

HOUSE BILL No. 6486

November 8, 2018, Introduced by Rep. VanderWall and referred to the Committee on Natural Resources.

A bill to amend 1994 PA 451, entitled "Natural resources and environmental protection act," by amending sections 80304, 80305, 80307, 80309, 80314, 80319, 80320, and 80321 (MCL 324.80304, 324.80305, 324.80307, 324.80309, 324.80314, 324.80319, 324.80320, and 324.80321), sections 80304, 80305, 80314, 80319, and 80321 as added by 1995 PA 58, sections 80307 and 80309 as amended by 2005 PA 271, and section 80320 as amended by 2005 PA 37, and by adding section 80315f.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 80304. (1) ~~A person,~~ **SUBJECT TO SECTION 80320(4), AND**
 2 except as provided in section 80306, **A PERSON** shall not sell or
 3 otherwise dispose of a watercraft without delivering to the
 4 purchaser or transferee of the watercraft a certificate of title
 5 with such assignment on the certificate of title as is necessary to

1 show title in the purchaser.

2 (2) ~~A-SUBJECT TO 80320(4)~~, A person shall not purchase or
3 otherwise acquire a watercraft without obtaining a certificate of
4 title for it in the person's name pursuant to this part.

5 Sec. 80305. (1) ~~A-SUBJECT TO SECTION 80320(4)~~, A person
6 acquiring a watercraft from the owner of the watercraft, whether
7 the owner is a manufacturer, importer, dealer, or otherwise, shall
8 not acquire any right, title, claim, or interest in or to the
9 watercraft until that person has issued to him or her a certificate
10 of title to the watercraft, or delivered a manufacturer's or
11 importer's certificate for the watercraft. A waiver or estoppel
12 shall not operate in favor of that person against a person having
13 possession of the certificate of title, or manufacturer's or
14 importer's certificate for the watercraft, for a valuable
15 consideration.

16 (2) A court shall not recognize the right, title, claim, or
17 interest of a person in or to a watercraft sold or disposed of, or
18 mortgaged or encumbered, unless **THE RIGHT, TITLE, CLAIM, OR**
19 **INTEREST IS 1 OF THE FOLLOWING:**

20 (a) ~~Evidenced~~-**SUBJECT TO SECTION 80320(4)**, **EVIDENCED** by a
21 certificate of title or a manufacturer's or importer's certificate
22 issued pursuant to this part.

23 (b) Evidenced by admission in the pleadings or stipulation of
24 the parties.

25 Sec. 80307. (1) ~~Application~~-**AN APPLICATION** for a certificate
26 of title for a watercraft shall be ~~made upon~~-**ON** a form prescribed
27 by the secretary of state. The application shall be filed with the

1 secretary of state within 15 days after the date of purchase or
2 transfer. At the request of the applicant, an application shall be
3 processed on an expedited basis. The application shall be
4 accompanied by the fee or fees prescribed in section 80311, and if
5 a certificate of title was previously issued for the watercraft, it
6 shall be accompanied by the certificate of title duly assigned,
7 unless otherwise provided in this part. Unless otherwise provided
8 in this part, if a certificate of title was not previously issued
9 for the watercraft in this state, the application shall be
10 accompanied by a manufacturer's or importer's certificate, by a
11 certificate of ownership, or a certificate of number issued under
12 part 801 or former 1967 PA 303, if purchased by the applicant on or
13 before July 1, 1976, or by a certificate of title, bill of sale, or
14 other evidence of ownership required by the law of another state
15 from which the watercraft is brought into this state. Evidence of
16 ownership of a watercraft for which a Michigan certificate of title
17 was not previously issued, and ~~which~~ **THAT** does not have permanently
18 affixed to it a hull identification number, shall be accompanied by
19 the certificate of hull identification number assigned by the
20 secretary of state as provided in section 80308. The secretary of
21 state shall retain the evidence of title presented by the applicant
22 and upon which the certificate of title is issued, and shall use
23 reasonable diligence in ascertaining whether the facts in the
24 application are true by checking the application and documents
25 accompanying the application with the **SECRETARY OF STATE'S** records
26 of watercraft. ~~in the secretary of state's office. If~~ **SUBJECT TO**
27 **SECTION 80320(4), IF** satisfied that the applicant is the owner of

1 the watercraft and that the application is in the proper form, the
2 secretary of state shall issue a certificate of title.

3 (2) If the secretary of state is not satisfied as to the
4 ownership of a watercraft having a value of more than \$2,500.00,
5 before registering the watercraft and issuing a certificate of
6 title, the secretary of state may require the applicant to file a
7 properly executed surety bond in a form prescribed by the secretary
8 of state and executed by the applicant and a company authorized to
9 conduct a surety business in this state. The bond shall be in an
10 amount equal to twice the value of the watercraft as determined by
11 the secretary of state and shall be conditioned to indemnify or
12 reimburse the secretary of state, any prior owner, and any
13 subsequent purchaser and their successors in interest against any
14 expense, loss, or damage, including reasonable attorney fees,
15 incurred as a result of the issuance of a certificate of title for
16 the watercraft or any defect in the right, title, or interest of
17 the applicant in the watercraft. An interested person has a right
18 of action to recover on the bond for a breach of the conditions of
19 the bond, but the aggregate liability of the surety to all persons
20 shall not exceed the amount of the bond. The bond shall be returned
21 at the end of 3 years, or before 3 years if the watercraft is no
22 longer registered in this state and the currently valid certificate
23 of title is surrendered to the secretary of state, unless the
24 secretary of state has received notification of the pendency of an
25 action to recover on the bond. If the secretary of state is not
26 satisfied as to the ownership of a watercraft that is worth
27 \$2,500.00 or less, the secretary of state shall require the

1 applicant to certify that the applicant is the owner of the
2 watercraft and entitled to register and title the watercraft.

3 (3) ~~When~~**SUBJECT TO SECTION 80320(4), WHEN** a watercraft is
4 sold by a dealer to a general purchaser or user, the certificate of
5 title shall be obtained in the name of the purchaser by the dealer
6 upon application signed by the purchaser. In other cases, the
7 certificate shall be obtained by the purchaser.

8 Sec. 80309. (1) The **SECRETARY OF STATE MAY REFUSE TO ISSUE A**
9 **WATERCRAFT CERTIFICATE OF TITLE UNDER THE CIRCUMSTANCES PROVIDED IN**
10 **SECTION 80320(4).**

11 (2) **SUBJECT TO SUBSECTION (1), THE** secretary of state shall
12 issue a certificate of title containing the information required in
13 the application for a certificate of title, as prescribed by
14 section 80308, except for the name and address of the previous
15 owner. The certificate of title shall also contain space for the
16 notation and cancellation of a lien, mortgage, or encumbrance. An
17 assignment of certificate of title shall appear on the certificate
18 of title in the form to be prescribed by the secretary of state.
19 The assignment form shall include a warranty that the signer is the
20 owner of the watercraft and that a mortgage, lien, or encumbrance
21 is not on the watercraft, except as noted on the face of the
22 certificate of title.

23 Sec. 80314. (1) If **A** certificate of title is lost, mutilated,
24 or becomes illegible, the person to whom that certificate of title
25 was issued ~~shall~~**MAY** apply to the secretary of state for a
26 duplicate copy of the certificate of title upon a form prescribed
27 by the secretary of state and accompanied by the fee prescribed by

1 section 80311. The applicant shall certify the application. Upon an
2 applicant's compliance with this section, the secretary of state
3 shall issue to that applicant a duplicate copy of the certificate
4 of title that contains the legend, "This is a duplicate certificate
5 and may be subject to the rights of a person under the original
6 certificate.". **AS PROVIDED UNDER SECTION 80320(4), THE DEPARTMENT**
7 **OF STATE IS NOT REQUIRED TO ISSUE A DUPLICATE CERTIFICATE OF TITLE**
8 **TO THE OWNER OF A WATERCRAFT IF THE TITLE IS SUBJECT TO A SECURITY**
9 **INTEREST.** A purchaser of watercraft who obtains title to the
10 watercraft through a duplicate copy of the watercraft's certificate
11 of title acquires only those rights in the watercraft that the
12 holder of the duplicate certificate of title had. At the time of
13 purchase, a watercraft purchaser may require the seller to
14 indemnify the purchaser and subsequent purchasers of the watercraft
15 against a ~~loss~~ ~~which~~ **LOSS THAT** the purchaser or subsequent
16 purchasers may suffer by reason of a claim presented upon the
17 original certificate of title. If the original certificate of title
18 is recovered by the owner, the owner shall immediately surrender it
19 to the secretary of state for cancellation.

20 (2) The secretary of state is not required to issue a
21 duplicate of a lost watercraft certificate of title ~~at the time~~
22 **WHEN** ownership of the watercraft is being transferred if all of the
23 following conditions are met:

24 (a) The transferor personally appears before an authorized
25 representative of the secretary of state and does all of the
26 following:

27 (i) Provides evidence of the transferor's identity and

1 ownership interest in the watercraft that is satisfactory to the
2 authorized representative of the secretary of state.

3 (ii) Pays the fee required under section 80311.

4 (b) The transferee or the transferee's representative
5 accompanies the transferor in appearing before the authorized agent
6 of the secretary of state and does all of the following:

7 (i) Applies for an original certificate of title for the
8 watercraft.

9 (ii) Provides evidence of the transferee's identity that is
10 satisfactory to the authorized representative of the secretary of
11 state.

12 (iii) Pays the fee required under section 80311.

13 (3) If a duplicate certificate of title is not required for
14 the transfer of a watercraft under subsection (2), the secretary of
15 state shall maintain a record specifying that ownership of the
16 watercraft was transferred without a surrender of the watercraft's
17 certificate of title.

18 (4) As used in this section, "transfer" or "transferred"
19 includes a conveyance, assignment, and gift.

20 **SEC. 80315F. (1) THE SECRETARY OF STATE MAY ENTER INTO 1 OR**
21 **MORE CONTRACTS UNDER THIS SECTION TO ESTABLISH, IMPLEMENT, AND**
22 **OPERATE AN ELECTRONIC LIEN TITLE SYSTEM TO PROCESS THE NOTIFICATION**
23 **AND RELEASE OF SECURITY INTERESTS IN WATERCRAFT THROUGH ELECTRONIC**
24 **FILE TRANSFERS, OR AS OTHERWISE DETERMINED BY THE SECRETARY OF**
25 **STATE, IN LIEU OF THE ISSUANCE AND MAINTENANCE OF PAPER DOCUMENTS**
26 **OTHERWISE REQUIRED BY LAW. ANY SUCH CONTRACT SHALL REQUIRE THE**
27 **PROTECTION OF PROPRIETARY INFORMATION IN THE ELECTRONIC LIEN TITLE**

1 SYSTEM AND PROVIDE FOR THE PROTECTION OF A COMPETITIVE FREE MARKET.

2 (2) EXCEPT FOR PERSONS WHO ARE NOT NORMALLY ENGAGED IN THE
3 BUSINESS OR PRACTICE OF FINANCING WATERCRAFT, ALL SECURED PARTIES
4 ARE REQUIRED TO PARTICIPATE IN THE ELECTRONIC LIEN TITLE SYSTEM.

5 (3) FOR THE PURPOSES OF THIS PART, ANY REQUIREMENT THAT A
6 SECURITY INTEREST OR OTHER INFORMATION APPEAR ON A CERTIFICATE OF
7 TITLE IS SATISFIED BY THE INCLUSION OF THAT INFORMATION IN AN
8 ELECTRONIC FILE MAINTAINED IN AN ELECTRONIC LIEN TITLE SYSTEM. THE
9 SATISFACTION OF A SECURITY INTEREST MAY BE ELECTRONICALLY
10 TRANSMITTED TO THE SECRETARY OF STATE. A SECURED PARTY SHALL
11 EXECUTE A RELEASE OF ITS SECURITY INTEREST IN A WATERCRAFT IN A
12 MANNER PRESCRIBED BY THE DEPARTMENT NOT MORE THAN 14 DAYS AFTER THE
13 SECURED PARTY RECEIVES THE PAYMENT IN SATISFACTION OF THE SECURITY
14 INTEREST. IF THE CERTIFICATE OF TITLE IS IN THE POSSESSION OF THE
15 WATERCRAFT OWNER, THE SECURED PARTY SHALL DELIVER THE RELEASE TO
16 THE WATERCRAFT OWNER OR AS OTHERWISE DIRECTED BY THE OWNER.
17 HOWEVER, IF THE CERTIFICATE OF TITLE IS HELD ELECTRONICALLY AS
18 PROVIDED UNDER SECTION 80320(4), THE SECURED PARTY SHALL DELIVER
19 THE RELEASE OF SECURITY INTEREST TO THE DEPARTMENT OF STATE, AND
20 THE DEPARTMENT OF STATE SHALL CANCEL THE SECURITY INTEREST. IF THE
21 SECURED PARTY FAILS TO COMPLY WITH THESE REQUIREMENTS FOR THE
22 RELEASE OF A SECURED INTEREST, THE SECURED PARTY IS LIABLE TO THE
23 WATERCRAFT OWNER FOR ALL DAMAGES SUSTAINED BY THE OWNER BECAUSE OF
24 THE FAILURE TO COMPLY. THE ELECTRONIC LIEN TITLE SYSTEM SHALL
25 PROVIDE A MECHANISM BY WHICH A WATERCRAFT DEALER MAY ASSIGN
26 OWNERSHIP OF A WATERCRAFT WITHOUT PROOF THAT THE PRIOR SECURITY
27 INTEREST WAS SATISFIED EXISTING ON THE ELECTRONIC LIEN TITLE

1 SYSTEM. HOWEVER, IN THE EVENT OF SUCH AN ASSIGNMENT, THE DEALER
2 WARRANTS THAT THE TITLE IS FREE AND CLEAR OF ALL LIENS AND ASSUMES
3 RESPONSIBILITY FOR THE SATISFACTION OF THE SECURITY INTEREST.

4 (4) A CERTIFIED COPY OF THE SECRETARY OF STATE'S ELECTRONIC
5 RECORD OF A SECURITY INTEREST IS ADMISSIBLE IN ANY CIVIL, CRIMINAL,
6 OR ADMINISTRATIVE PROCEEDING IN THIS STATE AS EVIDENCE OF THE
7 EXISTENCE OF THE SECURITY INTEREST. IF A CERTIFICATE OF TITLE IS
8 MAINTAINED IN THE ELECTRONIC LIEN TITLE SYSTEM, A CERTIFIED COPY OF
9 THE SECRETARY OF STATE'S ELECTRONIC RECORD OF THE CERTIFICATE OF
10 TITLE IS ADMISSIBLE IN ANY CIVIL, CRIMINAL, OR ADMINISTRATIVE
11 PROCEEDING IN THIS STATE AS EVIDENCE OF THE EXISTENCE AND CONTENTS
12 OF THE CERTIFICATE OF TITLE.

13 (5) THE SECRETARY OF STATE MAY DETERMINE ANY REQUIREMENTS
14 NECESSARY TO CARRY OUT THIS SECTION, INCLUDING, BUT NOT LIMITED TO,
15 1 OR MORE OF THE FOLLOWING:

16 (A) MONITORING THE REASONABLE FEES CHARGED BY SERVICE
17 PROVIDERS OR A CONTRACTOR FOR THE ESTABLISHMENT AND MAINTENANCE OF
18 THE ELECTRONIC LIEN TITLE SYSTEM.

19 (B) THE QUALIFICATIONS OF SERVICE PROVIDERS FOR PARTICIPATION
20 IN THE ELECTRONIC LIEN TITLE SYSTEM.

21 (C) THE QUALIFICATIONS FOR A CONTRACTOR TO ENTER INTO A
22 CONTRACT WITH THE SECRETARY OF STATE TO ESTABLISH, IMPLEMENT, AND
23 OPERATE THE ELECTRONIC LIEN TITLE SYSTEM.

24 (D) PROGRAM SPECIFICATIONS THAT A CONTRACTOR MUST ADHERE TO IN
25 ESTABLISHING, IMPLEMENTING, AND OPERATING THE ELECTRONIC LIEN TITLE
26 SYSTEM.

27 (6) THE ELECTRONIC LIEN TITLE SYSTEM SHALL BE ESTABLISHED,

1 IMPLEMENTED, AND OPERATIONAL BY APRIL 1, 2020.

2 (7) THE DEPARTMENT MAY REQUIRE A PERSON TO ENTER EVIDENCE OF
3 SECURITY INTERESTS AND ANY RELATED INFORMATION INTO THE ELECTRONIC
4 LIEN TITLE SYSTEM IN LIEU OF PAPER DOCUMENTS BEGINNING APRIL 1,
5 2020.

6 (8) AS USED IN THIS SECTION:

7 (A) "CONTRACTOR" MEANS A PERSON WHO ENTERS INTO A CONTRACT
8 WITH THE SECRETARY OF STATE TO ESTABLISH, IMPLEMENT, AND OPERATE
9 THE ELECTRONIC LIEN TITLE SYSTEM DESCRIBED IN THIS SECTION.

10 (B) "ELECTRONIC LIEN TITLE SYSTEM" MEANS A SYSTEM TO PROCESS
11 THE NOTIFICATION AND RELEASE OF SECURITY INTERESTS THROUGH
12 ELECTRONIC FILE TRANSFERS THAT IS ESTABLISHED AND IMPLEMENTED UNDER
13 THIS SECTION.

14 (C) "SERVICE PROVIDER" MEANS A PERSON WHO PROVIDES SECURED
15 PARTIES WITH SOFTWARE TO MANAGE ELECTRONIC LIEN AND TITLE DATA AS
16 PROVIDED UNDER THIS SECTION.

17 Sec. 80319. (1) A person shall not do any of the following:

18 (a) ~~Alter or~~ **REPRODUCE, ALTER, COUNTERFEIT**, forge, **OR**
19 **DUPLICATE** a certificate of title, or a manufacturer's or importer's
20 certificate, to a watercraft, an assignment of either, or a
21 cancellation of a lien on a watercraft.

22 (b) ~~Hold~~ **HOLD** or use a certificate, assignment, or
23 cancellation knowing it is ~~altered or~~ **REPRODUCED, ALTERED,**
24 **COUNTERFEITED**, forged, **OR DUPLICATED**.

25 (c) ~~Procure~~ **PROCURE** or attempt to procure a certificate of
26 title to a watercraft, or pass or attempt to pass a certificate of
27 title or an assignment of title to a watercraft, knowing or having

1 reason to believe that the watercraft is stolen.

2 (d) Sell or offer for sale in this state a watercraft on which
3 the manufacturer's or assigned hull identification number is
4 destroyed, removed, covered, altered, or defaced, with knowledge of
5 the destruction, removal, covering, alteration, or defacement of
6 the manufacturer's or assigned hull identification number.

7 (e) Use a false or fictitious name, give a false or fictitious
8 address, or make a false statement in an application or certificate
9 required under this part, or in a bill of sale or sworn statement
10 of ownership, or otherwise commit a fraud in an application.

11 **(F) FRAUDULENTLY INDICATE ON A CERTIFICATE OF TITLE THAT THERE**
12 **IS NO SECURITY INTEREST ON RECORD FOR A WATERCRAFT.**

13 **(G) FORGE OR COUNTERFEIT A LETTER, RECEIPT, OR OTHER DOCUMENT**
14 **FROM THE HOLDER OF A SECURITY INTEREST IN A WATERCRAFT INDICATING**
15 **THAT THE SECURITY INTEREST HAS BEEN RELEASED.**

16 **(H) ~~(f)~~**—Sell or transfer a watercraft without delivering to
17 the purchaser or transferee of the watercraft a certificate of
18 title, or a manufacturer's or importer's certificate to the
19 watercraft, assigned to the purchaser as provided for in this part.

20 (2) A person who violates this section is guilty of a
21 misdemeanor, punishable by imprisonment for not more than 1 year,
22 or a fine of not more than \$5,000.00, or both.

23 **(3) A PERSON WHO IS CONVICTED OF A VIOLATION OF SUBSECTION**
24 **(1) (F) OR (G), IN ADDITION TO ANY OTHER PENALTY, SHALL PAY**
25 **RESTITUTION TO THE HOLDER OF A SECURITY INTEREST IN THE WATERCRAFT**
26 **IN THE AMOUNT OF THE OUTSTANDING LIEN ON THE WATERCRAFT.**

27 Sec. 80320. (1) A party with a secured interest in a

1 watercraft, upon presentation of a properly completed application
2 for certificate of title to the secretary of state, together with
3 the fee prescribed by section 80311, may have a notation of the
4 security interest made on the face of the certificate of title to
5 be issued by the secretary of state. The secretary of state shall
6 enter the notation and the date and shall note the security
7 interest and the date in his or her files. **HOWEVER, AS PROVIDED IN**
8 **SUBSECTION (5), THE SECRETARY OF STATE IS NOT REQUIRED TO ISSUE A**
9 **CERTIFICATE OF TITLE TO THE OWNER OF A VEHICLE IF THE TITLE IS**
10 **SUBJECT TO A SECURITY INTEREST.**

11 (2) When the security interest is discharged, the holder shall
12 note the discharge on the certificate of title over his or her
13 signature.

14 (3) Receipt by the secretary of state of a properly tendered
15 application for a certificate of title on which a security interest
16 in a watercraft is to be indicated is a condition of perfection of
17 a security interest in the watercraft, **UNLESS, UNDER SUBSECTION**
18 **(4), THE DEPARTMENT OF STATE DOES NOT ISSUE CERTIFICATES OF TITLE**
19 **FOR WATERCRAFT SUBJECT TO A SECURITY INTEREST,** and is equivalent to
20 filing a financing statement under the uniform commercial code,
21 1962 PA 174, MCL 440.1101 to ~~440.11102~~, **440.9994**, with respect to
22 the watercraft. When a security interest in a watercraft is
23 perfected, it has priority over the rights of a lien creditor as
24 lien creditor is defined in section 9102 of the uniform commercial
25 code, 1962 PA 174, MCL 440.9102.

26 **(4) THE DEPARTMENT OF STATE MAY REQUIRE THAT ALL TRANSACTIONS**
27 **CONCERNING WATERCRAFT TITLE LIENS AND SECURITY INTERESTS BE**

1 CONDUCTED BY ELECTRONIC MEANS, AS DETERMINED BY THE DEPARTMENT OF
2 STATE. IN THAT CASE, IF A WATERCRAFT IS SUBJECT TO A SECURITY
3 INTEREST, THE DEPARTMENT OF STATE IS NOT REQUIRED TO ISSUE A
4 CERTIFICATE OF TITLE TO THE OWNER OF THE WATERCRAFT OR A LIENHOLDER
5 IF IT MAINTAINS A RECORD OF TITLE ELECTRONICALLY. AFTER ALL LIENS
6 HAVE BEEN TERMINATED, OR FOR PURPOSES OF RETITLING THE WATERCRAFT
7 IN ANOTHER STATE OR ANY OTHER PURPOSE CONSIDERED APPROPRIATE BY THE
8 DEPARTMENT OF STATE, THE DEPARTMENT OF STATE MAY ISSUE A PAPER COPY
9 OF THE WATERCRAFT TITLE TO THE WATERCRAFT OWNER.

10 (5) A WATERCRAFT SALE TRANSACTION IN WHICH A SECURITY INTEREST
11 IS ENTERED BY ELECTRONIC MEANS SHALL INCLUDE A DOCUMENT RECORDING
12 ENTRY OF THE ELECTRONIC SECURITY INTEREST AND INFORMATION REGARDING
13 THE FINANCIAL INSTITUTION THAT HOLDS THE SECURITY INTEREST. WHEN A
14 SECURED PARTY IS PRESENTED WITH PAYMENT IN SATISFACTION OF THE
15 SECURITY INTEREST, A SECURED RECEIPT IN A FORM APPROVED BY THE
16 DEPARTMENT OF STATE MAY BE PRODUCED AND SUBMITTED TO THE DEPARTMENT
17 OF STATE IN LIEU OF THE CERTIFICATE OF TITLE FOR PURPOSES OF
18 TRANSFERRING OWNERSHIP IN THE WATERCRAFT.

19 Sec. 80321. A watercraft acquired by the owner prior to
20 January 1, 1977, is not the subject of a certificate of title until
21 it is mortgaged, sold, OR transferred, or, **SUBJECT TO SECTION**
22 **80320(4)**, a lien **IS** placed on the watercraft.

23 Enacting section 1. This amendatory act takes effect 90 days
24 after the date it is enacted into law.