

**Motor Vehicle Procedure Manual**

**Title and Lien**

**TRANSFER OF A CERTIFICATE OF TITLE INVOLVING GUARDIANSHIP**

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**Legal Authority**

[Chapter 744, Florida Statutes](#), provides for the guardianship of incompetents. The law does not authorize guardians to purchase, transfer, sell or record a lien against a motor vehicle or mobile home unless so ordered by the court.

**Description and Use**

This procedure provides information and instructions to assist employees of the tax collector, license plate agent, Florida Highway Safety and Motor Vehicles (FLHSMV) in establishing requirements for the transfer of certificates of title for a motor vehicle or mobile home held by a guardian.

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. If the motor vehicle or mobile home is titled in Florida and the certificate of title is available, submit the following:
1. The Florida Certificate of Title completed for transfer to the customer(s).
  2. ONE of the following documents must also be submitted:
    - The letters of guardianship of a person or property
    - A court order appointing the guardian ad litem
    - An order appointing the successor guardian
    - An appointment of a conservator (guardian) of the Estate of the person

3. A copy of the court order authorizing the purchase, transfer, sell or the recording of a lien against the motor vehicle or mobile home. When the court order authorizing the purchase, transfer, sell or recording of a lien, includes the name of the guardian, then the order would be acceptable without any of the items listed in section II-A (2).
4. Florida sales tax or specify the sales tax information on form HSMV 82040.
5. 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.
6. Title fees.

B. If the motor vehicle or mobile home is titled in Florida and the certificate of title is not available, submit the following:

1. Form [HSMV 82101](#), Application for Duplicate or Lost in Transit/Reassignment for a Motor Vehicle, Mobile Home or Vessel Title Certificate completed in the name of the registered owner and signed by the guardian. (Refer to [TL-05](#) for address verification).

The guardian completing the application for the duplicate certificate of title, should show their address on the application so that the duplicate certificate of title will be mailed to the guardian and not the owner. The court order awarding guardianship serves as address verification for the guardian; however, the guardian must provide proof of identification.

2. **ONE** of the following documents must also be submitted:

- The letters of guardianship of a person or property
- A court order appointing the guardian ad litem
- An order appointing the successor guardian
- An appointment of a conservator (guardian) of the Estate of the person

C. If the motor vehicle or mobile home is titled out of state, submit the following:

1. The out-of-state proof of ownership (title or registration if title not required) completed for transfer to the customer(s).

or,

If the out-of-state proof of ownership is not available, submit verification of ownership and lien status information from the motor vehicle division of the state of previous registration. Verification may be one of the following:

- A computer-generated printout from the out-of-state motor vehicle division.
  - A letter on original letterhead stationery from the out-of-state motor vehicle division.
  - A copy of the teletype printout or a statement which shows the ownership information, lien status and the name of the law enforcement agency and the official's name who provided the verification information.
  - A photocopy of the current out-of-state certificate of title.
2. Form HSMV 82040 completed and signed by the customer.
  3. Form [HSMV 82042](#), completed with the vehicle identification number verified by one of the four officials shown on the lower portion of the form and signed by the customer.

Section 8 of form HSMV 82040 may be used in lieu of form [HSMV 82042](#).

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 mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds or any travel trailer, camping trailer, truck camper, or fifth-wheel recreation trailer.

4. One of the following documents must accompany the application:
  - The letters or guardianship of a person or property
  - A court order appointing the guardian ad litem
  - An order appointing the successor guardian
  - An Appointment of a Conservator (guardian) of the Estate of the person

In most cases, Plenary Guardianship papers provide the guardian with complete authority to exercise all rights and powers for the incompetent, which would include the purchase, transfer, sell or recording of a lien against a motor vehicle or mobile home for the incompetent person. If complete authority is granted in the Plenary Guardianship papers, a separate court order is not required.

**The award of temporary guardianship is not an authorization to purchase, transfer, sell or recording of a lien without a specific court order.**

5. A copy of the court order authorizing the purchase, transfer, sell or the recording of a lien against the motor vehicle or mobile home.

When the court order authorizing the purchase, transfer, sell, or the recording of a lien, includes the name of the guardian, then the order would be acceptable without any of the items listed in # 4, above.

6. Florida sales tax or specify the sales tax information on a completed form HSMV 82040, Section 9.
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 the RP decal transferred to or purchased for the mobile home. A non-use affidavit is not acceptable for mobile homes.
8. Title fees.

### Miscellaneous Information

- A. Documentation check list is attached to this procedure as Exhibit A.
- B. Definitions are attached to this procedure as Exhibit B.
- C. 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. Added the procedure to the new format. Annual review conducted.**

Conducted annual review and removed all “Note” References. Added links to forms and statutes. Changed “Applicant” To “Customer”, removed all “form 82041” references. Updated language in section II (C)(4). Added historical revisions section.

06/11/2001 – Changed numbering for entire procedure, inserted Note for Plenary Guardianship, added information for sales tax to be specified on HSMV 82040 or HSMV 82041. Added complete title name to references of HSMV forms, revised definitions for “Guardian Ad Litem” and “Incompetent.” Added definitions for “Limited Guardian,” “Natural Guardian,” and “Plenary Guardian.”

## Exhibit A

### TRANSFER OF A CERTIFICATE OF TITLE INVOLVING GUARDIANSHIP CHECK LIST

#### FORMS

##### FLORIDA RECORD

\_\_\_\_\_ Certificate of Title

\_\_\_\_\_ HSMV 82040

##### OUT-OF-STATE RECORD

\_\_\_\_\_ HSMV 82040

\_\_\_\_\_ HSMV 82042, or the VIN  
Verification section on HSMV 82040

\_\_\_\_\_ Out-of-state proof of ownership or  
verification of title/lien status

Copy of one of the following:

\_\_\_\_\_ The letters of guardianship

\_\_\_\_\_ An order of appointment for guardian ad-litem

\_\_\_\_\_ An order of appointment for successor guardian

\_\_\_\_\_ An appointment as the conservator of the Estate

In most cases, Plenary Guardianship papers provide the guardian with complete authority to exercise all rights and powers for the incompetent, which would include the purchase, transfer, sell or the recording of a lien against a motor vehicle or mobile home for the incompetent person. If complete authority is granted in the Plenary Guardianship papers, a separate court order is not required.

\_\_\_\_\_ A court order authorizing the transfer, sell, purchase or the recording of a lien against the motor vehicle or mobile home.

When the court order authorizes the purchase, sell or recording of a lien and includes the name of the guardian, then the court order would be acceptable without separate proof of the guardian's appointment.

\_\_\_\_\_ Florida sales tax or specify the sales tax information on form HSMV 82040.

\_\_\_\_\_ Florida license plate number or a non-use affidavit or mobile home decal or RP decal.

\_\_\_\_\_ Title fees.



## Exhibit B

### DEFINITIONS

CONSERVATOR OF THE ESTATE	A person, official or institution designated to take over and protect the interest of an incompetent.
GUARDIAN	A person who has been appointed by the court to act on behalf of a ward's person or property, or both.
GUARDIAN AD LITEM	A person appointed by the court having jurisdiction of the guardianship or a court in which a legal matter is pending to represent a ward in that proceeding.
INCOMPETENT	A person who has been judicially determined to lack the capacity to manage at least some of the property or to meet at least some of the essential health and safety requirements of such person.
LETTERS OF GUARDIANSHIP	A court order appointing a guardian to a person or property. The letters shall specify whether the guardianship pertains to the person, or the property, or both. The letters of guardianship must state whether the guardianship is plenary (complete) or limited, and if limited, must state the powers and duties of the guardian.
LIMITED GUARDIAN	A guardian who has been appointed by the court to exercise the legal rights and powers specifically designated by court order entered after the court has found that the ward lacks the capacity to do some, but not all, of the tasks necessary to care for his or her person or property, or after the person has voluntarily petitioned for appointment of a limited guardian.
NATURAL GUARDIAN	The mother and father jointly are natural guardians of their own children and of their adopted children, during minority. If one parent dies, the natural guardianship

shall pass to the surviving parent, and the right shall continue even though the surviving parent remarries. If the marriage between the parents is dissolved, the natural guardianship shall belong to the parent to whom the custody of the child is awarded. If the parents are given joint custody, then both shall continue as natural guardians. If the marriage is dissolved and neither the father nor the mother is given custody of the child, neither shall act as natural guardian of the child. The mother of a child born out of wedlock is the natural guardian of the child and is entitled to primary residential care and custody of the child unless a court of competent jurisdiction enters an order stating otherwise.

PLENARY GUARDIAN

A person who has been appointed by the court to exercise all legal rights and powers of the ward after the court has found that the ward lacks the capacity to perform all the tasks necessary to care for his or her person or property.

SUCCESSOR GUARDIAN

A person empowered to assume the duties of guardianship if a guardian dies or becomes incapacitated.

WARD

A person for whom a guardian has been appointed