

Florida

Department of Highway Safety and Motor Vehicles

Division of Motorist Services

PROCEDURE	SUBJECT:
TL-23	APPLICATION FOR CERTIFICATE OF TITLE FOLLOWING REPLEVIN AND REPOSSESSION FOR NON-FULFILLMENT OF CONTRACT
DESCRIPTION AND USE:	
THIS PROCEDURE PROVIDES INFORMATION AND INSTRUCTIONS TO ASSIST TAX COLLECTOR EMPLOYEES, LICENSE PLATE AGENCY EMPLOYEES, AND THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES IN PROCESSING AN APPLICATION FOR THE TRANSFER OF CERTIFICATE OF TITLE FOLLOWING REPOSSESSION FOR NON-FULFILLMENT OF A CONTRACT.	
<p>I. PROVISIONS OF LAW:</p> <p>Section 319.24 (8), Florida Statutes, provides if there are one or more liens on a motor vehicle, the department may electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent liens may be electronically transmitted to the department and shall include the name and address of the person or entity satisfying the lien. When electronic transmission of liens and lien satisfactions are used, the issuance of a certificate of title may be waived until the last lien is satisfied and a clear certificate of title is issued to the owner of the motor vehicle.</p> <p>Section 319.28, Florida Statutes, provides for the transfer of ownership of a motor vehicle or mobile home by operation of law, to include repossession of a motor vehicle.</p> <p>Section 319.28(1)(d), Florida Statutes, reads: “A mobile home that is repossessed is exempt from registration if the mobile home is not transferred or titled for occupancy.”</p> <p>Section 319.28(2)(b), Florida Statutes, provides that any lienholder who has repossessed a vehicle in Florida in compliance with the provisions of this section must apply to a Florida tax collector’s office or to the department for a certificate of title pursuant to section 319.323, Florida Statutes.</p> <p>Section 328.01 (3)(b), Florida Statutes, provides for the transfer of ownership of a vessel by operation of law, to include repossession of a vessel for non-fulfillment of contract.</p> <p>II. DOCUMENTATION REQUIRED AND SPECIAL INSTRUCTIONS:</p> <p>To comply with provisions of section 319.28 and 328.01, Florida Statutes, the motor vehicle, mobile home or vessel must be in the possession of the reposessor, and the following documentation must be submitted to a local tax collector’s office or license plate agency when applying for a Florida Certificate of Title:</p>	
<i>Revision(s) to this Procedure: Removed all certificate of repossession information due to removal from s. 319.28, Florida Statutes, and renumbered items as necessary and changed the term “from” to “after” on page 2 for clarification.</i>	
EFFECTIVE DATE	REVISION DATE
07/01/13	06/14/13

STATE OF FLORIDA
Division of Motorist Services

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<p>A. When the motor vehicle, mobile home, or vessel is TITLED IN FLORIDA WITH A FLORIDA LIENHOLDER and the lienholder is requesting a Florida CERTIFICATE OF TITLE, the following is required:</p> <p>1. The Florida Certificate of Title showing the lienholder, unless the Division of Motorist Services (DMS) database reflects "Electronic Title."</p> <p>NOTE: If the lien has been satisfied on the certificate of title, submit a letterhead affidavit from the lienholder stating the lien was satisfied in error.</p> <p style="padding-left: 40px;">a. If a subsequent lien exists, the application must be accompanied by one of the following:</p> <p style="padding-left: 80px;">(1) A lien satisfaction</p> <p style="padding-left: 40px;">When a Tax Collector office is removing or satisfying a stop, the user must create a scan coversheet with the necessary documentation and submit this to the Department with your Transaction Summary Report to be imaged.</p> <p style="padding-left: 80px;">or,</p> <p style="padding-left: 80px;">(2) (a) A copy of the form HSMV 82048, Repossession Notice to Subsequent Lienholder, or a copy of the notice of intent to repossess, on letterhead stationery.</p> <p style="padding-left: 80px;">(b) The original or certified copy of the post office returned receipt for the certified mail or the returned unclaimed certified letter, which was sent to the subsequent lienholder.</p> <p style="padding-left: 40px;">b. If the title is not available, submit an affidavit stating the certificate of title has been lost or destroyed, unless the DMS database reflects "Electronic Title."</p> <p>NOTE: As stated in section 319.28(2)(b), F.S., the primary lienholder must notify any subsequent lienholders of their intent to repossess. The subsequent lienholder has 15 calendar days after the date the notice was mailed to provide written protest to the department at which time an administrative stop will be placed on the DMS database. Since there is a period of 15 calendar days, not including the date of the notification, for the subsequent lienholder to notify the department, any applications received within that 15 day time period should be rejected. The lienholder must resubmit the application after the 15 day time period has passed.</p> <p>2. Form HSMV 82040, Application for Certificate of Title with/without Registration, or HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, accurately completed.</p> <p>NOTE: A copy of the front and back of the lien instrument IS required for vessels, showing the lienholder and secured customer's name, a complete description of the vessel including the year, make, hull identification number and the date the lien instrument was executed. The lienholder's address does not have to be shown on the contract. If no lien instrument is available, refer to DMS Procedure TL-07, section II, A, 3. A verbal contract between owner and lienholder is not acceptable. A lienholder does not have to take title in their name prior to selling the repossessed vessel. Refer to II, E & F in this procedure for instructions on transferring the certificate of title to a purchaser.</p>	
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<p>3. 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.</p> <p>4. A non-use affidavit if the transaction is on a motor vehicle or vessel. If a non-use affidavit is completed for the vessel, the FL number must still be transferred. However, if the lienholder intends to use the motor vehicle or vessel on Florida highways or waterways, it must be registered. If the transaction is based on a mobile home, a decal is not required if the lienholder who is repossessing intends to transfer its ownership and it remains unoccupied.</p> <p>5. Title fees.</p> <p><u>B.</u> If the motor vehicle or mobile home is TITLED IN FLORIDA WITH AN OUT-OF-STATE LIENHOLDER, the lienholder MUST APPLY FOR A CERTIFICATE OF TITLE.</p> <p>Submit all documentation required in section II, A, 1-5, of this procedure, if applying for a Certificate of Title.</p> <p><u>C.</u> If the motor vehicle is TITLED OUT OF STATE WITH A FLORIDA LIENHOLDER, and the motor vehicle was repossessed in Florida, the lienholder MUST apply for a certificate of title in Florida.</p> <p>Follow the instructions provided in section II, A, 2-5, of this procedure and submit the following:</p> <ol style="list-style-type: none">1. The out of state proof of ownership or verification of the title/lien status from that state.2. Form HSMV 82042, Vehicle Identification Number and Odometer Verification, accurately completed by the lienholder with the motor vehicle identification number verified by one of the four officials shown on the lower portion of the form. <p>Form HSMV 82040, Application for Certificate of Title with/without Registration, may be used in lieu of the above listed form.</p> <p>Verification is not required for a 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>	
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<p><u>D.</u> If the motor vehicle is TITLED OUT OF STATE WITH AN OUT-OF-STATE LIENHOLDER, the Florida applicant MUST apply for a certificate of title.</p> <p>The motor vehicle MUST be physically located in the state of Florida.</p> <p>Follow the instructions provided in section II, A, 2-5, of this procedure and submit the following:</p> <ol style="list-style-type: none">1. Form HSMV 82042, Vehicle Identification Number and Odometer Verification, accurately completed by the lienholder with the motor vehicle identification number verified by one of the following ONLY:<ul style="list-style-type: none">• A Florida law enforcement officer. They must include their agency name and badge number along with their signature and printed name.• A Florida DMS/tax collector employee. They must include their county and agency name along with their signature and printed name.• A Florida DMS compliance examiner/inspector. They must include their badge number along with their signature and printed name.• A Florida licensed dealer or a Florida auction with a VF, VI or VA license. They must include their dealership/auction name and dealer license number along with the agent’s signature and printed name. <p style="text-align:center">NOTE: If the vehicle identification number VIN is verified by a Florida auction, the verification MUST be submitted on their letterhead stationery.</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>Verification is not required for a 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> <ol style="list-style-type: none">2. The out-of-state proof of ownership or verification of the title/lien status from that state.3. An official out-of-state affidavit of repossession from the state not issuing a certificate of title to a lienholder. Those states and their respective affidavit forms are listed as Exhibit B. <p>NOTE: The state of “title” would be the determining factor for the repossession.</p> <p>EXAMPLE: Texas title, Louisiana lienholder. Since the state of title would be Texas, the form listed (for Texas) in Exhibit B would be required.</p> <p><u>E.</u> When the Florida CERTIFICATE OF TITLE IS AVAILABLE, AND THE VESSEL IS BEING TRANSFERRED TO A NEW OWNER, the following documentation must be submitted:</p> <p>Follow the steps provided in section II, A, 1-5, of this procedure along with a properly executed form HSMV 87008, Application for Transfer of Title and Registration on a Repossessed Vessel in Default of Contract.</p> <p>NOTE: If the lien has been satisfied on the certificate of title, submit a letterhead affidavit from the lienholder stating the lien was satisfied in error.</p>	
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<p><u>F.</u> If the vessel is titled out of state with a Florida lienholder or an out of state lienholder, the Florida applicant OR the lienholder MAY apply for a certificate of title. Follow the steps provided in section II, A, 2-5, of this procedure along with the following documentation:</p> <ol style="list-style-type: none">1. The out of state proof of ownership.2. An affidavit stating all repossession laws were followed in the state of repossession. <p>III. MISCELLANEOUS INFORMATION:</p> <p>A. A certified copy of the lien contract is no longer required on a repossessed motor vehicle. However, a copy of the lien contract is required on a repossessed vessel.</p> <p>B. When a motor vehicle or vessel has been repossessed and the lien should have been assigned to a new lienholder due to a name change or a loan buy-out, form HSMV 82139, Notice of Lien, must be accurately completed by the assignee and assignor of the lien. The lienholder must apply for a certificate of title. A \$3 lien reassignment fee must be collected in addition to the title fees.</p> <p>C. When a customer has defaulted on a lien contract and there is a co-signer on the contract who wishes to pay off the lien, the co-signer may have the lien reassigned to them on form HSMV 82139, Notice of Lien, as lienholder against the owner, until the lien has been paid in full. If the contract remains in default, the new lienholder (co-signer) can then apply for a repossession certificate of title.</p> <p>D. If a floor planner repossesses a motor vehicle(s) or vessel(s) under a Floor Plan Agreement and they are NOT shown on the title(s) as lienholder or NOT shown in the reassignment chain on the MCO, they must submit a copy of the agreement. If the motor vehicles or vessels are not under separate agreements, a listing of all the motor vehicles or vessels should be attached. This listing must include a description of the motor vehicle or vessel subject to repossession. If the agreement states, "For all stock owned or acquired by the dealer," or any statement to that effect or wording, the list is NOT required. If the floor planner is not shown on the title record as the lienholder or NOT shown in the reassignment chain on the MCO, they must submit a copy of their Floor Plan Agreement along with the application for title and the certificate of title (for the repossessed motor vehicle or vessel) which was completed for transfer to the dealership. If the title is not available and the motor vehicle or vessel is not on the list as described above, the floor planner must submit proof that the motor vehicle or vessel was in the dealer's inventory at the time of repossession.</p> <p>E. Only the first lienholder shown on the certificate of title has repossession rights. A subsequent lienholder cannot apply for a repossession certificate of title, until they become the first lienholder.</p> <p><u>F.</u> A Final Judgment in Replevin must direct the department to issue a certificate of title in the name shown in the judgment for a specifically described motor vehicle or mobile home.</p>	
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TL-23	<p data-bbox="380 170 1451 233">APPLICATION FOR CERTIFICATE OF TITLE FOLLOWING REPLEVIN AND REPOSSESSION FOR NON-FULFILLMENT OF CONTRACT</p> <p data-bbox="285 285 1523 457">G. When an MCO (Manufacturer’s Certificate of Origin) is assigned to an owner, but an original certificate of title (in the name of the owner) has not been issued and the motor vehicle or vessel has been repossessed, the original certificate of title must be issued in the owner’s name showing the lien, before the repossession certificate of title can be issued to the lienholder.</p> <p data-bbox="285 489 1523 661">H. When an application for a repossession certificate of title has been applied for and the motor vehicle or vessel has been reported stolen while in the possession of the lienholder, before a title may be issued, the lienholder must submit a copy of the police report and a signed affidavit stating the motor vehicle or vessel was stolen while in their possession and the loan is in default.</p> <p data-bbox="285 693 1500 793">I. If there is a lien and it is not shown on the certificate of title, a form HSMV 82139, Notice of Lien, and the lien recording fee must be submitted. If unable to obtain a form HSMV 82139, Notice of Lien, refer to DMS Procedure TL-07.</p> <p data-bbox="285 825 1520 896">J. A Writ of Replevin only authorizes the sheriff to recover the motor vehicle, mobile home or vessel from the defendant and to deliver said property to the plaintiff.</p> <p data-bbox="380 928 1500 1029">If an application is submitted with only a Writ of Replevin it must be rejected. The applicant should be advised to resubmit the Writ of Replevin and follow all instructions outlined in this procedure.</p> <p data-bbox="285 1060 1516 1131">K. Any lienholder who has repossessed a vehicle in Florida in compliance with the provisions of section 319.28, Florida Statutes, must apply for a Florida certificate of title.</p> <p data-bbox="285 1163 1386 1234">L. The following link will take you to a website which allows you to search by an institution’s name to determine if the entity has been closed or renamed:</p> <p data-bbox="651 1255 1255 1285" style="text-align:center">http://www2.fdic.gov/idasp/main_bankfind.asp</p> <p data-bbox="285 1316 1484 1417">M. When a certificate of title (for repossession) has been issued in error, the certificate of title must be mailed to the following address, along with an affidavit of explanation, in order for it to be cancelled and the previous record reinstated:</p> <p data-bbox="480 1449 1141 1591" style="text-align:center">Department of Highway Safety and Motor Vehicles ATTN: <u>Title and Registration Issuance</u> 2900 Apalachee Pkwy, MS# 72 Tallahassee, Fl. 32399-<u>0620</u></p> <p data-bbox="285 1633 1503 1734">N. The name of the lienholder and at least one of the secured customers on the vessel certificate of title and lien contract must match; unless it can be determined they are one and the same.</p> <p data-bbox="285 1766 1268 1795">O. A documentation check list is attached to this procedure as Exhibit A.</p> <p data-bbox="285 1827 1511 1898">P. An “Out of State Repossession Form Number Chart” for states not issuing certificates of title to lienholders is attached to this procedure as Exhibit B.</p>
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<p>Q. A "Definitions" page is attached to this procedure as Exhibit C.</p> <p>R. A copy of a Writ of Replevin is attached to this procedure as Exhibit D.</p> <p>S. A copy of a Final Judgment of Replevin is attached to this procedure as Exhibit E.</p>	
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EXHIBIT A

TRANSFER OF TITLE FOLLOWING REPLEVIN OR REPOSSESSION CHECK LIST

FLORIDA

- _____ HSMV 82040 or 82041
- _____ Vessels Only
Form HSMV 87008 must be completed in addition to form HSMV 82040 or 82041, when the lienholder has sold the vessel to a third party.

OUT-OF-STATE RECORD

- _____ HSMV 82040 or 82041
- _____ HSMV 82042, or the VIN verification section on form HSMV 82040. Not required for vessels.
- _____ Out-of-state proof of ownership or,
- _____ Verification of title/lien status

- _____ Certificate of Title or an affidavit that the title is lost, unless title is shown as electronic.
- _____ Vessels Only: A copy of the lien instrument, front and back.
- _____ Lien satisfactions for all subsequent liens
- or,
- A copy of the HSMV 82048, Repossession Notice of Subsequent Lienholder, or a copy of the notice of intent to repossess, on letterhead stationery
- and,
- The original or certified copy of the post office returned receipt for the certified mail or the returned unclaimed certified letter, which was sent to the subsequent lienholder.
- _____ Florida sales tax or specify sales tax exemption information on form HSMV 82040 or form HSMV 82041.
- _____ A license plate number or Florida registration number transferred or a non-use affidavit or mobile home decal or RP decal. If a non-use affidavit is completed for the vessel, the FL number must still be transferred.
- _____ Title fees.

WRIT OF REPLEVIN

- _____ A copy of the Writ of Replevin.
- _____ All items listed under repossessions above.

FINAL JUDGMENT IN REPLEVIN

- _____ Form HSMV 82040 or 82041
- _____ Form HSMV 82042, if out-of-state record.
- _____ Copy of the Final Judgment in Replevin awarding ownership

EXHIBIT B
OUT-OF-STATE REPOSSESSION FORM NUMBER CHART

STATE	Title Mailed to Lienholder	FORM NUMBER AND DOCUMENTATION
ALABAMA	YES	MVT 15-1
ALASKA	YES	843
ARIZONA	YES	48-0902
ARKANSAS	YES	Affidavit of Repossession
CALIFORNIA	YES	Reg. 119
COLORADO	YES	DR 2412
CONNECTICUT	YES	Affidavit of Repossession
DELAWARE	YES	MV-195
GEORGIA	YES	T-16
IDAHO	YES	ITD-3366
ILLINOIS	YES	Affidavit of Repossession
IOWA	YES	Form 411067
LOUISIANA	YES	Voluntary Surrender Form or Copy of the court order authorizing mortgagee to take possession, Affidavit of Repossession and Bill of Sale.
MAINE	YES	MVT-5
MARYLAND	NO	The "Notice of Security Interest Filing" (Sections to be completed on the reverse side are "Certificate of Repossession" & "Assignment of Ownership.")
MASSACHUSETTS	YES	Affidavit of Repossession
MINNESOTA	NO	PS 2024-08
MISSISSIPPI	YES	Affidavit of Repossession and Affidavit of Sale Under Lien
NEVADA	YES	RD20 & Bill of Sale
NEW HAMPSHIRE	YES	Affidavit of Repossession
NEW JERSEY	Mailed to person presenting or mailing same to the Division.	ISM/SS57, Copy of Lien Contract & Bill of Sale
NEW MEXICO	YES	Affidavit of Repossession
NEW YORK	NO	MV-901 (ELT participants will have a copy of an Internet screen print from the State of New York, DMV, in lieu of the MV-901) & MV-950
NORTH CAROLINA	YES	MVR-3
NORTH DAKOTA	YES	SFN 2880
OREGON	YES	735-263
PENNSYLVANIA	YES	MV217A, Copy of Lien Contract. Copy of notice sent to debtor & Bill of Sale
RHODE ISLAND	YES	Affidavit of Repossession
SOUTH CAROLINA	YES	4034
TENNESSEE	YES	Form RV-F1312101, Certification of Sales Under Special Conditions
TEXAS	YES	VTR-264
VERMONT	YES	Affidavit of Repossession, Current Lien Agreement & Bill of Sale
WASHINGTON	YES	TD-420-042
WEST VIRGINIA	YES	Form 129-TR
WISCONSIN	NO	MV-2117

NOTE: The form number listed above may change as each state revises its forms. All applications from any state not listed and not showing a Florida lienholder on the certificate of title application should be rejected. The applicant should be instructed to contact the lienholder to obtain a certificate of title in the lienholders name from the state of title, after which that certificate of title may be processed for the applicant as an original certificate of title transaction.

EXHIBIT C

DEFINITIONS

DEFAULT	Failure to meet financial obligations.
REPOSSESSION	To resume physical possession of a motor vehicle or mobile home in default of the payment of installments due.
REPLEVIN	The recovery by a person of goods claimed to be wrongfully taken.
WRIT OF REPLEVIN	A legal document signed by a Judge that authorizes the sheriff to recover a motor vehicle or mobile home from the defendant and to deliver said property to the plaintiff.
FINAL JUDGMENT IN REPLEVIN	legal document signed by a Judge that awards the motor vehicle or a mobile home and any restitution to the plaintiff.

EXHIBIT D

WRIT OF REPLEVIN

**IN THE COUNTY COURT IN AND
FOR LEON COUNTY, FLORIDA**

CASE NO.: 94-5468

FIRST UNION NATIONAL BANK
OF FLORIDA,

Plaintiff,

vs.

JANE DOE,

Defendant.

_____ /

WRIT OF REPLEVIN

STATE OF FLORIDA
TO ALL AND SINGULAR THE SHERIFFS OF THE STATE:

YOU ARE HEREBY COMMANDED to replevy the personal property in the possession of Defendant,
JANE DOE, described as follows:

2010 General Mobile Home, VIN: XXXXXXXXXXXXXXXXXXXX and VIN:
XXXXXXXXXXXXXXXXXXXX

believed to be located at 125 Nowhere Rd., Anywhere, FL, or wherever it may be by the Sheriff, and deliver the
collateral to the Plaintiff forthwith.

WITNESS my hand and seal of said Court on the _____ day of August 2012.

Clerk of the Court

By: _____
Deputy Clerk

John Q. Public
Attorney at Law
Post Office Box ABCD
Anywhere, Florida 32802-3587
(407) 423-4000
Attorney for Plaintiff

EXHIBIT E

**IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT, IN AND
FOR NOWHERE COUNTY, FLORIDA**

BARNETT BANK OF TALLAHASSEE,

CASE NO. 92-8495

Plaintiff

vs.

DOE BROTHERS, INC., JOHN DOE
and SAM Q. PUBLIC

Defendants

_____ /

FINAL JUDGMENT

This action was considered on the Order to Show Cause on Plaintiff’s Complaint for Prejudgment Writ of Replevin and Separate Count for Damages in Chambers on August 8, 2012, at which time this Court awarded possession of the 2010 BMW 2D, ID# XXXXXXXXXXXXXXXXXXXX to Barnett Bank of Tallahassee, Plaintiff. The Court being further advised, the Defendant, Sam Q. Public, will not further contest a judgment for Plaintiff awarding right of possession and the Defendant, Doe Brothers, Inc. and John Doe, having been properly served and having defaulted by failing to file a responsive pleading in this cause, it is

ORDERED AND ADJUDGED that Plaintiff, BARNETT BANK OF TALLAHASSEE, is awarded possession of the 1999 BMW 2D, ID# XXXXXXXXXXXXXXXXXXXX.

FURTHER, it is ORDERED AND ADJUDGED that Plaintiff, BARNETT BANK OF TALLAHASSEE, recover the Defendants, DOE BROTHERS, INC., and JOHN DOE, the sum of \$27,987.46; interest in the amount of \$792.92; court costs in the amount of \$215.52; late fees in the amount of \$111.60; cost of recovery of collateral \$2,373.94; attorney’s fees in the amount of \$1,250, making a total sum of \$32,731.44, for which let execution issue. Said judgment shall accrue interest at the rate of 12% per annum from the date of the final judgment.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, the _____ day of August 2012.

O. JUSTICE
Circuit Judge

Copies Furnished To:

John Doe
Doe Brothers, Inc.
Sam Q. Public