Alert

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COZEN O'CONNOR

Holiday Gift – Federal Maritime Recovery Law Updated After 170+ years

Subrogation professionals are often vexed by the Limitation of Liability Act. In addition to inverting the usual plaintiff/defendant positions in litigation, and carrying a shortened deadline to file claims, this federal law, which dates back to 1851, allows vessel owners to limit their liability after a maritime incident or casualty to the post-casualty value of the vessel and its cargo, as long as the owner can prove it lacked knowledge of the problem beforehand.

This law finally changed last week due to a specific recent event — on September 2, 2019, a fire occurred off the California coast on the dive boat *Conception*. Thirty-three passengers and one crewman perished in the tragedy. Only three days after the fire, *Conception*'s owner filed an action under the Limitation of Liability Act to limit its liability to the value of the vessel, now a burnt hulk, assessed at $0 by its insurance provider. Since the owner was found to be at fault by the National Transportation Safety Board, the public outrage and confusion over the owner escaping any financial liability has prompted Congress to finally update the antiquated law.

The "Small Passenger Vessel Liability Fairness Act" was included in the final 2022 defense policy bill and was signed into law by President Biden last week.

The bill will apply to future liability claims. The law does not impact the liability limitations afforded to large commercial cargo vessel owners. The full impact on the insurance industry has yet to be seen, but at a minimum, in the event of future large marina fires, the owners of small vessels where the fire originated may finally be a more fulsome target for recovery of subrogated property claims.

In recognition of his handling of maritime matters, the author of this Alert Robert Phelan has attained the status of a Proctor in Admiralty in the Maritime Lawyers Association of the United States.

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Related Practice Areas

- Subrogation & Recovery