

AMENDMENTS

1989—Subsec. (a)(3). Pub. L. 101-225 substituted “management” for “mangement”.

EFFECTIVE DATE

Section effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100-710, set out as a note under section 31301 of this title.

§ 31342. Establishing maritime liens

(a) Except as provided in subsection (b) of this section, a person providing necessaries to a vessel on the order of the owner or a person authorized by the owner—

- (1) has a maritime lien on the vessel;
- (2) may bring a civil action in rem to enforce the lien; and
- (3) is not required to allege or prove in the action that credit was given to the vessel.

(b) This section does not apply to a public vessel.

(Pub. L. 100-710, title I, §102(c), Nov. 23, 1988, 102 Stat. 4748; Pub. L. 101-225, title III, §303(6), Dec. 12, 1989, 103 Stat. 1924.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
31342 .....	46:971

Section 31342 provides that any authorized person providing necessaries for a vessel has a maritime lien on the vessel, may bring a civil action *in rem* in admiralty to enforce the lien, and is not required to allege or prove that credit was given to the vessel. “Providing” has been substituted for “furnishing” for consistency with other laws. This section makes no substantive change to law. This section does not supersede the prohibition under the Public Vessels Act, the Foreign Sovereign Immunities Act, or the Suits in Admiralty Act, on bringing an *in rem* action against a public vessel.

AMENDMENTS

1989—Pub. L. 101-225 designated existing provisions as subsec. (a), substituted “Except as provided in subsection (b) of this section, a person providing necessaries to a vessel on the order of the owner” for “A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title”, and added subsec. (b).

EFFECTIVE DATE

Section effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100-710, set out as a note under section 31301 of this title.

§ 31343. Recording and discharging notices of claim of maritime lien

(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel documented, or for which an application for documentation has been filed, under chapter 121 may record with the Secretary a notice of that person’s lien claim on the vessel. To be recordable, the notice must—

- (1) state the nature of the lien;
- (2) state the date the lien was established;
- (3) state the amount of the lien;
- (4) state the name and address of the person; and
- (5) be signed and acknowledged.

(b)(1) The Secretary shall record a notice complying with subsection (a) of this section if,

when the notice is presented to the Secretary for recording, the person having the claim files with the notice a declaration stating the following:

(A) The information in the notice is true and correct to the best of the knowledge, information, and belief of the individual who signed it.

(B) A copy of the notice, as presented for recording, has been sent to each of the following:

- (i) The owner of the vessel.
- (ii) Each person that recorded under subsection (a) of this section an unexpired notice of a claim of an undischarged lien on the vessel.
- (iii) The mortgagee of each mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

(2) A declaration under this subsection filed by a person that is not an individual must be signed by the president, member, partner, trustee, or other individual authorized to execute the declaration on behalf of the person.

(c)(1) On full and final discharge of the indebtedness that is the basis for a notice of claim of lien recorded under subsection (b) of this section, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

(2) The district courts of the United States shall have jurisdiction over a civil action in Admiralty to declare that a vessel is not subject to a lien claimed under subsection (b) of this section, or that the vessel is not subject to the notice of claim of lien, or both, regardless of the amount in controversy or the citizenship of the parties. Venue in such an action shall be in the district where the vessel is found or where the claimant resides or where the notice of claim of lien is recorded. The court may award costs and attorneys fees to the prevailing party, unless the court finds that the position of the other party was substantially justified or other circumstances make an award of costs and attorneys fees unjust. The Secretary shall record any such declaratory order.

(d) A person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) of this title must record and discharge the lien as provided by the law of the State in which the vessel is titled.

(e) A notice of claim of lien recorded under subsection (b) of this section shall expire 3 years after the date the lien was established, as such date is stated in the notice under subsection (a) of this section.

(f) This section does not alter in any respect the law pertaining to the establishment of a maritime lien, the remedy provided by such a lien, or the defenses thereto, including any defense under the doctrine of laches.

(Pub. L. 100-710, title I, §102(c), Nov. 23, 1988, 102 Stat. 4748; Pub. L. 107-295, title II, §205(a)(1), Nov. 25, 2002, 116 Stat. 2095; Pub. L. 111-281, title IX, §913(a)(1), Oct. 15, 2010, 124 Stat. 3017.)

HISTORICAL AND REVISION NOTES

Revised section	Source section (U.S. Code)
31343 .....	46:925

Section 31343 provides that any person claiming a lien on a vessel covered by a preferred mortgage may record a notice of lien. This notice must state the nature of the lien, date it was established; the amount; and the name and address of the person claiming a lien, and it must be acknowledged. The Secretary must record a notice of lien if it complies with these requirements. When any part of the indebtedness is discharged, the claimant shall provide the Secretary with a written, acknowledged certificate of discharge of the indebtedness, and the Secretary shall record the certificate. This section makes no substantive change to law.

Section 31343(c) provides that, on the full and final discharge of an indebtedness that is the basis for a claim, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge on the request of the Secretary or owner of the vessel. This subsection makes a substantive change to law by not requiring partial discharges to be filed, as well as making the filing of discharge certificates only at the request of the Secretary or owner of the vessel.

HOUSE FLOOR STATEMENT

Subsection (d) of this section requires a person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) to record and discharge the lien as provided by the law of the State in which the vessel is titled.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-281 struck out “of Transportation” after “Secretary” in introductory provisions.

2002—Pub. L. 107-295, §205(a)(1)(A), substituted “notices of claim of maritime lien” for “liens on preferred mortgage vessels” in section catchline.

Subsec. (a). Pub. L. 107-295, §205(a)(1)(B), substituted “documented, or for which an application for documentation has been filed, under chapter 121” for “covered by a preferred mortgage filed or recorded under this chapter” in introductory provisions.

Subsec. (b). Pub. L. 107-295, §205(a)(1)(C), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “The Secretary shall record a notice complying with subsection (a) of this section.”

Subsec. (c). Pub. L. 107-295, §205(a)(1)(D), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.”

Subsecs. (e), (f). Pub. L. 107-295, §205(a)(1)(E), added subsecs. (e) and (f).

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-295 effective Jan. 1, 2003, see section 205(e) of Pub. L. 107-295, set out as a note under section 31325 of this title.

EFFECTIVE DATE

Section effective Jan. 1, 1989, with certain exceptions and qualifications, see section 107 of Pub. L. 100-710, set out as a note under section 31301 of this title.

Subtitle IV—Regulation of Ocean Shipping

PART A—OCEAN SHIPPING

Chapter 401. General ..... 40101
403. Agreements ..... 40301
405. Tariffs, Service Contracts, Refunds, and Waivers ..... 40501
407. Controlled Carriers ..... 40701

Chapter 409. Ocean Transportation Intermediaries ..... 40901
411. Prohibitions and Penalties ..... 41101
413. Enforcement ..... 41301

PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

421. Regulations Affecting Shipping in Foreign Trade ..... 42101
423. Foreign Shipping Practices ..... 42301

PART C—MISCELLANEOUS

441. Evidence of Financial Responsibility for Passenger Transportation 44101

PART A—OCEAN SHIPPING

CHAPTER 401—GENERAL

Sec. 40101. Purposes.
40102. Definitions.
40103. Administrative exemptions.
40104. Reports filed with the Commission.

§ 40101. Purposes

The purposes of this part are to—

(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

(3) encourage the development of an economically sound and efficient liner fleet of vessels of the United States capable of meeting national security needs; and

(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

(Pub. L. 109-304, §7, Oct. 6, 2006, 120 Stat. 1523.)

HISTORICAL AND REVISION NOTES

Table with 3 columns: Revised Section, Source (U.S. Code), Source (Statutes at Large). Row 1: 40101, 46 App.:1701, Pub. L. 98-237, §2, Mar. 20, 1984, 98 Stat. 67; Pub. L. 105-258, title I, §101, Oct. 14, 1998, 112 Stat. 1902.

EFFECTS ON CERTAIN AGREEMENTS AND CONTRACTS

Pub. L. 98-237, §20(d), Mar. 20, 1984, 98 Stat. 90; Pub. L. 105-258, title I, §117(1), Oct. 14, 1998, 112 Stat. 1914, provided that: “All agreements, contracts, modifications, licenses, and exemptions previously issued, approved, or effective under the Shipping Act, 1916 [former 46 U.S.C. App. 801 et seq., see Disposition Table preceding section 101 of this title], or the Shipping Act of 1984 [former 46 U.S.C. App. 1701 et seq., see Disposition Table preceding section 101 of this title], shall continue in force and effect as if issued or effective under this Act, as amended by the Ocean Shipping Reform Act of 1998 [Pub. L. 105-258, Oct. 14, 1998, 112 Stat. 1902], and all new agreements, contracts, and modifications to existing, pending, or new contracts or agreements shall be considered under this Act, as amended by the Ocean Shipping Reform Act of 1998.”

§ 40102. Definitions

In this part: