster the local economy. It will protect unsuspecting consumers from buying junk boats by a title branding provision, and it will require a bond on large boats which helps avert theft, and establishes registration only states as titling states which strengthens the tie between a boat and its owner further averting theft. Finally, over time it will help states know that when a boat is transferred or sold among UCOTVA states that the boat is valid and titled under a sound code that is uniform among those states.

Fortunately for Virginia this didn't change process very much in house and it happened at a time when we were in the process of reprinting new title forms and applications anyway. This only required minor changes to our forms and printer software which resulted in no cost to our agency other than the staff time involved preparing the language because we have staff present at the legislature each year anyway.

The key to implementing UCOTVA is to plan in advance, build those key relationships, and plan some more. So that's what UCOTVA is and that's why it matters. Go for it, you'll be happy you did!!

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