

## ● 设立海事赔偿责任限制基金申请指南

### **Application Guidelines for the Establishment of Liability Limitation Fund for Maritime Claims**

#### **(一) 设立海事赔偿责任限制基金的申请条件**

##### **Application conditions for establishing a liability limitation fund for maritime claims**

1、船舶所有人、承租人、经营人、救助人、保险人在发生海事事故后，依法申请责任限制的，可以向海事法院申请设立海事赔偿责任限制基金。

1. Ship owners, charterers, operators, salvors, and insurers who apply for limitation of liability according to law after a maritime accident may apply to the maritime court for the establishment of a liability limitation fund for maritime compensation.

2、船舶造成油污损害的，船舶所有人及其责任保险人或者提供财务保证的其他人为取得法律规定的责任限制的权利，应当向海事法院设立油污损害的海事赔偿责任限制基金。

2. Where a ship causes oil pollution damage, the owner of the ship and its liability insurer or other persons providing financial guarantees shall establish a limitation of liability fund for maritime compensation for oil pollution damage with the maritime court in order to obtain the right to limit liability stipulated by law.

3、设立责任限制基金的申请可以在起诉前或者诉讼中提出，但最迟应当在一审判决作出前提出。

3. The application for establishing a liability limitation fund can be filed before or during the lawsuit, but it should be filed before the first-instance judgment is made at the latest.

4、当事人在起诉前申请设立海事赔偿责任限制基金的，应当向事故发生地、合同履行地或者船舶扣押地海事法院提出。

4. Where a party applies for establishing a liability limitation fund for maritime claims before filing a lawsuit, it shall submit the application to the maritime court of the place where the accident occurred, the place where the contract was performed, or the place where the ship was arrested.

#### **(二) 申请设立海事赔偿责任限制基金应提交的材料**

##### **Materials to be submitted when applying for the establishment of a liability limitation fund for maritime claims**

##### **1、设立海事赔偿责任限制基金申请书及证据**

申请书写明所涉海事事故的事实陈述、所涉船舶具体信息的事实陈述、申请设立海事赔偿责任限制基金的具体计算方式、标准及金额的陈述、申请设立海事赔偿责任限制基金的理由及法律依据。

1. Application form and evidence for establishing a liability limitation fund for maritime claims

The application shall state the factual statement of the maritime accident involved, the factual statement of the specific information of the ship involved, the specific calculation method, standard and amount statement of the application for the establishment of the limitation of

liability fund for maritime claims, the reasons and legal basis for the application for the establishment of the limitation of liability for maritime claims fund .

## 2、申请人主体资格材料

申请人是自然人的，提交身份证明复印件；申请人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

### 2. Applicant's main qualification materials

If the applicant is a natural person, submit a copy of the identity certificate; if the applicant is a legal person or an unincorporated organization, submit a copy of the business license or organization code certificate, and the identity certificate of the legal representative or the main person in charge.

## 3、授权委托书

代理人是律师的，提交授权委托书、律师证复印件及律所公函；代理人是公司员工的，提交员工身份证复印件、授权委托书及劳动合同复印件并由公司盖章。

### 3. Power of Attorney

If the agent is a lawyer, submit a power of attorney, a copy of the lawyer's certificate and an official letter from the law firm; if the agent is a company employee, submit a copy of the employee's ID card, a power of attorney and a copy of the labor contract, which will be stamped by the company.

## 4、船舶的权属证书、国籍证书、吨位证书等船舶资料。

4. The ship's ownership certificate, nationality certificate, tonnage certificate and other ship information.

## 5、海事事故相关证据材料，例如海事声明、海事事故报告、航海日志等。

5. Evidence materials related to maritime accidents, such as maritime declarations, maritime accident reports, logbooks, etc.

## 6、列明已知利害关系人的名称、地址和联系方式。

6. List the name, address and contact information of known interested parties.

## ● 债权登记的申请指南

### Application Guidelines for Debt Registration

#### （一）债权登记的申请条件

##### Application conditions for creditor's rights registration

1、海事法院裁定强制拍卖船舶的公告发布后，债权人应当在公告期间，就与被拍卖船舶有关的债权登记。“与被拍卖船舶有关的债权”指与被拍卖船舶有关的海事债权。

1. After the announcement of the maritime court's ruling to force the auction of the ship is issued, the creditor shall register the creditor's rights related to the auctioned ship within the period of the announcement. "Claims related to the auctioned ship" refers to maritime claims related to the auctioned ship.

2、海事法院受理设立海事赔偿责任限制基金的公告发布后，债权人应当在公告期间就与特定场合发生的海事事故有关的债权申请登记。

2. After the announcement of the Maritime Court accepting the establishment of the Maritime Compensation Liability Limitation Fund is published, the creditor shall apply for registration of the creditor's rights related to the maritime accident that occurred on a specific occasion during the announcement period.

#### （二）债权登记应提交的材料

##### Materials to be submitted for creditor's rights registration

##### 1、债权登记申请书及有关债权证据

申请书写明申请海事债权登记与受偿债权的金额。在事实和理由部分写明海事债权债务产生的时间、地点、原因、经过的陈述、海事债权的主要内容。

##### 1. Application for registration of creditor's rights and relevant evidence of creditor's rights

The application shall state the application for registration of maritime claims and the amount of claims to be paid. In the part of facts and reasons, state the time, place, reason, statement of the process and the main content of the maritime claims and debts.

##### 2、债权证据

包括证明债权的具有法律效力的判决书、裁定书、调解书、仲裁裁决书和公证债权文书，以及其他证明具有海事请求的证据材料。

##### 2. Evidence of debt

Including legally effective judgments, rulings, mediation documents, arbitral awards and notarized creditor's rights documents proving claims, as well as other evidentiary materials proving maritime claims.

##### 3、申请人主体资格材料

申请人是自然人的，提交身份证明复印件；申请人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

##### 3. The applicant's main qualification materials

If the applicant is a natural person, submit a copy of the identity certificate; if the applicant is a legal person or an unincorporated organization, submit a copy of the business license or organization code certificate, and the identity certificate of the legal representative or the main person in charge.

#### 4、授权委托书

代理人是律师的，提交授权委托书、律师证复印件及律所公函；代理人是公司员工的，提交员工身份证复印件、授权委托书及劳动合同复印件并由公司盖章。

#### 4. Power of Attorney

If the agent is a lawyer, submit a power of attorney, a copy of the lawyer's certificate and an official letter from the law firm; if the agent is a company employee, submit a copy of the employee's ID card, a power of attorney and a copy of the labor contract, which will be stamped by the company.

#### 5、法律文书送达地址确认书

#### 5. Confirmation letter of delivery address of legal documents.

## ● 诉前扣押船舶申请指南

### Application Guidelines for Pre-litigation Arrest of Ships

#### （一）扣押船舶的申请条件：

##### Application conditions for arresting a ship:

1、限于《中华人民共和国民事诉讼法》第二十一条规定的 22 种海事请求，但为执行判决、仲裁裁决以及其他法律文书的除外。

Limited to the 22 types of maritime claims stipulated in Article 21 of the "Special Maritime Procedure Law of the People's Republic of China", except for the execution of judgments, arbitration awards and other legal documents.

2、因情况紧急，不立即申请保全将会使其合法权益受到难以弥补的损害的，可以向船舶所在地海事法院申请扣押船舶。

Due to the urgent situation, if the legal rights and interests of the party will be irreparably damaged if it is not immediately applied for preservation, it may apply to the maritime court of the place where the ship is located to arrest the ship.

3、船舶的确切信息。

The exact information of the ship.

4、申请人提供的担保符合法律规定。

The guarantee provided by the applicant complies with the legal requirements.

#### （二）海事请求保全扣押船舶的期限：

##### The time limit for a maritime claim to preserve and arrest a ship:

诉前申请扣船的，海事请求人应当在收到准许扣船裁定书的三十日内提起诉讼或者申请仲裁。

Where an application for arresting a ship is made before litigation, the maritime claimant shall file a lawsuit or apply for arbitration within 30 days of receiving the ruling approving the arrest of the ship.

#### （三）申请扣船所需材料：

##### Materials required for applying for ship arrest:

1、扣船申请书及证据

Application for Arrest and Evidence

申请书应注明申请人名称、被申请人名称、扣押船舶的名称、靠泊地点、靠泊时间、申请扣船的事实和理由以及要求提供担保的数额，由申请人在申请书上签字盖章。证据内容应与申请书记载事项相关。

The application form shall indicate the name of the applicant, the name of the respondent,

the name of the arrested ship, berthing place, berthing time, the facts and reasons for the application for arresting the ship, and the amount of security required. The applicant shall sign and stamp on the application form. chapter. The content of the evidence should be related to the items recorded in the application.

## 2、海事请求人提供担保

The maritime claimant provides guarantee

1) 申请人或第三人提供财产担保的, 应当出具担保书(担保书应当载明担保人、担保方式、担保范围、担保财产及价值, 担保责任承担等内容, 并附相关证据材料)。

1) If the applicant or a third party provides property guarantee, a guarantee letter shall be issued (the guarantee letter shall specify the guarantor, guarantee method, scope of guarantee, guarantee property and value, guarantee responsibility, etc., and attach relevant evidentiary materials).

2) 保险人以其与申请人签订财产保全责任险合同的方式为财产保全提供担保的, 保险人应当出具担保书(担保书载明担保人名称、被担保人名称、担保的案件、担保方式、担保范围及因申请财产保全错误, 由保险人赔偿保全人、其他利害关系人因保全所遭受的损失等内容), 保险人还应当提供营业执照(复印件)、经营许可证(复印件)、注册资本证明、法定代表人或者负责人身份证明、近五年内无违法犯罪记录且无拒不承担为财产保全申请人履行担保义务记录以及未被列入人民法院执行案件失信被执行人的书面声明; 中国保监会的批文(中国保监会财产保险公司保险条款和保险费率备案表, 加盖保险费率管理专用印章)。

2) If the insurer provides guarantee for property preservation by signing a property preservation liability insurance contract with the applicant, the insurer shall issue a guarantee letter (the guarantee letter specifies the name of the guarantor, the name of the guaranteed party, the case of guarantee, and the guarantee method, the scope of guarantee, and the insurer shall compensate the conservator and other interested parties for the losses suffered by the preservation due to errors in the application for property preservation, etc.), the insurer shall also provide the business license (copies), business license (copies), certificate of registered capital, identity certificate of the legal representative or person in charge, no record of violations or crimes in the past five years and no record of refusing to undertake the guarantee obligation for the applicant for property preservation, and a written letter from the dishonest person subject to enforcement who has not been included in the enforcement cases of the people's court Statement; approval document from the China Insurance Regulatory Commission (China Insurance Regulatory Commission property insurance company insurance clauses and premium rate filing form, affixed with a special seal for insurance premium rate management).

3) 金融监管部门批准设立的金融机构以独立保函形式可以为财产保全提供担保。

申请人或担保人系社会公众普遍认知的特大型企业或者有足够资产的金融机构, 经审查并认可后, 该申请人或者担保人 can 以本企业的信用作担保。

担保人或者其分支机构系经本市金融管理机关批准、具有兼营诉讼保全担保业务资格、近五年内无严重不良记录的融资性担保公司, 经审查认可后, 该担保人 can 以本企业的信用作担保。担保人或者其分支机构系依法设立注册在本市、具有诉讼保全担保业务资格、注册资本金在 2 亿以上、近五年内无严重不良记录的非融资性担保公司的, 经审查认可后, 该担保

人可以本企业的信用作担保。

信用担保应当提交的材料：由法定代表人签名并加盖企业法人公章的连带保证担保书；企业法人营业执照复印件、组织机构代码证复印件、法定代表人身份证明书、最近六个月的资产负债表、损益表及由其基本账户开户银行或者审计机构出具的资信证明以及《公司法》规定的相关文件材料；担保人已经提供诉讼保全担保情况的书面申报；近五年内担保人未被列入人民法院执行失信被执行人名单、担保人法定代表人未被列入限制高消费名单的书面声明；法院要求提交的其他材料。

3) The financial institution approved by the financial regulatory department can provide guarantee for property preservation in the form of an independent letter of guarantee.

The applicant or guarantor is a super-large enterprise or a financial institution with sufficient assets generally recognized by the public. After examination and approval, the applicant or guarantor can use the credit of the enterprise as a guarantee.

The guarantor or its branch is a financing guarantee company approved by the financial management authority of this city, qualified to concurrently operate the litigation preservation guarantee business, and has no serious bad records in the past five years. as a guarantee. If the guarantor or its branch is a non-financing guarantee company legally established and registered in this city, qualified for litigation preservation guarantee business, with a registered capital of more than 200 million yuan, and no serious bad record in the past five years, after examination and approval, the The guarantor can use the credit of the enterprise as a guarantee.

Materials that should be submitted for credit guarantee: a joint guarantee letter signed by the legal representative and affixed with the official seal of the enterprise legal person; a copy of the business license of the enterprise legal person, a copy of the organization code certificate, the identity certificate of the legal representative, the latest six months The balance sheet, profit and loss statement, and the credit certificate issued by the bank where the basic account is opened or the audit institution, as well as the relevant documents and materials stipulated in the "Company Law"; the guarantor has provided a written declaration of litigation preservation guarantee; the guarantor has not been Written statement that it is included in the list of untrustworthy persons subject to enforcement by the people's court and that the legal representative of the guarantor is not included in the list of restricted high consumption; other materials required by the court.

4) 实物担保，应当提供担保实物清单、存放地点以及保管人员名单或者仓库等物权凭证。必要时还需提供评估机构对实物价值的评估报告。

4) For physical guarantees, a physical list of the guarantees, a storage location, and a list of custodians or warehouses and other proofs of property rights shall be provided. If necessary, an assessment report on the value of the object must be provided by the assessment agency.

5) 以已经登记的不动产、登记动产担保的，应当提供登记机关出具的他项权利登记信息和无司法限制等证明文件。

5) If the registered real estate or registered movable property is used as guarantee, the registration information of other rights issued by the registration authority and proof documents such as no judicial restrictions shall be provided.

6) 以债券、存款单、提单、知识产权权益证书等权利凭证担保的，应当提供债券、存

款单、提单、知识产权权益证书等权利凭证原件，由法院代为保管。

6) Where bonds, deposit receipts, bills of lading, intellectual property rights certificates and other certificates of rights are used as guarantees, the originals of bonds, deposit certificates, bills of lading, intellectual property rights certificates and other certificates of rights shall be provided, and the court shall keep them on its behalf.

### 3、申请人主体资格材料

The applicant's main qualification materials

申请人是自然人的，提交身份证明复印件；申请人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

If the applicant is a natural person, submit a copy of the identity certificate; if the applicant is a legal person or an unincorporated organization, submit a copy of the business license or organization code certificate, and the identity certificate of the legal representative or the main person in charge.

### 4、授权委托书

Power of Attorney

代理人是律师的，提交授权委托书、律师证复印件及律所公函；代理人是公司员工的，提交员工身份证复印件、授权委托书及劳动合同复印件并由公司盖章。

If the agent is a lawyer, submit a power of attorney, a copy of the lawyer's certificate and an official letter from the law firm; if the agent is a company employee, submit a copy of the employee's ID card, a power of attorney and a copy of the labor contract, which will be stamped by the company.

### 5、法律文书送达地址确认书

Confirmation letter of delivery address of legal documents



## ● 船舶优先权催告申请指南

### Guidance for Application for Reminder of Maritime Lien

#### （一）船舶优先权催告申请条件

##### Conditions for application for a maritime liens reminder

船舶转让时，受让人可以向海事法院申请船舶优先权催告，催促船舶优先权人及时主张权利，消灭该船舶附有的船舶优先权。

1. When the ship is transferred, the transferee can apply to the Maritime Court for a maritime lien claim, urging the maritime lien holder to claim the right in time, and eliminate the maritime lien attached to the ship.

2、受让人申请船舶优先权催告的，应当向转让船舶交付地或者受让人所在地海事法院提出。

2. If the transferee applies for a maritime lien claim, it shall file the request with the maritime court at the place where the transferred ship is delivered or where the transferee is located.

#### （二）船舶优先权催告申请应提交的材料

##### The materials to be submitted for the application for maritime liens reminder

##### 1、船舶优先权催告申请书

申请事项写明船舶的名称、申请船舶优先权催告的事实和理由。

##### 1. Application form for notification of maritime liens

The application items state the name of the ship, the facts and reasons for the application for the claim of the ship's lien.

##### 2、船舶转让、受让的证据材料

包括船舶的权属证书、国籍证书等船舶信息的证据材料及船舶的买卖合同等证据。

##### 2. Evidence for the transfer and transfer of the ship

Including ship ownership certificates, nationality certificates and other ship information evidence materials and ship sales contracts and other evidence.

##### 3、申请人主体资格材料

申请人是自然人的，提交身份证明复印件；申请人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

##### 3. The applicant's main qualification materials

If the applicant is a natural person, submit a copy of the identity certificate; if the applicant is a legal person or an unincorporated organization, submit a copy of the business license or organization code certificate, and the identity certificate of the legal representative or the main person in charge.

#### 4、授权委托书

代理人是律师的，提交授权委托书、律师证复印件及律所公函；代理人是公司员工的，提交员工身份证复印件、授权委托书及劳动合同复印件并由公司盖章。

#### 4. Power of Attorney

If the agent is a lawyer, submit a power of attorney, a copy of the lawyer's certificate and an official letter from the law firm; if the agent is a company employee, submit a copy of the employee's ID card, a power of attorney and a copy of the labor contract, which will be stamped by the company.

#### 5、法律文书送达地址确认书

#### 5. Confirmation letter of delivery address of legal documents

● 海事强制令申请指南

**Application Guide for Maritime Injunction**

**（一）海事强制令的申请条件：**

**Requirements for applying for a maritime injunction:**

1、请求人有具体的海事请求；

1. The requester has a specific maritime request;

2、需要纠正被请求人违反法律规定或合同约定的行为；

2. It is necessary to correct the behavior of the respondent in violation of the law or the contract;

3、情况紧急，不立即作出海事强制令将造成损害或者使损害扩大。

3. If the situation is urgent, failure to issue a maritime injunction immediately will cause damage or expand the damage.

4、请求人提供的担保符合法律规定。

4. The guarantee provided by the claimant complies with the law.

**（二）申请海事强制令所需材料：**

**Materials required for applying for a maritime injunction:**

1、海事强制令申请书及证据

强制令申请书为一式两份（正本），注明申请人名称、被申请人名称、请求事项、标的物所在的地点、场所、申请的事实和理由、由申请人签字盖章。所附证据显示的有关船舶名称、货物标记、单证编号等内容应与申请书记载的内容一致。

1. Application for maritime injunction and evidence

The application for injunction is in duplicate (original), indicating the name of the applicant, the name of the respondent, the request, the location and location of the subject matter, the facts and reasons for the application, and signed and sealed by the applicant. The attached evidence shows the name of the ship, cargo mark, document number and other content should be consistent with the content recorded in the application.

2、担保函

现金或金融机构出具的独立保函。

2. Letter of Guarantee

Cash or a separate letter of guarantee issued by a financial institution.

3、申请人主体资格材料

申请人是自然人的，提交身份证明复印件；申请人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

### 3. The applicant's main qualification materials

If the applicant is a natural person, submit a copy of the identity certificate; if the applicant is a legal person or an unincorporated organization, submit a copy of the business license or organization code certificate, and the identity certificate of the legal representative or the main person in charge.

### 4、授权委托书

代理人是律师的，提交授权委托书、律师证复印件及律所公函；代理人是公司员工的，提交员工身份证复印件、授权委托书及劳动合同复印件并由公司盖章。

### 4. Power of Attorney

If the agent is a lawyer, submit a power of attorney, a copy of the lawyer's certificate and an official letter from the law firm; if the agent is a company employee, submit a copy of the employee's ID card, a power of attorney and a copy of the labor contract, which will be stamped by the company.

### 5、法律文书送达地址确认书

### 5. Confirmation letter of delivery address of legal documents