

# TECHNICAL ADVISORY

## DIVISION OF MOTORIST SERVICES



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<b>To:</b>	<b>Tax Collectors and License Plate Agents</b>	
<b>Subject:</b>	<b>Repossession Recovery Attempt Stops</b>	
<b>Advisory Date:</b>	<b>09/21/12</b>	<b>Implementation Date: Immediately</b>
<b>Advisory Number:</b>	<b>R12-09</b>	

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This Technical Advisory is to inform you the Division of Motorist Services has received a Legal Opinion from our Office of General Counsel concerning Repossession Recovery Attempt stops (RA). We were advised by our Legal Counsel to suspend enforcement of section 320.1316, Florida Statutes, until further notice. A copy of the legal opinion is attached for your information

The Division is currently in the process of working with Information Systems Administration (ISA) to satisfy or delete all open Repossession Recovery Attempt stops. Until then, if a customer comes in to your office to renew his or her registration and this stop appears on the record, contact the Field Support Center for assistance in removing the stop.

This may cause an increase in telephone calls to your offices from lienholders inquiring about their lien. Please provide a copy of this Technical Advisory and the legal opinion, which explain the reason behind this decision. The department has attempted to reach out and make contact with the affected parties, but this process will take time.

If you have any further questions, contact the Field Support Center.

DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES  
OFFICE OF GENERAL COUNSEL

September 18, 2012

TO: STACY ARIAS  
Chief of Staff

BOYD WALDEN  
Director, Division of Motorist Services

STEVEN FIELDER  
Deputy Director, Division of Motorist Services

VIA: STEPHEN D. HURM   
General Counsel

FROM: RICHARD L. BROWN   
Assistant General Counsel

SUBJECT: Implementation of Section 320.1316, F.S.  
Docket Number: 2012-6505

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**QUESTION PRESENTED:**

The Division of Motorist Services has asked substantially the following question: How do motorists whose names have been placed "on the list of persons who may not be issued a license plate, revalidation sticker, or replacement license plate for any motor vehicle under s. 320.03(8)..." pursuant to s. 320.1316, F.S., appeal such decision or otherwise challenge the agency's action?

**RESPONSE:**

As discussed more fully below, the statute appears problematic. Legislative changes may be necessary to clarify the rights of motor vehicle owners and lienors.

**DISCUSSION:**

Section 320.1316, F.S.,<sup>1</sup> provides that a lienor who claims a lien on a vehicle pursuant to s. 319.27, F.S., may submit to the Department of Highway Safety and Motor Vehicles (DHSMV) a "notice to surrender a vehicle or vessel that has been disposed of, concealed, removed, or destroyed." Upon receipt of this notice, the statute requires the Department to "...place the name of the registered owner of that vehicle on the list of those persons who may not be issued a license plate, revalidation sticker, or replacement license plate for any motor vehicle under s. 320.03(8)..."

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<sup>1</sup> The statute was created by s. 4, ch. 2009-206, Laws of Florida.

Stacy Arias  
Boyd Walden  
Steven Fielder  
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Section 320.03(8), in turn states, "If the applicant's name appears on the list referred to in s. 316.1001(4), s. 316.1967(6), or s. 713.78(13), a license plate or revalidation sticker may not be issued until that person's name no longer appears on the list or until the person presents a receipt from the governmental entity or the clerk of court that provided the data showing that the fines outstanding have been paid." The subsection goes on to address various matters related to the three statutes mentioned therein, but says nothing about s. 320.1316, F.S., either expressly or by inference.

Section.320.02(17) addresses how the Department must deal with persons served with a notice to surrender, stating in relevant part, "[i]f any applicant's name appears on a list of persons who may not be issued a license plate, revalidation sticker, or replacement license plate after a written notice to surrender a vehicle was submitted to the department by a lienor as provided in s. 320.1316, the department may withhold renewal of registration or replacement registration of any motor vehicle owned by the applicant at the time the notice was submitted by the lienor." (Emphasis supplied.)

**CONCLUSION:**

Due to concerns about the opportunity for citizens to appeal DHSMV decisions to levy these "registration stops," this office recommends suspending enforcement of s. 320.1316, F.S., until further notice. Such action does not affect s. 320.02, F.S., which continues to authorize DHSMV to withhold registration or re-registration of any motor vehicle if an owner has a driver license suspended for failure to pay any fine levied under Chapters 318 or 322, Florida Statutes.

Please refer to the above referenced docket number when submitting further inquiries regarding this matter.

RLB/plt

cc: DHSMV Attorneys