

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
31307	46:975

Section 31307 provides for preemption of State laws to the extent a claim for necessities is enforced by a civil action *in rem* in admiralty against the vessel.

§ 31308. Secretary of Commerce or Transportation as mortgagee

The Secretary of Commerce or Transportation, as a mortgagee under this chapter, may foreclose on a lien arising from a right established under a mortgage under chapter 537 of this title, subject to section 362(b) of title 11.

(Pub. L. 100-710, title I, § 102(c), Nov. 23, 1988, 102 Stat. 4741; Pub. L. 101-595, title VI, § 603(13), Nov. 16, 1990, 104 Stat. 2993; Pub. L. 109-304, § 15(28), Oct. 6, 2006, 120 Stat. 1704; Pub. L. 111-281, title IX, § 913(b), Oct. 15, 2010, 124 Stat. 3017.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
31308	46:952 (last sentence)

Section 31308 allows the Secretary of Commerce or Transportation to foreclose on a lien arising from a right established under a mortgage under title XI of the Merchant Marine Act, 1936. This section makes no substantive change to law.

AMENDMENTS

2010—Pub. L. 111-281 substituted “The Secretary of Commerce or Transportation, as a mortgagee under this chapter,” for “When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary”.

2006—Pub. L. 109-304 substituted “chapter 537 of this title” for “title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.)”.

1990—Pub. L. 101-595 substituted “(46 App. U.S.C. 1271 et seq.)” for “(46 App. U.S.C. 1241 et seq.)”.

§ 31309. General civil penalty

Except as otherwise provided in this chapter, a person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than \$10,000.

(Pub. L. 100-710, title I, § 102(c), Nov. 23, 1988, 102 Stat. 4741.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
31309	New

Section 31309 provides for a civil penalty of not more than \$10,000 for a violation of this chapter or a regulation prescribed under this chapter.

SUBCHAPTER II—COMMERCIAL INSTRUMENTS

§ 31321. Filing, recording, and discharge

(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary to be valid, to the extent the vessel is involved, against any person except—

- (A) the grantor, mortgagor, or assignor;
- (B) the heir or devisee of the grantor, mortgagor, or assignor; and
- (C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

(4) A bill of sale, conveyance, mortgage, assignment, or related instrument may be filed electronically under regulations prescribed by the Secretary.

(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

- (1) identify the vessel;
- (2) state the name and address of each party to the instrument;
- (3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;
- (4) state the interest of the grantor, mortgagor, or assignor in the vessel;
- (5) state the interest sold, conveyed, mortgaged, or assigned; and
- (6) be signed and acknowledged.

(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel for which an application for documentation is filed, and the Secretary decides that the vessel cannot be documented by an applicant—

- (1) the Secretary shall send notice of the Secretary’s decision, including reasons for the decision, to each interested party to the instrument filed for recording; and
- (2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—

- (A) may terminate the filing; and
- (B) may return the instrument filed without recording it under subsection (e) of this section.

(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

- (e) The Secretary shall—
 - (1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and
 - (2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

(f) On full and final discharge of the indebtedness under a mortgage recorded under sub-