

United States Code Annotated
Title 46. Shipping (Refs & Annos)
Subtitle III. Maritime Liability
Chapter 313. Commercial Instruments and Maritime Liens (Refs & Annos)
Subchapter II. Commercial Instruments

46 U.S.C.A. § 31325

§ 31325. Preferred mortgage liens and enforcement

Currentness

(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

(b) On default of any term of the preferred mortgage, the mortgagee may--

(1) enforce the preferred mortgage lien in a civil action in rem for a documented vessel, a vessel to be documented under chapter 121 of this title, a vessel titled in a State, or a foreign vessel;

(2) enforce a claim for the outstanding indebtedness secured by the mortgaged vessel in--

(A) a civil action in personam in admiralty against the mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness; and

(B) a civil action against the mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness; and

(3) enforce the preferred mortgage lien or a claim for the outstanding indebtedness secured by the mortgaged vessel, or both, by exercising any other remedy (including an extrajudicial remedy) against a documented vessel, a vessel for which an application for documentation is filed under chapter 121 of this title, a vessel titled in a State, a foreign vessel, or a mortgagor, maker, comaker, or guarantor for the amount of the outstanding indebtedness or any deficiency in full payment of that indebtedness, if--

(A) the remedy is allowed under applicable law; and

(B) the exercise of the remedy will not result in a violation of [section 56101](#) or [56102](#) of this title.

(c) The district courts have original jurisdiction of a civil action brought under subsection (b)(1) or (2) of this section. However, for a documented vessel, a vessel to be documented under chapter 121 of this title, a vessel titled in a State, or a foreign vessel, this jurisdiction is exclusive of the courts of the States for a civil action brought under subsection (b)(1) of this section.

(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to--

(A) the master or individual in charge of the vessel;

(B) any person that recorded under [section 31343\(a\)](#) or **(d)** of this title an unexpired notice of a claim of an undischarged lien on the vessel; and

(C) a mortgagee of a mortgage filed or recorded under [section 31321](#) of this title that is an undischarged mortgage on the vessel.

(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff.

(e) In a civil action brought under subsection (b)(1) of this section--

(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and

(2) when directed by the court, a United States marshal may take possession of a mortgaged vessel even if the vessel is in the possession or under the control of a person claiming a possessory common law lien.

(f)(1) Before title to the documented vessel or vessel for which an application for documentation is filed under chapter 121 is transferred by an extrajudicial remedy, the person exercising the remedy shall give notice of the proposed transfer to the Secretary, to the mortgagee of any mortgage on the vessel filed in substantial compliance with [section 31321](#) of this title before notice of the proposed transfer is given to the Secretary, and to any person that recorded an unexpired notice of a claim of an undischarged lien on the vessel under [section 31343\(a\)](#) or **(d)** of this title before notice of the proposed transfer is given to the Secretary.

(2) Failure to give notice as required by this subsection shall not affect the transfer of title to a vessel. However, the rights of any holder of a maritime lien or a preferred mortgage on the vessel shall not be affected by a transfer of title by an extrajudicial remedy exercised under this section, regardless of whether notice is required by this subsection or given.

(3) The Secretary shall prescribe regulations establishing the time and manner for providing notice under this subsection.

CREDIT(S)

(Added Pub.L. 100-710, Title I, § 102(c), Nov. 23, 1988, 102 Stat. 4745; amended Pub.L. 101-225, Title III, § 303(4), Dec. 12, 1989, 103 Stat. 1923; Pub.L. 104-324, Title XI, § 1124(a), (b), Oct. 19, 1996, 110 Stat. 3980; Pub.L. 105-383, Title IV, § 401(c) (5) to (7), Nov. 13, 1998, 112 Stat. 3425; Pub.L. 107-295, Title II, § 205(b), Nov. 25, 2002, 116 Stat. 2096; Pub.L. 109-304, § 15(30), Oct. 6, 2006, 120 Stat. 1704; Pub.L. 110-181, Div. C, Title XXXV, § 3529(b)(1)(B), Jan. 28, 2008, 122 Stat. 603.)

[Notes of Decisions \(166\)](#)

46 U.S.C.A. § 31325, 46 USCA § 31325

Current through . 114-112 (excluding 114-92, 114-94 and 114-95) approved 12-18-2015