

6-18/100.00 Attachment of A Vessel

The Harbors and Navigation Code (HNC) sets forth specific obligations of the owner of a vessel which are liens against the vessel. HNC490 et seq. allow for a writ of attachment to be issued against the vessel after commencement of an action against the owner based on a lien, and specifies the procedures for sale of the vessel after judgment.

A proceeding in rem against a vessel, treating the boat itself as the debtor and seizing it and impleading it as the defendant, is within the exclusive jurisdiction of the federal court. However, actions which are not of that character but which are personal actions may be maintained in the state courts, notwithstanding the fact that there may be a concurrent attachment which is levied on a vessel. (Crofton v. Pappas, 75 CA 2d 814)

The attachment provided in this section is distinct from the general attachment section provided in CCP 481.010 et seq. Under the general attachment section, a secured claim is not subject to attachment; however, under this section, the attachment presupposes the existence of a lien, and is issuable only where there is such lien and for the purpose of aiding in its performance. (Jensen v. Dorr, 157 CA 437)

Although the attachment provided in this section is distinct from the general attachment law, it is not exclusive, and an attachment issued under the general attachment section would not necessarily be irregular. The lien on the vessel is not of such a fixed and determinate nature as to bar a right of action under the general attachment law. (Graham v. Annis, 28 CA 754)
