

Motor Vehicle Procedure Manual

Vessel and Title

**Application for a Vessel Certificate of Title Upon Disposition of Personal
Property Under the Nonjudicial Proceedings for Nonpayment of Storage
Charges**

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Legal Authority

[Section 327.02\(19\), Florida Statutes](#), defines “Marina.” See definitions section of this procedure.

[Section 328.15\(4\), Florida Statutes](#), provides that the Department of Highway Safety and Motor Vehicles under precautionary rules and regulations to be promulgated by it may permit the use, substitution of the formal satisfaction of lien, of other methods of satisfaction, such

as perforation, appropriate stamp, or otherwise, as it deems reasonable and adequate.

[Section 328.17, Florida Statutes](#), Nonjudicial sale of vessels.

It is the intent of the Legislature that any nonjudicial sale of any vessel held for unpaid costs, storage charges, or dockage fees, or any vessel held for failure to pay removal costs pursuant to [s. 327.53\(7\)](#), be disposed of pursuant to the provisions of this section.

1. The Department of Highway Safety and Motor Vehicles shall provide certification forms for the nonjudicial sale of vessels as authorized by this section.
2. For purposes of this section, “owner” shall mean the person holding title to the vessel, or any person the marina reasonably believes to be authorized to act for the vessel.
3. A marina, as defined in [s. 327.02](#), shall have:
 - a. A possessory lien upon any vessel for storage fees, dockage fees, repairs, improvements, or other work-related storage charges, and for expenses necessary for preservation of the vessel or expenses reasonably incurred in the sale or other disposition of the vessel. The possessory lien attaches as of the date the vessel is brought to the marina or as of the date the vessel first occupies rental space at the marina facility.
 - b. A possessory lien upon any vessel in a wrecked, junked, or substantially dismantled condition which has been left abandoned at a marina for expenses reasonably incurred in the removal and disposal of the vessel. The possessory lien attaches as of the date the vessel arrives at the marina or as of the date the vessel first occupies rental space at the marina facility. If the funds recovered from the sale of or the scrap or salvage value of the vessel are insufficient to cover the expenses reasonably incurred by the marina in removing and disposing of the vessel, all costs in excess of recovery shall be recoverable against the owner of the vessel. For a vessel damaged as a result of a named storm, the provisions of this paragraph shall be suspended for 60 days after the date the vessel is damaged in the named storm. The operation of the provisions specified in this paragraph run concurrently with, and do not extend, the 60- day notice periods provided in [subsections \(5\) and \(7\)](#).
4. A marina’s possessory lien may be satisfied as follows:
 - a. The marina shall provide written notice to the vessel’s owner, delivered in person or by certified mail to the owner’s last known address. The notice shall also be conspicuously

posted at the marina and on the vessel.

- b. In addition to notice provided to the vessel owner under [subparagraph 1.](#), the marina shall provide written notice to each person or entity that:
 - i. Holds a security interest on the vessel as shown in the records of the Florida Department of Highway Safety and Motor Vehicles with respect to state- titled vessels.
 - ii. Holds a preferred ship mortgage or has filed a claim of lien with the United States Coast Guard Vessel Documentation Center.
 - iii. Holds a security interest against the vessel under the Uniform Commercial Code. d. Has perfected a lien against the subject vessel by filing a judgment lien certificate pursuant to [ss. 55.201-55.209.](#)
 - iv. Has perfected a lien against the subject vessel by filing a judgment lien certificate pursuant to [ss. 55.201-55.209.](#)
5. When a vessel displays a foreign country identification or displays registration numbers from a state other than Florida, the marina shall conduct a reasonable lien search of the vessel registration records in the jurisdiction of registry to determine if there is a lienholder who is entitled to notice pursuant to [subparagraph 2.](#) Failure to discover a foreign national or non- Florida United States lienholder after a good faith effort to conduct such a lien search shall not prevent the sale or removal of a vessel from the marina to satisfy the marina's possessory lien or a purchaser, in good faith, from taking title of the vessel, pursuant to [subsections \(7\) and \(11\).](#)
6. The requirements of [subparagraph 2.](#) shall be satisfied if the marina:
 - a. Obtains ownership documentation for the vessel and trailer, if applicable, from the Department of Highway Safety and Motor Vehicles or another agency with which the vessel is registered.
 - b. Obtains an abstract from the United States Coast Guard for a vessel that is documented as defined in [46 U.S.C. s. 30101;](#)
 - c. Performs a current Uniform Commercial Code lien search;
 - d. Performs a current Florida judgment lien certificate search; and

- e. Complies with [subparagraph 3.](#) with regard to vessels registered in a foreign country or in a state other than Florida.
- 7. The written notice to the vessel owner and lienholders required by this paragraph shall be made at least 60 days prior to any sale of the vessel under this section.

The notice shall include:

- a. An itemized statement of the marina's claim, showing the sum due at the time of the notice and the date upon which the sum became due.
- b. A description of the vessel.
- c. A demand for payment.
- d. A conspicuous statement that, unless the claim is paid within the time stated in the notice, the vessel will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.
- e. The name, street address, and telephone number of the marina that the owner or lienholder may contact to respond to the notice.
- f. Any notice given pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service, certified and properly addressed with postage prepaid.
- g. If the fees, costs and late payment interest that give rise to such a lien are due and unpaid 60 days after the vessel owner and lienholder are given written notice, the marina may sell the vessel, including its machinery, rigging and accessories as provided for in [subsection \(8\)](#); or the marina may, at its option, remove the vessel from the marina or from the waters of the state at the owner's expense pursuant to [paragraph \(4\)\(b\)](#).
- h. The marina shall first publish an advertisement of the sale or other disposition once a week for 2 consecutive weeks in a newspaper of general circulation in the area in which the marina is located. Inasmuch as any sale may involve more than one vessel, a single advertisement may be used to dispose of more than one vessel at any one sale.
- i. The advertisement shall include:

- i. A brief and general description of the vessel.
 - ii. The address of the marina facility or the address where the marina is located and the name of the owner of the vessel.
 - iii. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place no sooner than 15 days after the first publication.
 - j. If there is no newspaper of general circulation in the area in which the marina is located, the advertisement shall be posted at least 10 days before the date of the sale or other disposition in no fewer than three conspicuous places in the neighborhood in which the marina is located.
8. Any sale or other disposition of the vessel shall conform to the terms of the notification as provided for in this section and shall be conducted in a commercially reasonable manner, as that term is used in [S. 679.610](#).
9. Before any sale or other disposition of the vessel pursuant to this section, the owner or the lienholder may pay the amount necessary to satisfy the lien and the reasonable expenses and late payment interest incurred under this section and thereby redeem and take possession of the vessel. Upon receipt of such payment, the marina shall return the property to the owner or lienholder making such payment and thereafter shall have no liability to any person with respect to such vessel.
10. Unless otherwise provided by law, a purchaser in good faith of a vessel sold to satisfy a lien provided for in this section takes the property free of any claims other than a prior lien perfected under state or federal law.
11. In the event of a sale under this section, the marina may satisfy its lien from the proceeds of the sale, provided the marina's lien has priority over all other liens on the vessel. The lien rights of secured lienholders automatically also attach to the remaining proceeds of the sale. The balance, if any, shall be held by the marina for delivery on demand to the owner. A notice of any balance shall be delivered by the marina to the owner in person or by certified mail to the last known address of the owner. If the owner does not claim the balance of the proceeds within 1 year after the date of sale, the proceeds shall be deemed abandoned, and the marina shall have no further obligation with regard to the payment of the balance. If the marina's lien does not have priority over all other liens, the sale proceeds shall be held for the benefit of the holders of those liens having priority. A notice of the amount of the sale proceeds shall be delivered by the marina to the owner or secured lienholder in person or by certified mail to the owner's or the secured lienholder's last known address. If the owner or the secured lienholder does not claim the sale proceeds within 1 year after the date of sale, the proceeds shall be

deemed abandoned, and the owner or the secured lienholder shall have no further obligation with regard to the payment of the proceeds.

12. In making application for transfer of title of a vessel sold pursuant to this section, the new owner shall establish proof of ownership by submitting with the application, which includes the applicable fees and the original bill of sale executed by the marina, a copy of each registered or certified letter sent by the marina to the previous owner and lienholder and a certified copy of the public notice of intent to sell published in a newspaper of general circulation in the county in which the marina is located. At the time the purchase price is paid, the marina shall provide the documentation required by this subsection to the purchaser.

[Section 50.011, Florida Statutes](#), Where and in what language legal notices are to be published.

[Section 50.031, Florida Statutes](#), Newspapers in which legal notices and process may be published.

Definitions

Marina means a licensed commercial facility that provides secured public moorings or dry storage for vessels on a leased basis. A commercial establishment authorized by a licensed vessel manufacturer as a dealership is considered a marina for nonjudicial sale purposes.

Vessel is synonymous with boat as referenced in [s. 1\(b\), Art. VII of the State Constitution](#) and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

Description and Use

This procedure provides information and instructions to assist employees of the Tax Collector, License Plate Agent and the Florida Department of Highway Safety and Motor Vehicles (FLHSMV) in establishing requirements for certificate of title to vessels sold for nonpayment of storage charges.

Documentation Required and Special Instructions

After all statutory requirements have been met, the following documentation should be submitted to the tax collector's office or license plate agent to be screened for completeness and accuracy:

A. If the vessel is Currently Titled in Florida:

1. A form [HSMV 82040 VS](#), Application for Certificate of Vessel Title, accurately completed by the applicant.
2. A copy of the written notice of non-judicial sale (which also includes a statement of default), which was delivered in person or sent registered or certified mail to the vessel owner and each recorded lienholder of said vessel registered with this state at least 60 (calendar) days prior to sale. (See [Exhibit A](#)).

Hand Delivery of Notice of Sale:

See [Exhibit D](#).

Posting at Marina or on Vessel:

The written notice must be conspicuously posted at the marina and on the vessel.

The notice shall include:

1. An itemized statement of the marina's claim, showing the sum due at the time of the notice and the date upon which the sum became due.
2. A complete description of the vessel.
3. A demand for payment.
4. A conspicuous statement that unless the claim is paid within the time stated in the notice, the vessel will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place.
5. The name, street address and telephone number of the marina that the owner or lienholder may contact to respond to the notice.

Post Office Returned Receipt Card:

The original or 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) must be submitted with all other required documentation.

Vessel Damaged by Named Storm:

For a vessel damaged because of a named storm, a marina must suspend proceedings for 60 days following the date the vessel is damaged in the named storm. If the fees remain unpaid for 60 days after the damage to the vessel from the named storm, the vessel may be sold.

1. A certified copy of the advertisement that was published once a week for 2 consecutive weeks in a newspaper of general circulation in the area in which the marina is located.

The advertisement shall include:

- a. A brief and general description of the vessel.
- b. The address of the marina facility or the address where the marina is located and the name of the owner and lienholder, if applicable, of the vessel.
- c. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place no sooner than 15 days after the first publication.

No Newspaper of General Circulation:

If there is no newspaper of general circulation in the area in which the marina is located, the advertisement shall be posted at least 10 (calendar) days before the date of the sale or other disposition in no fewer than three conspicuous places in the neighborhood in which the marina is located.

1. If the vessel is sold, a bill of sale from the marina/business to the purchaser showing the selling price and a complete description of the vessel. If the vessel is not sold at the sale, the marina/business must get a title issued in its name.

2. Lien satisfaction(s) for any lien(s) as shown on the motor vehicle records of this or any other state, if applicable.

Lien Satisfaction Cannot be Obtained:

If the lien satisfaction(s) cannot be obtained, the lien(s) should be carried forward (shown on the completed form [HSMV 82040 VS](#) and assumed by the new purchaser.

No Interest Letter:

In some instances, the lending institution will not satisfy the lien although it has no interest in or is willing to abandon the collateral of the vessel. In this case and in lieu of a form [HSMV 82260](#), Lien Satisfaction, the department will accept a letter from the lending institution stating that it has no interest in the collateral or is abandoning the collateral of the vessel.

The letter must be on formal letterhead and signed by an authorized agent of the lending institution. It must include a complete description listing the year, make, and Hull Identification Number (HIN) of the vessel. This letter must be submitted with all the necessary paperwork so the title may be issued free and clear of all liens. See [Exhibit B](#) for a sample of an acceptable letter of non-interest.

1. Florida sales tax or specify the sales tax exemption information on an accurately completed form [HSMV 82040 VS](#).
2. The Florida registration number transferred to or issued for the vessel or a non-use affidavit.
3. Title fees.

B. If the vessel was Previously Titled Out-Of-State:

1. Verification from the vessel title division or similar agency of the state of previous registration showing ownership and lien status. Verification may be one of the following:
 - a. A computer-generated printout from the out-of-state vessel title division or similar agency.
 - b. A letter on original letterhead stationery from the out-of-state vessel title division or similar agency.

- c. 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.
 - d. A photocopy of the current out-of-state title or registration, whichever is applicable.
2. When the state in which the vessel was previously registered is unknown, submit a notarized/perjury clause affidavit signed by an authorized representative of the marina stating that fact. The affidavit must state that at the time the vessel was stored at the marina, no registration number or decal was on the vessel.
- C. [Documentation as listed under Documentation Required and Special Instructions, A, 1-8.](#)

Miscellaneous Information

- A. Only commercial establishments defined as a marina in [Section 327.02\(09\)](#) are eligible to apply for a vessel certificate of title under this procedure.
- B. Any sale or other disposition of the vessel shall conform to the terms of the notification as provided for in this section and shall be conducted in a commercially reasonable manner.
- C. Before any sale or other disposition of the vessel pursuant to this section, the owner or lienholder may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the vessel. Upon receipt of such payment, the marina shall return the property to the owner or lienholder and thereafter shall have no liability to any person with respect to such vessel.
- D. Unless otherwise provided by law, a purchaser in good faith of a vessel sold to satisfy a lien provided for in this section takes the property free of any claims other than a prior lien perfected under state or federal law.
- E. The form [“Notice of Nonjudicial Sale of a Vessel” \(Exhibit A\)](#) included in this procedure is a suggested form. The forms included in this procedure are suggested forms. They are not prescribed HSMV forms. the plain meaning of a “suggested form” is that, when a statute requires an individual to submit certain information or proof of certain compliance but does not require the individual to submit that information or proof on forms prescribed by the department, then the individual is free to submit the required information or proof in whatever format he or she determines. In such event, if the department develops a suggested form to help customers understand what information or proof is required, and the

department does not deny any submission for lack of being submitted on the department's form, then the form is merely suggested. If the department requires use of a form and denies action for lack of being submitted on the form, then the form is required.

F. A "Sample Letter of Non-Interest" is attached as Exhibit B.

G. A documentation checklist is attached as [Exhibit C](#).

H. Forms referred to in this procedure are:

- Exhibit A - Notice of Nonjudicial Sale of a Vessel
- Exhibit B - Sample Letter of Non-Interest
- Exhibit C - Storage or Repair Lien Check List
- Exhibit D - Declaration of Hand Delivery

Revision(s) to Procedure

01/05/2024 Biannual Review

Statutory review and linked statutes, added Exhibit D Declaration of Hand Delivery. Added definitions.

05/01/10: Added Florida Statute to pg. 1, "Note" about letter of non-interest., new item to Misc. section and updated list level, developed new Exhibit B.

Exhibit A Notice of Nonjudicial Sale of a Vessel

NOTICE OF NONJUDICIAL SALE OF A VESSEL	
DATE _____ TO: REGISTERED OWNER NAME _____ ADDRESS _____ CITY, STATE, ZIP _____ NAMES AND ADDRESSES OF ANY OTHER PERSONS OR ANY OTHER LIENHOLDERS, CLAIMING AN INTEREST IN THE VESSEL. Name _____ ADDRESS _____ CITY, STATE, ZIP _____ LIENOR (NAME OF MARINA) NAME _____ ADDRESS _____ CITY, STATE, ZIP _____ TELEPHONE _____ Name _____	LIENHOLDER NAME _____ ADDRESS _____ CITY, STATE, ZIP _____ DESCRIPTION OF VESSEL YEAR _____ MAKE _____ FL # _____ HIN # _____ LOCATION OF VESSEL _____ _____ _____
EACH OF YOU ARE HEREBY NOTIFIED THAT THE ABOVE-DESCRIBED VESSEL WAS BROUGHT IN FOR STORAGE/REPAIRS AT THE REQUEST OF _____ ON _____ AND THE ABOVE-NAMED MARINA (PERSON WHO AUTHORIZED STORAGE) (DATE)	
IS IN POSSESSION OF AND CLAIMS A LIEN ON THE ABOVE-DESCRIBED VESSEL FOR STORAGE CHARGES ACCUMULATED IN THE AMOUNT OF: (TOTAL) \$ _____. ITEMIZED CHARGES: (REPAIR CHARGES) \$ _____, (TOTAL STORAGE CHARGES) \$ _____, FOR _____ DAYS, AT \$ _____ PER DAY, (RECOVERY CHARGES, IF APPLICABLE) \$ _____, AND (ADMINISTRATIVE FEES) _____.	
THE STORAGE CHARGES WILL CONTINUE TO ACCUMULATE AT THE RATE OF \$ _____ PER DAY.	
<u>THE LIEN CLAIMED ABOVE IS A RESULT OF THE DEFAULT OF PAYMENT TO THE MARINA NAMED ABOVE AND IS SUBJECT TO ENFORCEMENT PURSUANT TO SECTION 328.17, FLORIDA STATUTES, UNLESS SAID VESSEL IS REDEEMED FROM THE MARINA BY PAYMENT AS ALLOWED BY LAW. OTHERWISE, THE ABOVE-DESCRIBED VESSEL WILL BE SOLD AFTER 60 DAYS TO SATISFY THE LIEN.</u>	
A SALE IS TO BE HELD AT _____ COMMENCING AT _____ _____ AM/PM ON THE _____ DAY OF _____, 20_____.	
STATEMENT OF OWNER(S) RIGHTS	
BEFORE ANY SALE OR OTHER DISPOSITION OF THE VESSEL PURSUANT TO THIS SECTION, THE OWNER OR THE LIENHOLDER MAY PAY THE AMOUNT NECESSARY TO SATISFY THE LIEN AND THE REASONABLE EXPENSES AND LATE PAYMENT INTEREST INCURRED UNDER THIS SECTION AND THEREBY REDEEM AND TAKE POSSESSION OF THE VESSEL. UPON RECEIPT OF SUCH PAYMENT, THE MARINA SHALL RETURN THE PROPERTY TO THE OWNER OR LIEN HOLDER MAKING SUCH PAYMENT AND THEREAFTER SHALL HAVE NO LIABILITY TO ANY PERSON WITH RESPECT TO SUCH VESSEL.	
<u>IN THE EVENT OF A SALE UNDER THIS SECTION, THE MARINA MAY SATISFY ITS LIEN FROM THE PROCEEDS OF THE SALE, PROVIDED THE MARINA'S LIEN HAS PRIORITY OVER ALL OTHER LIENS ON THE VESSEL OTHER THAN A PRIOR LIEN PERFECTED UNDER THE STATE OR FEDERAL LAW.</u> THE LIEN RIGHTS OF SECURED LIENHOLDERS ARE AUTOMATICALLY TRANSFERRED TO THE REMAINING PROCEEDS OF THE SALE. THE BALANCE, IF ANY, SHALL BE HELD BY THE MARINA FOR DELIVERY ON DEMAND TO THE OWNER. A NOTICE OF ANY BALANCE SHALL BE DELIVERED BY THE MARINA TO THE OWNER IN PERSON OR BY CERTIFIED MAIL TO THE LAST KNOWN ADDRESS OF THE OWNER. IF THE OWNER DOES NOT CLAIM THE BALANCE OF THE PROCEEDS WITHIN 1 YEAR AFTER THE DATE OF SALE, THE PROCEEDS SHALL BE DEEMED ABANDONED, AND THE MARINA SHALL HAVE NO FURTHER OBLIGATION WITH REGARD TO THE PAYMENT OF THE BALANCE. IN THE EVENT THAT THE MARINA'S LIEN DOES NOT HAVE PRIORITY OVER ALL OTHER LIENS, THE SALE PROCEEDS SHALL BE HELD FOR THE BENEFIT OF THE HOLDERS OF THOSE LIENS HAVING PRIORITY. A NOTICE OF THE AMOUNT OF THE SALE PROCEEDS SHALL BE DELIVERED BY THE MARINA TO THE OWNER OR SECURED LIENHOLDER IN PERSON OR BY CERTIFIED MAIL TO THE OWNER'S OR THE SECURED LIENHOLDER'S LAST KNOWN ADDRESS. IF THE OWNER OR THE SECURED LIENHOLDER DOES NOT CLAIM THE SALE PROCEEDS WITHIN 1 YEAR AFTER THE DATE OF SALE, THE PROCEEDS SHALL BE DEEMED ABANDONED, AND THE OWNER OR THE SECURED LIENHOLDER SHALL HAVE NO FURTHER OBLIGATION WITH REGARD TO THE PAYMENT OF THE PROCEEDS.	
DATED THIS _____ DAY OF _____, 20____. MARINA _____ (SIGNATURE OF AUTHORIZED AGENT)	

This is a suggested not a prescribed form.

Revision Date: 01/05/24

Effective Date: Immediately



Bank

February 14, 2018

Mr. Sammy Smith
22222 Happy Street
Delightful, Florida 00000

RE: 2008 Viking XLT, with Hull Identification Number VIK0000000000000000 To

whom it may concern:

Please be advised that ABC Bank has no interest in the above-mentioned vessel.

If you have any questions in reference to this matter, please feel free to contact me at (999)999-9999.

Sincerely, Daisy

Lane
Repossession Specialist
ABC Bank

ABC Bank, 10101 Somewhere Lane, Anywhere, Florida 00000
(999)999-9999 • fax (999)999-0000

Storage or Repair Lien Checklist

Forms

Florida Record

Out of State Record

_____ [HSMV 82040 VS](#)

_____ [HSMV 82040 VS](#)

_____ A copy of the written notice of nonjudicial sale (which also includes a statement of default) which was delivered in person (Exhibit D) or sent registered or certified mail to the vessel owner and each recorded lienholder.

The written notice must be conspicuously posted at the marina and on the vessel.

_____ Certified copy if the public notice of intent to sell published in a newspaper of general circulation in the county in which the marina is located.

_____ Copy of each registered/ certified letter sent by the marina to the owner of record and lienholder.

_____ The original bill of sale from the marina to the purchaser (s) showing the selling price and a complete description of the vessel.

_____ Lien satisfaction (s)

If the lien satisfaction (s) cannot be obtained, the lien(s) should be carried forward (shown on the completed form [HSMV 82040 VS](#) and assumed by the new purchaser.

Or,

A letter of non-interest from the lending institution. See Exhibit B for example.

_____ Florida sales tax or specify sales tax exemption information on form [HSMV 82040 VS](#).

_____ Florida registration number or a non-use affidavit.

_____ Title Fees.

Exhibit D Declaration of Hand Delivery

Declaration of Hand Delivery for Vessel Certificate of Title Upon Disposition of Personal Property Under the Nonjudicial Proceedings for Nonpayment of Storage Charges'

I, _____, hereby affirm the hand delivery notice of
Print full name

non-judicial sale (which also includes a statement of default), was delivered in person to the vessel owner.

Full name of owner

And/or lienholders

Full name of lienholder

For vessel

HIN number

Year

FL number

Make

On date

Month, Day and Year

Under penalties of perjury, I declare that I have read the foregoing (document) and that the facts stated in it are true and correct.

This is a suggested form not a prescribed form.

Signature of Marina Representative