

Motor Vehicle Procedure Manual

Vessel and Title

Transfer of A Vessel Certificate of Title Upon Sale By A Self-Service Storage Facility (Mini-Warehouse) Owner’s Lien

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Legal Authority

Sections [83.805-83.806](#), Florida Statutes, provides for the creation and enforcement of a lien by sale of all personal property by the owner of a self-service storage facility for non-payment of rental, labor or other charges in relation to the personal property.

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.

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.

Description and Use

This procedure provides information and instructions to assist Tax Collector Employees and the Florida Department Of Highway Safety And Motor Vehicles in processing applications for transfer of a vessel certificate of title upon sale by a self-service storage facility owner's lien.

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 agency to be screened for completeness and accuracy:

A. **If the vessel is CURRENTLY TITLED IN FLORIDA:**

1. **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, accurately completed by the purchaser(s).**
2. A copy of the written notice which was delivered in person **or sent by certified mail** to the tenant and lienholder(s) at the address shown on the vessel records of this or any other state. **This notice must include:**
 - a. An itemized statement of the storage facility owner's claim, showing the sum due at the time of the notice and the date when the sum became due.
 - b. **The same description or a reasonably similar** description of the personal property as provided in the rental agreement.
 - c. A demand for the payment within a specified time, not less than 14 days after the delivery of the notice.
 - d. A clear statement advising that, unless the claim is paid within the time stated in the notice, the personal property 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 storage facility owner whom the tenant may contact to respond to the notice.

If the notice was mailed, the original or certified copy of the **post office** returned receipt for the certified **mail** or **the returned unclaimed and** unopened returned letter(s) **must be submitted with all other required documentation.**

OR

If the notice **was** delivered in person, a notarized **or perjury clause affidavit** attesting to that fact must be submitted **with all other require documentation.**

3. A copy of the rental agreement.
4. A copy of the **newspaper advertisement (after the specific date that was given for payment of the claim as shown in the notice) advertising the sale, which was** published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility or selfcontained storage unit is located.

The advertisement must be published at least 15 calendar days prior to the date of the sale. The 15 calendar days do not include the date of the sale or the date of the advertisement.

OR,

If there is no newspaper of general circulation in the area where the selfservice storage facility or self-contained storage unit is located:

Submit a copy of the advertisement **which was** posted at least 10 **calendar** days prior to the date of the sale or other disposition in not fewer than three conspicuous (visible) places in the neighborhood where the storage facility is located.

The ten (10) calendar days do not include the date of the posting or the date of the sale.

The advertisement must include **the following:**

- a. A brief and general description of what is believed to constitute the personal property contained in the storage unit.
 - b. The address of the storage facility or address where the unit is located and the name of the tenant.
 - c. The time, place and manner of the sale or other disposition, not sooner than 15 days after the date of the first publication.
 - d. The dates in which the advertisement was published or posted.
5. **If the vessel is sold, a bill of sale from the self-storage facility to the purchaser showing the selling price and a complete description of the vessel. If the vessel is not sold at the sale, the self-storage facility MUST get a title issued in their name.**
 6. Lien satisfaction(s) for any liens, as shown on the vessel records of this or any other state, if applicable.
 7. **Florida sales tax or specify the sales tax exemption 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.**
 8. The Florida registration number transferred to or issued for the vessel, or a nonuse affidavit.
 9. Title fees.

- B. If the vessel **was PREVIOUSLY TITLED OUT OF STATE:**
1. Verification from the motor vehicle 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 motor vehicle division.
 - b. A letter on letterhead stationery from the out-of-state motor vehicle division.
 - c. A photocopy of the **current** out-of-state certificate of title **or registration, whichever is applicable.**
 - 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.
 2. When the state in which the vessel was previously registered is unknown, submit a notarized or **perjury clause** affidavit signed by an authorized representative of the storage facility stating that fact. The affidavit must state **that at the time the vessel was left at the facility,** no registration number or decal was on the vessel.
- C. **Documentation as listed under A, 1-9, is also required.**

Miscellaneous Information

- A. **Before the sale, the tenant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred to redeem the property. Upon receipt of payment, the owner shall return the property to the tenant.**
- B. **If there is a balance after the owner of the storage facility has satisfied his/her lien, it shall be held for delivery on demand to the tenant. A Notice of any balance shall be delivered by the owner to the tenant in person or by certified mail to the last known address of the tenant. If the tenant or the secured lienholders do not claim the sale proceeds within 2 years of the date of sale, the proceeds shall be deemed abandoned and the owner shall have no further obligation with regard to the payment of the proceeds.**
- C. The sales tax is calculated on the selling price of the vessel, not the cost accumulated for rent. A bill of sale is required to calculate the tax due.
- D. A documentation check list is attached to this procedure as Exhibit A.

E. Definitions are attached to this procedure as Exhibit B.

F. **Sections 83.805 and 83.806, Florida Statutes, are attached to this procedure as Exhibit C.**

G. A time line is attached to this procedure as Exhibit **D**.

H. See Forms Appendix for a sample of the HSMV forms referred to in this procedure.

List of Exhibits

- A. Mini Warehouse Lien Check List
- B. Definitions
- C. Sections 83.805 and 83.806, Florida Statutes
- D. Self-Service Storage Facility Mini Warehouse Owner's Lien Time Line

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EXHIBITA

Mini Warehouse Lien Check List

FORMS

FLORIDA RECORD

_____ HSMV 82040 **or HSMV 82041**

OUT-OF-STATE

_____ HSMV82040 **or HSMV 82041**

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

_____ Copy of written notice which must contain:

_____ Itemized statement of owner's claim showing amount due, date due and a description of contents.

_____ Demand for payment not less than 14 days after delivery of the notice.

_____ Statement that unless claim is paid within specified time, property will be disposed of.

_____ **Proof that the written notice was:**

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

or,

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

_____ Copy of the rental agreement.

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

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

or,

_____ **Posted advertisement.**

The advertisement must contain the following:

_____ Brief and general description of contents.

_____ Address of storage facility and name of tenant.

_____ Time, place and manner of sale or disposition.

_____ The dates in which the advertisement was published or posted.

_____ A bill of sale from the self-service storage facility to the purchaser(s), if applicable.

_____ **Lien** satisfaction(s), **if applicable.**

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

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

_____ Title fees.

EXHIBIT B

Definitions

SELF-SERVICE STORAGE FACILITY

Any real property designed and used for the purpose of renting or leasing individual storage space for the purpose of storing and removing personal property.

OWNER

The owner, operator, lessor, or sublessor of a self-service storage facility or his agent or any other person authorized by him to manage the facility or to receive rent from a tenant under a rental agreement.

TENANT

A person or his sublessee, successor, or assign entitled to the use of storage space at a selfservice storage facility, under a rental agreement, to the exclusion of others.

RENTAL AGREEMENT

Any agreement or lease which establishes or modifies terms, conditions, rules, or any other provisions concerning the use and occupancy of a self-service storage facility.

SELF-CONTAINED STORAGE UNIT

Any unit not less than 600 cubic feet in size, including, but limited to, a trailer, box or other shipping container, which is leased by a tenant primarily for use as storage space whether the unit is located at a facility owned or operated by the owner or at another location designated by the tenant.

EXHIBIT C

83.805 Lien.--The owner of a self-service storage facility or self-contained storage unit and the owner's heirs, executors, administrators, successors, and assigns have a lien upon all personal property, whether or not owned by the tenant, located at a self-service storage facility or in a self-contained storage unit for rent, labor charges, or other charges, present or future, in relation to the personal property and for expenses necessary for its preservation or expenses reasonably incurred in its sale or other disposition pursuant to ss. 83.801-83.809. The lien provided for in this section attaches as of the date that the personal property is brought to the self-service storage facility or as of the date the tenant takes possession of the self-contained storage unit, and the priority of this lien shall be the same as provided in s. 83.08; however, in the event of default, the owner must give notice to persons who hold perfected security interests under the Uniform Commercial Code in which the tenant is named as the debtor.

83.8055 Withholding access to personal property upon nonpayment of rent.--Upon the failure of a tenant to pay the rent when it becomes due, the owner may, without notice, after 5 days from the date the rent is due, deny the tenant access to the personal property located in the self-service storage facility or self-contained storage unit. In denying the tenant access to personal property contained in the self-contained storage unit, the owner may proceed without judicial process, if this can be done without breach of the peace, or may proceed by action.

83.806 Enforcement of lien.--An owner's lien as provided in s. 83.805 may be satisfied as follows:

- (1) The tenant shall be notified by written notice delivered in person or by certified mail to the tenant's last known address and conspicuously posted at the self-service storage facility or on the self-contained storage unit.
- (2) The notice shall include:
 - (a) An itemized statement of the owner's claim, showing the sum due at the time of the notice and the date when the sum became due.
 - (b) The same description, or a reasonably similar description, of the personal property as provided in the rental agreement.
 - (c) A demand for payment within a specified time not less than 14 days after delivery of the notice.
 - (d) A conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property 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 owner whom the tenant may contact to respond to the notice.

(3) Any notice given pursuant to this section shall be presumed delivered when it is deposited with the United States Postal Service, registered, and properly addressed with postage prepaid.

(4) After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located. Inasmuch as any sale may involve property of more than one tenant, a single advertisement may be used to dispose of property at any one sale.

(a) The advertisement shall include:

1. A brief and general description of what is believed to constitute the personal property contained in the storage unit, as provided in paragraph (2)(b).

2. The address of the self-service storage facility or the address where the self-contained storage unit is located and the name of the tenant.

3. The time, place, and manner of the sale or other disposition. The sale or other disposition shall takeplace not sooner than 15 days after the first publication.

(b) If there is no newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located, the advertisement shall be posted at least 10 days before the date of the sale or other disposition in not fewer than three conspicuous places in the neighborhood where the self-service storage facility or self-contained storage unit is located.

(5) Any sale or other disposition of the personal property 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.

(6) Before any sale or other disposition of personal property pursuant to this section, the tenant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the personal property. Upon receipt of such payment, the owner shall return the property to the tenant and thereafter shall have no liability to any person with respect to such personal property. If the tenant fails to redeem the personal property or satisfy the lien, including reasonable expenses, he or she will be deemed to have unjustifiably abandoned the self-service storage facility or self-contained storage unit, and the owner may resume possession of the premises for himself or herself.

(7) A purchaser in good faith of the personal property sold to satisfy a lien provided for in s. 83.805 takes the property free of any claims, except those interests provided for in s. 83.808, despite noncompliance by the owner with the requirements of this section.

(8) In the event of a sale under this section, the owner may satisfy his or her lien from the proceeds of the sale, provided the owner's lien has priority over all other liens in the personal property. 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 owner for delivery on demand to the tenant. A notice of any balance shall be delivered by the owner to the tenant in person or by certified mail to the last known address of the tenant. If the tenant does not claim the balance of the proceeds within 2 years of the date of sale, the proceeds shall be deemed abandoned, and the owner shall have no further obligation with regard to the payment of the balance. In the event that the owner'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 owner to the tenant or secured lienholders in person or by certified mail to their last known addresses. If the tenant or the secured lienholders do not claim the sale proceeds within 2 years of the date of sale, the proceeds shall be deemed abandoned, and the owner shall have no further obligation with regard to the payment of the proceeds.

**EXHIBIT D
SELF-SERVICE STORAGE FACILITY
MINI WAREHOUSE OWNER'S LIEN**

