

Florida

Department of Highway Safety and Motor Vehicles

Division of Motorist Services

PROCEDURE TL-27	SUBJECT: TRANSFER OF CERTIFICATE OF TITLE UPON SALE BY A WAREHOUSEMAN'S LIEN		
DESCRIPTION AND USE: THIS PROCEDURE PROVIDES INFORMATION AND INSTRUCTIONS TO ASSIST OF TAX COLLECTOR EMPLOYEES, LICENSE PLATE AGENCY EMPLOYEES, AND THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES IN PROCESSING APPLICATIONS FOR TRANSFER OF CERTIFICATE OF TITLE UPON SALE BY A WAREHOUSEMAN'S LIEN.			
<p>I. PROVISIONS OF LAW:</p> <p><u>Section 677.102(1)(h), Florida Statutes, defines, “warehouseman,” as a person engaged in the business of storing goods for hire.</u></p> <p>Section 677.209, Florida Statutes, provides for a warehouseman's lien for charges and expenses or a security interest for charges such as for money advances and interest.</p> <p>Section 677.210, Florida Statutes, provides for the enforcement of a warehouseman’s lien.</p> <p><u>Section 50.011, Florida Statutes, provides that a newspaper which is printed and published periodically once a week (or more often) is considered to be in general circulation.</u></p> <p><u>Section 50.031, Florida Statutes, provides that a newspaper of “general circulation” is a newspaper (business) that (at the time of publication) has been in existence for at least one (1) year.</u></p> <p>II. DOCUMENTATION REQUIRED AND SPECIAL INSTRUCTIONS:</p> <p>After all statutory requirements have been met, the following documentation should be submitted to the tax collector’s office or license plate agency to be screened for completeness and accuracy:</p> <p><u>A. If the motor vehicle is CURRENTLY TITLED IN FLORIDA:</u></p> <ol style="list-style-type: none"> <u>1.</u> Form HSMV 82040, Application for Certificate of Title with/without Registration, <u>or form HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the purchaser(s).</u> <u>2.</u> A copy of the notice which was delivered in person or sent by registered or certified mail to all persons known to claim an interest in the motor vehicle, including the registered owner and lienholder(s) of record, to the address shown on the motor vehicle records of this or any other state. This notice must include: <ol style="list-style-type: none"> a. An itemized statement of the claim (<u>amount due</u>). b. An accurate description of the motor vehicle including, the make, year and vehicle identification number. 			
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<p>c. A demand for payment within a specified time (not less than 10 days after delivery/receipt of the notification), AND</p> <p>d. A clear statement advising that unless the claim is paid within that time the motor vehicle will be advertised for sale and sold by auction at a specified time and place, <u>(pursuant to section 677.210, Florida Statutes)</u>.</p> <p>NOTE: If the notice was mailed, <u>the original or certified copy of the post office return receipt card for the registered or certified mail or the returned unclaimed and unopened registered or certified letter(s) must be submitted with all other required documentation.</u></p> <p style="text-align:center"><u>OR</u></p> <p>If the notice was delivered in person, a <u>notarized or perjury clause affidavit</u> attesting to that fact must be submitted <u>with all other required documentation.</u></p> <p>3. A copy of the warehouse receipt which shows a description of the motor vehicle, including the make year and vehicle identification number.</p> <p>4. A copy of the newspaper advertisement (<u>dated after the specific date which was given for payment of the claim, as shown in the notice</u>) which was published once a week for 2 consecutive weeks in a newspaper of general circulation where the sale is to be held. <u>The sale must be held at the nearest suitable place to where the motor vehicle is held or stored.</u></p> <p>NOTE: <u>The sale may take place 15 calendar days after the 1st newspaper publication.</u></p> <p style="text-align:center"><u>OR</u></p> <p><u>If the there is no newspaper of general circulation where the sale is to be held:</u></p> <p><u>Submit a copy of the posted advertisement which was posted at least 10 calendar days before the sale in not less than 6 conspicuous (visible) places in the neighborhood of the proposed sale.</u></p> <p>NOTE: <u>The 10 calendar days do not include the date of the posting or the date of the sale.</u></p> <p>The advertisement must include the following:</p> <p>a. An accurate description of the motor vehicle, including the make, year and vehicle identification number,</p> <p>b. The name of the person (warehouse tenant) on whose account it is being held,</p> <p>c. The time and place of the sale, (sale must take place at least 15 <u>calendar</u> days after the first publication)</p> <p style="padding-left: 40px;">and,</p>	
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<p>d. The dates the advertisements were published or posted.</p> <p><u>5.</u> <u>If the vehicle is sold, a bill of sale from the warehouseman to the purchaser showing the selling price and a complete description of the vehicle. If the vehicle is not sold at the sale, the warehouseman MUST get a title issued in their name.</u></p> <p><u>6.</u> Lien satisfaction(s) for any lien(s), as shown on the motor vehicle records of this or any other state.</p> <p><u>7.</u> Florida sales tax or <u>specify the sales tax information on an accurately completed form HSMV 82040, Application for Certificate of Title with/without Registration, or form HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration.</u></p> <p><u>8.</u> 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 a mobile home.</p> <p><u>9.</u> Title Fees.</p> <p><u>B.</u> <u>If the motor vehicle was PREVIOUSLY TITLED OUT OF STATE:</u></p> <p><u>1.</u> Form HSMV 82042, Vehicle Identification Number and Odometer Verification, accurately completed by the applicant(s) with the motor vehicle identification number verified by one of the four officials shown on the lower portion of the form.</p> <p>Form HSMV 82040, Application for Certificate of Title with/without Registration, may be used in lieu of the above listed form.</p> <p>Or,</p> <p>An affidavit from the seller(s) and the purchaser(s) verifying that the identification number shown on the affidavit is identical to the identification number shown on the motor vehicle.</p> <p>Verification is not required on any 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.</p> <p><u>2.</u> Verification of ownership and lien status information from the motor vehicle division of the state of previous registration, if applicable. Verification may be one of the following:</p> <p>(a.) A computer generated printout from the out-of-state motor vehicle division.</p>	
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<p style="text-align:center">(b.) A letter on original letterhead stationery from the out-of-state motor vehicle division.</p> <p style="text-align:center">(c.) A photocopy of the current out-of-state certificate of title.</p> <p style="text-align:center">(d.) A copy of the teletype printout or a statement which shows the ownership information, lien status and the name of the law enforcement agency who provided the verification information.</p> <p>3. When the state in which the motor vehicle was previously registered is unknown, submit a <u>notarized or perjury clause</u> affidavit signed by an authorized representative of the warehouse company stating that fact. The affidavit must state that at the time the motor vehicle was left at the warehouse, no license plate was on the motor vehicle.</p> <p><u>4. Documentation as listed under II, A, 1-9, is also required.</u></p> <p>III. MISCELLANEOUS INFORMATION:</p> <p><u>A. Before the sale, any person claiming a right to the motor vehicle may pay the amount necessary to satisfy the lien and the reasonable expenses incurred. In this case, the motor vehicle must NOT be sold, but must be retained by the warehouseman subject to the terms of the receipt and Florida Statutes.</u></p> <p><u>B. The warehouseman may satisfy his/her lien from the proceeds of the sale, but must hold the balance, if any, for delivery on demand to any person to whom he/she would have been bound to deliver the goods.</u></p> <p><u>C.</u> A documentation check list is attached to this procedure as Exhibit A.</p> <p><u>D.</u> A time line has been attached to this procedure as Exhibit <u>B.</u></p> <p><u>E.</u> See Forms Appendix for a sample of the HSMV forms referred to in this procedure.</p>	
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EXHIBIT A

WAREHOUSEMAN'S LIEN CHECK LIST

FORMS

FLORIDA RECORD

OUT-OF-STATE

_____ HSMV 82040 or 82041

_____ HSMV 82040 or 82041

_____ HSMV 82042, or the VIN verification section on form HSMV 82040

_____ Verification of title/lien status or affidavit stating previous state is "UNKNOWN."

_____ Copy of written notice which must contain:

_____ Itemized statement of claim.

_____ Description of motor vehicle, including the year, make and VIN.

_____ Demand for payment within a specified time (not less than 10 days after receipt of the notification).

_____ A statement that unless the claim is paid within that time, the goods will be advertised for sale and sold by auction at a specified time and place, pursuant to s. 677.210, Florida Statutes.

_____ Proof that the written notice was:

_____ Mailed (original or certified copy of the post office returned receipt card for the registered or certified mail OR the returned unclaimed and unopened registered or certified letter(s)).

or,

_____ Hand delivered (notarized or perjury clause affidavit, stating notice was hand delivered).

_____ Copy of warehouse receipt which shows description of motor vehicle including year, make and vehicle identification number (VIN).

_____ Copy of ONE of the following Notices of Public Sale:

_____ Newspaper advertisement showing the name of the newspaper and the dates published.

or,

_____ Posted notice.

_____ If the vehicle is sold, a bill of sale from the warehouseman to the purchaser, showing the selling price and a complete description of the vehicle.

_____ Lien satisfaction(s), if applicable.

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

_____ Florida license plate number or non-use affidavit.

_____ Title Fees.

EXHIBIT B

**WAREHOUSEMAN'S LIEN
TIME LINE**

