



TACIR

The Tennessee Advisory Commission
on Intergovernmental Relations



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MEMORANDUM

TO: Commission Members

FROM: Cliff Lippard *Cliff*
Executive Director

DATE: 14 December 2017

SUBJECT: Public Chapter 179, Acts of 2017 (Boat Titling)—Draft Report for Review and Comment

The attached Commission report is submitted for your review and comment. It was prepared in response to Public Chapter 179, Acts of 2017. The Act directs the Commission to perform a study on the creation and implementation of a boat titling system in Tennessee, which is one of only 13 states that do not issue boat titles. The motivation for this study stems, in part, from a 2015 incident in which a Hardin County, Tennessee boat dealer defrauded several boat owners by luring victims with free storage for recently purchased boats. Then, without the owner's permission, she would sell the boats to multiple unsuspecting buyers, repeating the same scam with the same boats.

Based on the benefits of boat titling for owners and buyers, the titling laws in other states, and the concerns raised by stakeholders, Tennessee could implement a boat titling system for motorized and sail-powered boats that are either larger or likely to be more powerful. Similar to Michigan, Tennessee could consider limiting titling both to boats that have a permanently attached engine and to boats that are at least 20 feet long, excluding human-powered watercraft. This would mean that jet skis, which have permanently attached motors, would have to be titled, but any sailboats and jon boats under 20 feet would not. All human-powered watercraft, including canoes, kayaks, and paddleboats, would also be exempt.

To avoid the significant administrative burdens that would occur if titling requirements were applied retroactively to all existing boats, Tennessee should also consider phasing in any new titling system by limiting it either to boats

manufactured at least one year after the law's effective date or to boats sold or transferred at least one year after the law's effective date.

Administration of any new boat titling system should be housed in the Tennessee Wildlife Resources Agency (TWRA), which already administers the state's boat registration system, and should include county clerks, who also collect and process necessary documentation and fees for motor vehicle titling in Tennessee.

Although boat titling would provide some protections and benefits for boat owners and buyers, it wouldn't have helped victims of the Hardin County dealer's scam recover their boats. Because they agreed to store their boats with the Hardin County dealer—thereby entrusting the boats to her—the victims in this scam could not reclaim their boats from individuals who subsequently bought them in good faith from the unscrupulous dealer. Possession of a title would have made little difference in this specific case.

Tennessee already takes additional steps beyond titling to protect consumers from unscrupulous motor vehicle and recreational vehicle (RV) dealers. The state requires motor vehicle and RV dealers to be licensed through the state's motor vehicle commission, which sets minimum requirements for obtaining a license, including passing a criminal background check and providing proof of a surety bond. Currently, no such licensing or bond requirements exist for boat dealers in Tennessee. While victims like those in the Hardin County scam can already sue boat dealers for damages resulting from fraud; there is no guarantee that a dealer will have any assets to pay judgments against him.

There appears to be no reason why customers should not be protected by holding boat dealers to the same requirements as other vehicle dealers. Thus, **Tennessee should provide consumers with greater protection from frauds perpetrated by unscrupulous boat dealers and prevent those individuals from becoming dealers by requiring boat dealers to meet minimum licensing requirements similar to motor vehicle and RV dealers, including background checks and surety bonds.**