

Peer to Peer Charters: Platforms and Owners Staying Compliant

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Peer to Peer:

Million fewer first-time boat buyers today. *Soundings*, 3/9/2018

Basically renting, like AirBNB, owner to renter, *Boating Magazine*, 2/9/2015

By internet?

With Captain?

What if accident/damage/injury?

The effect of peer to peer ... analyze it as a charter, although much the same applies to owner run recreational vessel

Contracting. *The Demise Charter - A Conceptual and Practical Analysis*; Tulane Law Review, Vol 49 (1975), pg 764

Time

Contract for services

Demise/Bareboat

Demise only resurrected recently (p 764)

Charterer acquires possess and control ... the master therefore under the charterer's direction

Charterer responsible to owner for payments and using due diligence, responsible to third party as the owner would be

Must demonstrate that exclusive possession, command, and navigation be surrendered to the charterer *US v Shea*, 152 US 178

Need not employ technical terminology in any particular manner

The criteria and consequences are easily understood

But application to an infinite variety of circumstances

Owner may impose reasonable restrictions on the use of the vessel, its master, trading routes and types of service

But will be scrutinized if there is any doubt the charter is a demise

And emphasis placed on transfer and control

Safety Laws/Regulations

Passenger Vessel Safety Act of 1993 – Public Law 103-206, December 20, 1993

Definition of Passenger: no more "guest" exception for owner of recreational vessel

Brings US vessels and owners/charterers to Internationally recognized standards

Sets distinction when Charters include owner provided master and crew

NVIC No. 7-94

Contains Coast Guard contemporaneous explanation of impact by PVSA.

Contains

Conclusion: When peer to peer, and becoming a charterer under a demise or bareboat charter, be prepared to demonstrate the transfer of control, particularly your full control of Master and crew, a printed version of any on-line agreement is recommended.