

Motor Vehicle Procedure Manual

Title and Lien

Transfer Of Certificate of Title by Order in Bankruptcy

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Legal Authority

[Section 319.28 \(1\)\(a\)](#), Florida Statutes, provides for the transfer of ownership of a motor vehicle or mobile home by an order issued by a bankruptcy judge.

[Section 328.01\(3\)\(b\)](#), Florida Statutes, provides for the transfer of ownership of a vessel by an order issued by a bankruptcy judge. If the application for transfer of title is based upon a contractual default, the recorded lienholder shall establish proof of right to ownership by submitting with the application the original certificate of title and a copy of the applicable contract upon which the claim of ownership is made. If the claim is based upon a court order or judgment, a copy of such document shall accompany the application for transfer of title. If, on the basis of departmental records, there appears to be any other lien on the vessel, the certificate of title must contain a statement of such a lien, unless the application for a certificate of title is either accompanied by proper evidence of the satisfaction or extinction of the lien or contains a statement certifying that any lienholder named on the last-issued certificate of title has been sent notice by certified mail, at least 5 days before the application was filed, of the applicant's intention to seek a repossessed title. If such notice is given and no written protest to

the department is presented by a subsequent lienholder within 15 days after the date on which the notice was mailed, the certificate of title shall be issued showing no liens. If the former owner or any subsequent lienholder files a written protest under oath within the 15-day period, the department shall not issue the repossessed certificate for 10 days thereafter. If, within the 10-day period, no injunction or other order of a court of competent jurisdiction has been served on the department commanding it not to deliver the certificate, the department shall deliver the repossessed certificate to the applicant, or as is otherwise directed in the application, showing no other liens than those shown in the application.

Description and Use

This procedure is provided to assist tax collector employees, license plate agents and Florida Highway Safety and Motor Vehicles (FLHSMV) in establishing requirements for the issuance of a certificate of title to a motor vehicle or vessel transferred under order in bankruptcy.

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.

Documentation Required and Special Instructions

- A. After the provisions of [section 319.28](#) or [328.01](#), Florida Statutes, have been met and an order of bankruptcy has been issued, the following documentation must be submitted to a local Tax Collector's office or license plate agency to apply for a Florida Certificate of Title:
1. If the motor vehicle, mobile home, or vessel is titled in Florida and the certificate of title is available, the "Transfer of Title by Seller" section of the Florida Certificate of Title must be accurately completed and signed by the bankruptcy trustee as transferor. If the certificate of title is conforming and the motor vehicle is not exempt from odometer disclosure or declaration, the transferee must also sign. If the certificate of title is assigned to a vessel dealer or a licensed motor vehicle dealer, the dealer's reassignment must be accurately completed by an authorized representative of the dealership.
 - a. Any one of the following documents must also be submitted:
 1. A copy of the trustee's appointment from the bankruptcy court;
or,
 2. A copy of the appointment of the interim trustee;
or,
 3. A copy of the order approving the trustee's or interim trustee's bond;
or,
 4. A copy of the Notice of Commencement of Case (Forms B 309A-I.) issued by the United States Bankruptcy Court.
 - b. A form HSMV 82040, Application for Certificate of Title with/without Registration, or HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the purchaser.

- c. Lien satisfaction(s) for any liens, as shown on the motor vehicle/vessel records of this or any other state, unless the court order preserves or releases all the liens.
 - d. Florida sales tax or specify sales tax exemption information on an accurately completed HSMV 82040 or HSMV 82041.
 - e. 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 the 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.
 - f. Title fees.
2. If the Florida Certificate of Title is not available for transfer:
- a. A bill of sale or form [HSMV 82050](#), Notice of Sale and/or Bill of Sale for a Motor Vehicle, Mobile Home, Off-Highway Vehicle or Vessel (sections 1, 2, when applicable, and 3), accurately completed by the trustee (as seller) and the purchaser.
 - b. The same documentation as listed under Documentation Required and Special Instructions section, A, 1, a-f.
3. If the motor vehicle, mobile home, or vessel is titled in Florida, and the certificate of title is lost or destroyed and there is no transfer of ownership, the trustee may apply for a duplicate certificate of title by submitting the following:
- When an owner has filed bankruptcy and a judgment is issued, only the trustee may apply for and receive a duplicate certificate of title.
- a. A form [HSMV 82101](#), Application for Duplicate or Lost in Transit/Reassignment for a Motor Vehicle, Mobile Home, or Vessel Title Certificate, accurately completed in the name of the registered owner, and signed by the trustee.
- The trustee, in completing an application for a duplicate certificate of title, should show their address on the application so the duplicate certificate of title is mailed to the trustee and not to the owner. The bankruptcy order serves as address verification for the trustee, however, the trustee must provide proof of identification.

- b. Any one of the following documents must be submitted:
 - 1. A copy of the trustee's appointment from the bankruptcy court.
or,
 - 2. A copy of the appointment of the interim trustee.
or,
 - 3. A copy of the order approving the trustee's or interim trustee's bond.
or,
 - 4. A copy of the Notice of Commencement of Case (official forms B 309A-I.)
issued by the United States Bankruptcy Court.
 - c. Lien satisfaction(s) for any liens, as shown on the motor vehicle/vessel records of this or any other state, unless the court order preserves or releases all the liens.
 - d. Title fees
4. If the motor vehicle, mobile home, or vessel is titled out of state, the following must be submitted:
- a. HSMV 82040 Registration, or HSMV 82041, accurately completed by the purchaser.
 - b. Form [HSMV 82042](#), Vehicle Identification Number (VIN) and Odometer Verification, accurately completed by the purchaser(s) with the motor 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.
or,

An affidavit from the seller(s) and the purchaser(s) verifying that the vehicle identification number shown on the affidavit is identical to the vehicle identification number shown on the motor vehicle.

Verification is not required on any vessel, mobile home; any trailer or semi-trailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

- c. Any one of the following documents must also be submitted:

1. A copy of the trustee's appointment from the bankruptcy court.
or,
 2. A copy of the appointment of the interim trustee.
or,
 3. A copy of the order approving the trustee's or interim trustee's bond.
or,
 4. A copy of the Notice of Commencement of Case (official forms B 309A-I.)
issued by the United States Bankruptcy Court.
- d. The out-of-state proof of ownership in the name of the person who filed for bankruptcy assigned by the trustee to the applicant. If the trustee assigned the out-of-state certificate of title to a vessel dealer or a licensed motor vehicle dealer, the dealer's reassignment must be signed by an authorized representative of the dealership.

If the out-of-state proof of ownership cannot be located, submit verification of title and lien status from the state where the motor vehicle, mobile home or vessel was last titled and registered and a bill of sale from the trustee to the applicant. See Procedure TL-07 Documentation Required and Special Instructions section, A, 1, b, concerning verification guidelines.

If the out-of-state proof of ownership is assigned to the person who filed for bankruptcy, submit a bill of sale or form [HSMV 82050](#), Notice of Sale and/or Bill of Sale for a Motor Vehicle, Mobile Home, Off-Highway Vehicle or Vessel (sections 1, 2, when applicable, and 3), accurately completed by the trustee (as seller) and the purchaser along with the assigned proof of ownership.

- e. Lien satisfaction(s) for any liens, as shown on the motor vehicle or vessel records of this or any other state, unless the court order preserves or releases all the liens.
- f. Florida sales tax or specify sales tax exemption information on an accurately completed form HSMV 82040 or HSMV 82041.
- g. 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 the RP decal transferred to or purchased for the mobile home. A non-use

affidavit is not acceptable for mobile homes. A Florida number would be assigned for the vessel.

h. Title fees

Miscellaneous Information

- A. If a lienholder is bankrupt and another lending institution buys the loans from the bankrupt lienholder, the trustee as shown in the letters of bankruptcy must complete lien reassignments to the new lienholder. If the bankrupt lienholder has lost or destroyed the titles, the trustee must also complete [HSMV 82101](#).
- B. If the motor vehicle, mobile home, or vessel is not titled or registered in Florida or any other state, the court order serves as proof of ownership. The court order must grant the trustee the authority to sell the motor vehicle, mobile home, or vessel.
- C. When a vessel dealer, licensed motor vehicle dealer or an individual, purchases a motor vehicle or vessel obtained by operation of law (bankruptcy) a certificate of title must be obtained in the dealer's or individual's name before the motor vehicle can be sold.
- D. When an owner has filed bankruptcy and a judgment is issued, only the trustee may apply for and receive a duplicate certificate of title.
- E. When a wrecker operator lien has been discharged/cleared through the bankruptcy process, refer to RS-50, Program Background and Special Instructions section, H, 3, for instructions on requirements for the removal of the lien.
- F. A documentation check list is attached to this procedure as Exhibit A. G. A "Definitions" page is attached to this procedure as Exhibit B. H. See Forms Appendix for a sample of the HSMV forms referred to in this procedure.

Revision(s) to Procedure

06/26/23 Added instructions for the new Form HSMV 82040s

Corrected statute and bankruptcy form numbers.

Exhibit A

DOCUMENTATION CHECK LIST FOR TRANSFER BY ORDER IN BANKRUPTCY

FORMS

FLORIDA RECORD

_____ Certificate of Title,
Bill of Sale or form
HSMV 82050, sections
1,2, when applicable, & 3

_____ HSMV 82040 or 82041

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ HSMV 82042 (not applicable
to vessels).

_____ Out-of-state proof of ownership

OR

_____ Verification of title/lien status

_____ A copy of the trustee's appointment, the interim trustee's appointment, the order approving the trustee's or interim trustee's bond or Notice of Commencement of Case.

Effective Dec. 1, 2015, forms B9A- B9I have been replaced with forms B 39A-I.

_____ Lien satisfaction of any liens unless the court order preserves or releases all liens.

_____ Florida sales tax or specify sales tax exemption information on form HSMV 82040 or form HSMV 82041.

_____ Florida license plate/Registration number transferred to or issued for the motor/vessel
or a no-use affidavit or mobile home decal or RP decal.

_____ Title fees

Exhibit B

DEFINITIONS

BANKRUPT	A person who upon his or her own petition or that of his or her creditors is adjudged insolvent by a court whose property is administered for and divided among his or her creditors under a bankruptcy law.
BANKRUPTCY	Utter ruin, failure, depletion, or the like. State of being bankrupt.
TRUSTEE IN BANKRUPTCY	A person appointed by a court to administer the property of a person who has filed for bankruptcy.
INTERIM TRUSTEE	A person temporarily appointed by the court to administer the property of a person who has filed for bankruptcy.