

Motor Vehicle Procedure Manual

Vessel and Title

Transfer of a Certificate of Title for Lost or Adandoned Property or Unclaimed Evidence by a Law Enforcement Agency or Vested Finder

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Legal Authority

Section 705.103, Florida Statutes, provides a process for law enforcement agencies regarding abandoned or lost property.

For abandoned property, the law enforcement agency may retain any or all of the property for its own use or for use by the state or unit of local government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, sell the property, or notify the appropriate refuse removal service.

For lost property, the officer shall take custody and the agency shall retain custody of the property for 90 days. The agency shall publish notice of the intended disposition of the property, as provided in this section, during the first 45 days of this time period. The law enforcement agency may retain the property for use by the unit of government, trade such property to another unit of local government or state agency, donate the property to a charitable organization, surrender the property to the finder, or sell the property.

Section 705.104(1), Florida Statutes, states, “Title to lost or abandoned property is hereby vested in the finder upon the expiration of the 90-day custodial time period specified in s. 705.103(2)(b), provided the notice requirements of s. 705.103 have been met, unless the rightful owner or a lienholder claims the property within that time.”

Section 705.105, Florida Statutes, provides a procedure for law enforcement agencies regarding unclaimed evidence. The agency may elect to:

- **retain the property for an agency's own use**
- **transfer the property to another unit of state or local government**
- **donate the property to a charitable organization**
- **sell the property at public sale, pursuant to the provisions of s. 705.103 or,**
- **if the property is not of appreciable value, the agency may elect to destroy it.**

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 employees of the **Tax collector** , **License Plate Agent**, and the Florida Department of Highway Safety and Motor Vehicles (FLHSMV) in transferring of a vessel certificate of title involving lost or abandoned property or unclaimed evidence by a law enforcement agency.

General Information

- A. If an individual wants to make a claim on an abandoned vessel pursuant to section 715.102, Florida Statutes, they must report it to a law enforcement agency. The agency will conduct an investigation pursuant to 705.103, Florida Statutes. If the vessel is not claimed in the process of the investigation, the agency will provide the finder a bill of sale and certificate of compliance/evidence of the investigation. The finder would then make application for a certificate of title. See Documentation Required and Special Instructions, C of this procedure.**
- B. The Florida Fish and Wildlife Conservation Commission’s website contains additional information concerning the abandoned vessel claims process for a vested finder (individual).**

The link for their website is located at:

<http://myfwc.com/boating/waterway/derelict-vessels/claims-process-faqs/>

- C. The law enforcement agency may elect to provide a Certificate of Compliance to a purchaser in lieu of giving him/her the physical documentation (copy of notice, newspaper advertisement, etc.). The Certificate of Compliance is considered verification the law enforcement agency has complied with the requirements in this procedure and is retaining the physical documentation for their records. The purchaser must submit the Certificate of Compliance along with their bill of sale from the law enforcement agency to make application for certificate of title.**
- D. The law enforcement agency may also elect to provide a Certificate of Compliance for itself in lieu of submitting the physical documentation (copy of notice, newspaper advertisement, etc.) with their application for title.**

Documentation Required and Special Instructions

- A. If the law enforcement agency elects to SELL AT PUBLIC SALE, a vessel as LOST PROPERTY OR UNCLAIMED EVIDENCE, the applicant must submit the following documentation to the tax collector's office:**
1. If the vessel is titled in Florida:
 - a. A form [HSMV 82040](#), Application for Certificate of Title with/without Registration, or 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the applicant.
 - b. A copy of the notice (which was physically posted/placed on the vessel by the law enforcement officer), that was mailed certified, return receipt requested, to the owner and lienholder (if applicable), on or before the date of posting. The original or certified copy of the post office return receipt card for the certified mail, or the returned, unclaimed, unopened, certified letter, must also be submitted.
The notice physically placed on the vessel and mailed to the owner and all persons interested in the vessel should be in substantially the following form or contain this same information:
NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.
This Property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to Chapter 705, Florida Statutes.

The owner will be liable for the costs of removal, storage and publication of notice.

Dated this: setting forth the date of posting of notice

Signed: (setting forth name, title, address and telephone number of law enforcement officer).

- c. A copy of the newspaper advertisement showing the name of the newspaper and the date the advertisement was published. The advertisement must include a complete description of the vessel including the make, year, and hull identification number, date, time and location of the sale and state that the sale shall be subject to any and all liens.

The advertisement must be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the sale is to be held. The sale must be held at the nearest suitable place where the lost property is held or stored. If there is no newspaper of general circulation in the county where the sale is to be held, the advertisement shall be posted at the door of the courthouse and at three other public places in the county at least 10 days prior to the sale. Notice of the agency's intended disposition shall describe the property in a manner reasonably adequate to permit the rightful owner of the property to identify it.

- d. A bill of sale on original letterhead stationery from the law enforcement agency to the purchaser, which provides a complete description of the vessel including the make, year and hull identification number and states the sale is subject to any and all liens.
- e. Lien satisfaction(s), for any lien(s), as shown on the motor vehicle records of this or any other state, if applicable.
- f. Florida sales tax or specify 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.
- g. The Florida registration transferred to or issued for the vessel, or a nonuse affidavit.
- h. Title fees.

2. If the vessel is titled out of state:
 - a. Verification of title and lien status issued by the Motor Vehicle Division in the state where the vessel was last registered. The verification must contain a description of the vessel including year, make and hull identification number. Verification may be one of the following:
 1. A computer generated printout from the out-of-state motor vehicle division.
 2. A letter on letterhead stationery from the out-of-state motor vehicle division.
 3. A photocopy of the current out-of-state certificate of title.
 4. A copy of the teletype printout or a statement which shows the ownership information, lien status and the name of the law enforcement agency that provided the verification information.
 - c. When the state where the vessel was previously registered is unknown, submit a notarized or perjury clause affidavit signed by an authorized representative of the law enforcement agency stating that fact.
 - d. All items listed in Documentation Required and Special Instructions, A, 1, a-h.

B. If the law enforcement agency elects to RETAIN, DONATE, SURRENDER TO THE FINDER OR TRADE a vessel as LOST PROPERTY, the applicant or agency must submit the following documentation to the tax collector's office:

1. If the vessel is titled in Florida:
 - a. A form HSMV 82040, Application for Certificate of Title with/without Registration, or 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the applicant or an authorized representative of the law enforcement agency applying for title.
 - b. A copy of the notice (which was physically posted/placed on the vessel by the law enforcement officer), that was mailed certified, return receipt requested, to the owner and lienholder (if applicable), on or before the date of posting. The original or certified copy of the post office return receipt card for the certified mail, or the returned, unclaimed, unopened, certified letter, must also be submitted.

The notice physically placed on the vessel and mailed to the owner and all persons interested in the vessel should be in substantially the following form

or contain this same information:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.

This Property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to Chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage and publication of notice.

Dated this: setting forth the date of posting of notice

Signed: (setting forth name, title, address and telephone number of law enforcement officer).

- c. If the value of the vessel is over \$100, a copy of the newspaper advertisement showing the name of the newspaper and the date the advertisement was published. The advertisement must be published once a week for two consecutive weeks in a newspaper of general circulation in the county where the property was found. The advertisement must include a complete description of the vessel including the make, year, and hull identification number and state the choice of the law enforcement agency (whether it wants to retain, donate, surrender or trade).

OR

If the value of the vessel is \$100 or less, notice must be given by posting a description of the property at the law enforcement agency where the property was turned in. The notice must be posted for two consecutive weeks in a public place designated by the law enforcement agency. The notice must describe the property in a manner reasonably adequate to permit the rightful owner of the property to claim it.

- d. If applicable, a statement on original letterhead stationery from the law enforcement agency to the applicant, which provides a complete description of the vessel including the make, year and hull identification number, specifies that the vessel is being surrendered, traded to another unit of local government or state agency, or donated to the applicant and is subject to any and all liens.
- e. Lien satisfaction(s), for any lien(s), as shown on the motor vehicle records of this or any other state, if applicable.
- f. Florida sales tax or specify 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.

If the agency is applying for title, it should show "Retaining pursuant to s. 705.103, Florida Statutes," in the sales tax area on the form HSMV 82040 or 82041.

- g. The Florida registration transferred to or issued for the vessel, or a nonuse affidavit.
- h. Title fees.

2. If the vessel is titled out of state:

- a. Verification of title and lien status issued by the Motor Vehicle Division in the state where the vessel was last registered. The verification must contain a description of the vessel including year, make and hull identification number. Verification may be one of the following:
 - 1. A computer generated printout from the out-of-state motor vehicle division.
 - 2. A letter on letterhead stationery from the out-of-state motor vehicle division.
 - 3. A photocopy of the current out-of-state certificate of title.
 - 4. A copy of the teletype printout or a statement which shows the ownership information, lien status and the name of the law enforcement agency that provided the verification information.
- b. When the state where the vessel was previously registered is unknown, submit a notarized or perjury clause affidavit signed by an authorized representative of the law enforcement agency stating that fact.
- c. All items listed in Section Documentation Required and Special Instructions, B, 1, a-h.

C. If the law enforcement agency elects to RETAIN, TRADE, DONATE OR SELL a vessel as ABANDONED property, the purchaser, vested finder, or agency must submit the following documentation to the tax collector's office:

- 1. If the vessel titled in Florida:
 - a. A form HSMV 82040, Application for Certificate of Title with/without Registration, or 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the applicant or an authorized representative of the law enforcement agency applying for title.

- b. A copy of the notice (which was physically posted/placed on the vessel by the law enforcement officer), that was mailed certified, return receipt requested, to the owner and lienholder (if applicable), on or before the date of posting. The original or certified copy of the post office return receipt card for the certified mail, or the returned, unclaimed, unopened, certified letter, must also be submitted.

The notice physically placed on the vessel and mailed to the owner and all persons interested in the vessel should be in substantially the following form or contain this same information:

NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED PROPERTY.

This Property, to wit: (setting forth brief description) is unlawfully upon public property known as (setting forth brief description of location) and must be removed within 5 days; otherwise, it will be removed and disposed of pursuant to Chapter 705, Florida Statutes. The owner will be liable for the costs of removal, storage and publication of notice.

Dated this: setting forth the date of posting of notice

Signed: (setting forth name, title, address and telephone number of law enforcement officer).

- c. A notarized or perjury clause affidavit from the law enforcement agency which states that the property constitutes abandoned property according to the definition provided in s. 705.101 (3), Florida Statutes. The affidavit must also provide a complete description of the vessel including the make, year and hull identification number and state the disposition of the property (such as, the agency is retaining, trading, donating or selling the property).
- d. If sold, a bill of sale on original letterhead stationery from the law enforcement agency to the purchaser, which provides a complete description of the vessel including the make, year and hull identification number and states the sale is subject to any and all liens.
- e. Lien satisfaction(s), for any lien(s), as shown on the motor vehicle records of this or any other state, if applicable.
- f. Florida sales tax or specify 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.

If the agency is applying for title, it should show "Retaining pursuant to s. 705.103, Florida Statutes," in the sales tax area on the form HSMV 82040 or

82041.

- g. The Florida registration transferred to or issued for the vessel, or a nonuse affidavit.
- h. Title fees.

2. If the vessel is titled out of state:

- a. Verification of title and lien status issued by the Motor Vehicle Division in the state where the vessel was last registered. The verification must contain a complete description of the vessel including year, make and hull identification number. Verification may be one of the following:
 - 1. A computer generated printout from the out-of-state motor vehicle division.
 - 2. A letter on letterhead stationery from the out-of-state motor vehicle division.
 - 3. A photocopy of the current out-of-state certificate of title.
 - 4. A copy of the teletype printout or a statement which shows the ownership information, lien status and the name of the law enforcement agency that provided the verification information.
- b. When the state where the vessel was previously registered is unknown, submit a notarized or perjury clause affidavit signed by an authorized representative of the law enforcement agency stating that fact.
- c. All items listed in Documents Required and Special Instructions, C, 1, a-h.

D. If the law enforcement agency elects to RETAIN, TRANSFER OR DONATE the vessel as UNCLAIMED EVIDENCE, the applicant or agency must submit the following documentation to the tax collector's office:

- 1. If the vessel is titled in Florida:
 - a. A form HSMV 82040, Application for Certificate of Title with/without Registration, or 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed by the applicant or agency.
 - b. A notarized or perjury clause affidavit from the law enforcement agency which states that the property constitutes unclaimed evidence according to the definition provided in Section 705.101(6), Florida Statutes, and the related proceedings have been over for a period of at least 60 days. The affidavit must also provide a complete description of the vessel including the make, year and hull identification number and state the disposition of the evidence (such as, the agency is retaining, transferring to another unit of

government, or donating the property).

- c. If transferred to another unit of state or local government, a bill of sale on original letterhead stationery from the law enforcement agency to the government agency, which provides a complete description of the vessel including the make, year and hull identification number and states the sale is subject to any and all liens.
- d. Lien satisfaction(s), for any lien(s), as shown on the motor vehicle records of this or any other state, if applicable.
- e. Florida sales tax or specify 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.

If the agency is applying for title, it should show "Retaining pursuant to s. 705.105 Florida Statutes," in the sales tax area on the form HSMV 82040 or 82041.
- f. The Florida registration transferred to or issued for the vessel, or a nonuse affidavit.
- g. Title fees.

2. If the vessel is titled out of state:

All items listed in section Documentation Required and Special Instructions D, 1, a-g.

Miscellaneous

- A. When a dealer/individual purchases a vessel from a law enforcement agency at a public sale, a certificate of title must be issued in the dealer or individual's name before the vessel can be sold to another person.
- B. If any unclaimed evidence (vessel) is not of appreciable value, the law enforcement agency may elect to destroy it. The agency would NOT be required to obtain a certificate of title in its name prior to destroying the vessel.
- C. Since most abandoned property (vessel) is not of appreciable value, the law enforcement agency may elect to notify the appropriate refuse removal service. The agency would NOT be required to obtain a certificate of title in its name prior to having the vessel removed and destroyed.

- D. A documentation check list "Law Enforcement Selling Lost Property or Unclaimed Evidence at Public Sale" is attached to this procedure as Exhibit A.
- E. A documentation check list "Law Enforcement Retaining, Donating, Surrendering or Trading Lost Property" is attached to this procedure as Exhibit B.
- F. A documentation check list "Law Enforcement Retaining, Trading, Donating, or Selling Abandoned Property" is attached to this procedure as Exhibit C.
- G. A documentation check list "Law Enforcement Retaining, Transferring or Donating Unclaimed Evidence" is attached to this procedure as Exhibit D.
- H. A "Definitions" page is attached to this procedure as Exhibit E.
- I. Section 705.102, Florida Statutes, is located at:
http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0705/Sections/0705.102.html
- J. Section 705.103, Florida Statutes, is located at:
http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0705/Sections/0705.103.html
- K. Section 705.104, Florida Statutes, is located at:
http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0705/Sections/0705.104.html
- L. Section 705.105, Florida Statutes, is located at:
http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0705/Sections/0705.105.html
- M. See Forms Appendix for a sample of the HSMV forms referred to in this procedure.

Revision(s) to Procedure

08/15/13: Added information for a “vested finder.”

Exhibit A Law Enforcement "Selling Lost Property or Unclaimed Evidence at Public Sale" Checklist

FLORIDA RECORD

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ HSMV 82040 or 82041

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

_____ A copy of the notice sent to the owner and lienholder (if applicable) along with the original or certified copy of the post office return receipt card for the certified mail, or the returned, unclaimed, unopened, certified letter.

_____ A copy of the newspaper advertisement.

_____ The bill of sale on the original letterhead stationery from the law enforcement agency to the purchaser with the selling price and a complete description of the vessel.

_____ Lien satisfaction(s), if applicable.

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

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

_____ Title fees.

Exhibit B Law Enforcement “Retaining, Donating, Surrendering to Finder, or Trading Lost Property” Checklist

FLORIDA RECORD

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ HSMV 82040 or 82041

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

_____ A copy of the notice sent to the owner and lienholder (if applicable) along with the original or certified copy of the post office return receipt card for the certified mail, or the returned, unclaimed, unopened, certified letter.

_____ A copy of the newspaper advertisement (if value is over \$100).

Or,

_____ A copy of the posted notice (if value is \$100 or less).

_____ If applicable, a statement on original letterhead stationery from the law enforcement agency to the applicant, which provides a complete description of the vessel including the make, year and hull identification number; specifies that the vessel is being surrendered, traded to another unit of local government or state agency, or donated to the applicant and is subject to any and all liens.

_____ Lien satisfaction(s), if applicable.

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

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

_____ Title fees.

Exhibit C Law Enforcement “Retaining, Trading, Donating, or Selling Abandoned Property

FLORIDA RECORD

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ HSMV82040 or 82041

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

_____ A copy of the notice sent to the owner and lienholder (if applicable) along with the original or certified copy of the post office return receipt card for the certified mail, or the returned, unclaimed, unopened, certified letter.

_____ A notarized/perjury clause affidavit from the law enforcement agency stating the following:

_____ The property (must include a complete description) constitutes abandoned property according to the definition provided in s. 705.101(3), Florida Statutes.

_____ The agency is retaining, trading, donating or selling the property.

_____ If sold, the bill of sale on the original letterhead stationery from the law enforcement agency to the purchaser.

_____ Lien satisfaction(s), if applicable.

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

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

_____ Title fees.

Since most abandoned property (vessel) is not of appreciable value, the law enforcement agency may elect to notify the appropriate refuse removal service. The agency would NOT be required to obtain a certificate of title in its name prior to having the motor vessel removed and destroyed.

**Exhibit D Law Enforcement “Retaining, Transferring, or Donating, Unclaimed Evidence
“Checklist**

FLORIDA RECORD

OUT-OF-STATE RECORD

_____ HSMV 82040 or 82041

_____ HSMV 82040 or 82041

_____ A notarized/perjury clause affidavit from the law enforcement agency stating the following:

_____ The property (must include a complete description) constitutes unclaimed evidence according to the definition provided in s. 705.101(6), Florida Statutes and the related proceedings have been over for a period of at least 60 days.

_____ The agency is retaining, transferring to another unit of government or donating the property.

_____ If transferred to another unit of state or local government, the bill of sale on the original letterhead stationery from the law enforcement agency to the purchaser.

_____ Lien satisfaction(s), if applicable.

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

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

_____ Title fees.

If a vessel is not of appreciable value, the law enforcement agency may elect to destroy it. The agency would NOT be required to obtain a certificate of title in its name prior to destroying the vessel.

Exhibit E Definitions

ABANDONED PROPERTY

All tangible personal property that does not have an identifiable owner and that has been disposed on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner.

LAW ENFORCEMENT OFFICER

Any person who is elected, appointed, or employed full time by any sheriff, any municipality, or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

LOCAL GOVERNMENT

The board of county commissioners of a county or the commission or council of any municipality in the county.

LOST PROPERTY

All tangible personal property which does not have an identifiable owner and which has been mislaid on public property, upon a public conveyance, on premises used at the time for business purposes, or in parks, places of amusement, public recreation areas, or other places open to the public in a substantially operable, functioning condition or which has an apparent intrinsic value to the rightful owner.

PUBLIC PROPERTY

Lands and improvements owned by the Federal Government, the state, the county, or a municipality and includes sovereignty submerged lands located adjacent to the county or municipality, buildings, grounds, parks, playgrounds, streets, sidewalks, parkways, right-of-way and other similar property.

UNCLAIMED EVIDENCE

Any tangible personal property, including cash, NOT included within the definition of "contraband article," as provided in s. [932.701\(2\)](#), which was seized by a law enforcement agency, was intended for use in a criminal or quasi-criminal proceeding, and is retained by the law enforcement agency or the clerk of the county or circuit court for 60 days after the final disposition of the proceeding and to which no claim of ownership has been made.