

Motor Vehicle Procedure Manual

Title and Lien

APPLICATION FOR CERTIFICATE OF TITLE ON A MOTOR VEHICLE, MOBILE HOME OR VESSEL UNDER A FLORIDA COURT ORDER OF DISSOLUTION OF MARRIAGE

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Legal Authority

[Section 319.28 \(1\)\(a\) and \(2\)\(a\), Florida Statutes](#), Transfer of ownership by operation of law.

[Section 328.01\(3\)\(b\), Florida Statutes](#), Application for certificate of title.

The Florida Rules of Civil Procedure in Rule 1.570 (d) provides:

Vesting Title - If the judgment is for a conveyance, transfer, release or acquittance of real or personal property, the judgment shall have the effect of a duly executed conveyance, transfer, release or acquittance that is recorded in the county where the judgment is recorded. A judgment under this subdivision shall be effective notwithstanding any disability of a party.

Description and Use

This procedure provides information and instructions to assist employees of the tax collector, license plate agent, and Florida Highway Safety and Motor Vehicles (FLHSMV) in processing applications for certificate of title to a Motor Vehicle, Mobile Home or Vessel following a Dissolution of Marriage (Divorce).

As of July 01, 2023, FLHSMV has updated the Form HSMV 82040 Application for Certificate of Title With/Without Registration. HSMV 82040 has been updated into three separate forms:

- HSMV 82040 MV – Application for Certificate of Motor Vehicle Title - [HSMV 82040 MV](#)

HSMV 82040 MV should be used when processing applications for certificate of title for the following vehicle types:

- AU – Auto
- BS – Bus
- MC – Motorcycle
- OH – Off-Highway
- TO – Tools
- TR – Truck
- TT – Travel Trailers
- VT – Vehicle Trailers

- HSMV 82040 VS – Application for Certificate of Vessel Title – [HSMV 82040 VS](#)

HSMV 82040 VS should be used when processing applications for certificate of title for the following vehicle type: VS – Vessel

- HSMV 82040 MH – Application for Certificate of Mobile Home – [HSMV 82040 MH](#)

HSMV 82040 MH should be used when processing applications for certificate of title for the following vehicle type: MH – Mobile Home

Effective July 01, 2023, all certificate of Florida titles issued for Vessels will be required to be processed using Form HSMV 82040 VS – Application for Certificate of Vessel Title. The signed Form HSMV 82041 will no longer be accepted in lieu of Form HSMV 82040 VS.

FLHSMV anticipates accepting the current HSMV 82040 – Application for Certificate of Title With/Without Registration for Motor Vehicles and Mobile Homes until December 31, 2023.

Effective January 01, 2024, all certificate of Florida titles issued for Motor Vehicles and Mobile Homes will be required to be processed using Forms HSMV 82040 MV – Application for Certificate of Motor Vehicle Title and HSMV 82040 MH – Application for Certificate of Mobile Home Title.

General Information

- A. When a motor vehicle, mobile home or vessel is in joint ownership, (married couple), and a divorce has been decreed or an interim order is issued by a Florida court, the order represents a judgment. This judgment usually specifies ownership of assets in cases involving motor vehicles, mobile homes or vessels.
- B. The judgment or settlement agreement must make specific reference to a motor vehicle, mobile home or vessel by referencing the certificate of title number, vehicle/hull identification number, make, year, etc. In the absence of a motor vehicle, mobile home or vessel's identification number, there must be other identifying characteristics sufficient to show the motor vehicle, mobile home or vessel described in the application is the same motor vehicle, mobile home or vessel referenced in the judgment.
- C. The judgment or agreement will act as the conveying document when such words as "transfer" and "convey" are used or when such phrases as: "Spouse A shall have sole and separate property," "Spouse B shall have exclusive ownership and possession," or "Motor Vehicle, Mobile Home or Vessel shall belong to "Spouse B" are used.
- D. Pertinent Questions to Ask:
 - 1. Do you have a certificate of title?
 - 2. Is the certificate of title from Florida or out-of-state?
 - 3. Has the spouse signed the certificate of title for transfer? (This is not mandatory if the order conveys ownership.)
 - 4. Will the spouse sign the certificate of title?
(This is not mandatory if the order conveys ownership.)
 - 5. Did the divorce decree specify that you are to receive this motor vehicle, mobile home or vessel?
 - 6. Do you have a copy of the divorce decree or court order?

Required Documentation

- A. When the motor vehicle, mobile home or vessel was previously titled in Florida:
 - 1. The Florida Certificate of Title. If the certificate of title is not available, you must indicate this by checking the box on form HSMV 82040 (section 11) which states, "I Certify that The Certificate of Title is Lost or Destroyed".

2. A copy of the Florida court order (divorce decree) must be submitted with the application. A copy of the entire court order is not required. The only pages required are the first, the conveyance page (showing the specific information) and the page showing the judge's signature.
3. Form HSMV 82040, Application for Certificate of Title with/without Registration completed by the customer. The customer must be the person to whom the judgment conveys ownership of the motor vehicle, mobile home or vessel.
4. Lien satisfaction(s), for any liens, as shown on the motor vehicle, mobile home or vessel records of this or any other state, unless there is a "Transfer of Equity" for the outstanding lien(s).

If the lienholder will not release the certificate of title that was awarded to the spouse in the court order (because the lien has not been paid off), the transfer cannot take place.

5. Florida sales tax or specify sales tax information on form HSMV 82040.
6. The Florida license plate number transferred to or purchased for the motor vehicle or a non-use affidavit. The mobile home decal number purchased for or an RP decal transferred to or purchased for the mobile home. A non-use affidavit is not acceptable for mobile homes.

The Florida registration number transferred to or issued for the vessel or a nonuse affidavit.

7. Title fees.

B. When the motor vehicle, mobile home or vessel was previously titled out-of-state:

1. The out-of-state proof of ownership

or

Verification of ownership and lien status from the motor vehicle/vessel division of the state of previous registration. Verification may be ONE of the following:

- A computer-generated printout from an out-of-state motor vehicle/vessel division.

- A letter on original letterhead stationery from an out-of-state motor vehicle/vessel division.
 - A photocopy of the current out-of-state certificate of title.
 - A copy of the teletype printout or a statement, which shows the ownership information, lien status, and the name of the law enforcement agency that provided the verification information.
2. A copy of the Florida court order (divorce decree) must be submitted with the application.

A copy of the entire court order is not required. The only pages required are the first, the conveyance page (showing the specific information) and the page showing the judge's signature.

3. Form HSMV 82040 completed by the customer. The customer must be the person to whom the judgment conveys ownership of the motor vehicle.
4. Form [HSMV 82042](#), Vehicle Identification Number and Odometer Verification, completed by the customer(s) with the vehicle identification number verified by one of the four officials shown on the lower portion of the form.

Form HSMV 82040 may be used in lieu of the above listed form.

Verification is not required on any new motor vehicle sold by a Florida or out-of-state licensed motor vehicle dealer, any mobile home, any trailer or semi-trailer with a net weight of less than 2,000 pounds, any travel trailer, camping trailer, truck camper, fifth-wheel recreation trailer or vessel.

5. Lien satisfaction(s), for any lien(s), as shown on the motor vehicle/vessel records of this or any other state, if applicable. A "Transfer of Equity" is not allowed when the proof of ownership is an out-of-state certificate of title. However, the application for certificate of title can show the lien in the new owner's name if a lien satisfaction for the previous owner accompanies the application.
6. Florida sales tax or specify sales tax information on a completed form HSMV 82040.

7. The Florida license plate number transferred to or purchased for the motor vehicle or a non-use affidavit. The mobile home decal number purchased for or an RP decal transferred to or purchased for the mobile home. A non-use affidavit is not acceptable for mobile homes. The Florida registration number transferred to or issued for the vessel or a non-use affidavit.
8. Title fees.

Miscellaneous Information

- A. A documentation check list is attached to this procedure as Exhibit A.
- B. "Components of a Court Order for Dissolution of Marriage" is attached to this procedure as Exhibit B.
- C. A "Definitions" page is attached to this procedure as Exhibit C.
- D. See Forms Appendix for a sample of the HSMV forms referred to in this procedure.

Revision

06/26/23 Added instructions for the new Form HSMV 82040s. Added the procedure to the new format. Removed “The Department” from the procedure and changed to “Florida Highway Safety and Motor Vehicles”.

3/10/15: Revised by moving and replacing gender specific terms and added mobile home and Vessel information.

Conducted annual review, link procedures, forms and statutes. Removed all references to 82041 and changed “applicant” to “customer”. Added historical revision section.

Exhibit A

DISSOLUTION OF MARRIAGE CHECK LIST

FORMS:

FLORIDA RECORD

_____ Certificate of Title or
specify the title was lost or
destroyed (on the form 82040)

_____ HSMV 82040

_____ A copy of the Florida court order (divorce decree).

_____ Lien satisfaction(s) for any outstanding lien(s).

_____ Florida sales tax or specify the sales tax information on form HSMV 82040

_____ Florida license plate number or a non-use affidavit for the motor vehicle, the mobile home decal or RP decal for the mobile home, or the Florida registration number or a non-use affidavit for the vessel.

_____ Title fees.

OUT-OF-STATE RECORD

_____ Out- of- state proof ownership
or if not available, verification
of title/lien status from out-of
state.

_____ HSMV 82040

_____ HSMV 82042, or the VIN
verification section on form
HSMV 82040, (if applicable).

Exhibit B

COMPONENTS OF A COURT ORDER FOR DISSOLUTION OF MARRIAGE

The court order must contain the following components:

1. The name of the court.
2. The parties involved.
3. The case number.
4. The Type of Order or Body of Order.
5. The court order must refer to a motor vehicle or mobile home or in absence of the identification number, must have other identifying characteristics sufficient to show the motor vehicle described in the application is that motor vehicle included in the Order.
6. The order must have such wording as "Spouse A shall have sole and separate property," or "Spouse B shall have exclusive ownership and possession, or "Vehicle shall belong to the Spouse B, " to act as the conveying document without the transferring spouse's signature.
7. The date the Order was entered.
8. The identification of the Judge, to include typed name or signature, either manual or facsimile. Order may restore a former (Maiden) name.

EXAMPLE:
IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT, IN AND FOR ORANGE COUNTY, FLORIDA (1)

IN RE: The Marriage of

SPOUSE A.
Petitioner

and (2)

CASE NUMBER. DR-15-2810 (3)

SPOUSE B.
Respondent,

AMENDED FINAL JUDGMENT DISSOLVING MARRIAGE (4)

THIS CAUSE having come on before the Court upon the Petition for Dissolution of Marriage and on evidence presented, it is thereupon

ORDERED AND ADJUDGED as follows:

A. 2010 Chevrolet Cavalier: (5) Spouse A shall be awarded this automobile and be solely responsible for the upkeep and insurance thereon. This vehicle is paid in full. Spouse A shall be responsible for getting this vehicle titled within 15 days of the date of entry of the Final Judgment. Spouse B shall cooperate in producing the title to the Department of Highway Safety and Motor Vehicles. (6)

DONE AND ORDERED in chambers at Orlando, Orange County, Florida _____ day of _____, 2020. (7)

CIRCUIT COURT JUDGE (8)

Exhibit C

DEFINITIONS

CONVEY	Transfer or "awarded to" by the court.
COURT ORDER	An order from a court that requires a person to take title.
DIVORCE	Dissolution of marriage.
DIVORCE DECREE	Court order granting divorce (usually shows property settlement).
PLAINTIFF/PETITIONER	Spouse who initiated the petition for the dissolution of marriage.
RESPONDENT	The spouse answering the petition of the Plaintiff