

# Florida

## Department of Highway Safety and Motor Vehicles

### *Division of Motorist Services*

PROCEDURE TL-32	SUBJECT: NOTICE OF LIEN, SUBSEQUENT LIENS, LIEN ACTIONS, AND COURT ORDERS	
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 TITLE APPLICATIONS INVOLVING NOTICES OF LIEN, SUBSEQUENT LIENS, LIEN ACTIONS, AND COURT ORDERS.		
<p>I. PROVISIONS OF LAW:</p> <p>Section 319.235, Florida Statutes, provides that when a motor vehicle or mobile home is titled in the names of two or more persons as co-owners joined by the conjunction of "or," each co-owner shall be deemed to have granted to any other co-owner the absolute right to place a lien or encumbrance on the motor vehicle or mobile home; and the signature of one co-owner shall constitute proper execution of the notice of lien. However, when the motor vehicle or mobile home is titled in the names of two or more persons as co-owners joined by the conjunction of "and", the signature of each co-owner is required to place a lien or encumbrance.</p> <p>Section 319.24(4), Florida Statutes, provides for the owner of a motor vehicle or mobile home or the director or the director's designee of the state child support enforcement program to place a subsequent lien on a motor vehicle or mobile home. If the first lienholder fails, neglects or refuses to forward the certificate of title to the department within 10 days from the date of the owner's or director's or director's designee's request, the department, on the written request of the subsequent lienholder or an assignee thereof, shall demand in writing that the first lienholder return the title for the notation of the second or subsequent lien or encumbrance.</p> <p>Section 319.24 (8), Florida Statutes, provides if there are one or more liens <b><u>or encumbrances</u></b> on <b><u>the</u></b> motor vehicle or mobile home, the department <b><u>shall</u></b> electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions <b><u>shall</u></b> be electronically transmitted to the department and <b><u>must</u></b> include the name and address of the person or entity satisfying the lien. When electronic transmission of liens and lien satisfactions <b><u>is</u></b> 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 vehicle.</p> <p>Section 319.27(7), Florida Statutes, <b><u>requires the department to establish and administer an electronic titling program that requires the electronic recording of vehicle title information for new, transferred, and corrected certificates of title. Lienholders shall electronically transmit liens and lien satisfactions to the department in a format determined by the department. Individuals and lienholders who the department determines are not normally engaged in the business or practice of financing vehicles are exempt from the electronic titling requirement.</u></b></p>		
<i>Revision(s) to this Procedure: Updated and added new statutes and a Note to item D exempting child support liens from the Electronic Lien and Title (ELT) requirements.</i>		
EFFECTIVE DATE 01/01/13	REVISION DATE 12/14/12	PAGE # TL-32-01

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**Visit the link below for the department's Electronic Lien and Titling (ELT) system website for provider information, ELT lienholder application, ELT bond, and more.**

**<http://flhsmv.gov/html/emt.htm>**

Section 319.32(4), Florida Statutes, provides that the department shall charge a fee of \$7 for each lien placed on a motor vehicle by the state child support enforcement program pursuant to s. 319.24.

Section 328.15, Florida Statutes, provides for filing of notices of liens, notations of liens on title certificates, and recording of liens.

Section 328.15(2)(c), Florida Statutes, provides for the owner of the vessel as shown on the title certificate or the director of the state child support enforcement program to place a second or subsequent lien or encumbrance against the vessel when the title certificate is in the possession of the first lienholder. The owner shall send a written request to the first lienholder by certified mail and such first lienholder shall forward the certificate to the department for endorsement. The department shall return the certificate to the first lienholder, as indicated in the notice of lien filed by the first lienholder, after endorsing the second or subsequent lien on the certificate and on the duplicate. If the first lienholder fails, neglects, or refuses to forward the certificate of title to the department within 10 days after the date of the owner's or the director's request, the department, on written request of the subsequent lienholder or an assignee thereof, shall demand of the first lienholder the return for filing of notices of liens, notations of liens on title certificates, and recording of liens.

**Section 328.15(5)(b), Florida Statutes, requires the department to establish and administer an electronic titling program that requires the recording of vessel title information for new, transferred, and corrected certificates of title. Lienholders shall electronically transmit liens and lien satisfactions to the department in a format determined by the department. Individuals and lienholders who the department determines are not normally engaged in the business or practice of financing vessels are not required to participate in the electronic titling program.**

**Visit the link below for the department's Electronic Lien and Titling (ELT) system website for provider information, ELT lienholder application, ELT bond, and more.**

**<http://flhsmv.gov/html/emt.htm>**

Section 328.16(4), Florida Statutes, provides that a lien on a vessel shall be noted on the face of the Florida certificate of title, if there are one or more liens or encumbrances on a vessel. The department **shall** electronically transmit the lien to the first lienholder and notify the first lienholder of any additional liens. Subsequent lien satisfactions **shall** be electronically transmitted to the department and **must** 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 vessel.

**Section 328.30(2), Florida Statutes, provides that the department may issue an electronic certificate of title in lieu of printing a paper title.**

**Section 328.30(3), Florida Statutes, provides that the department may collect electronic mail addresses and use electronic mail in lieu of the United States Postal Service for the purpose of providing renewal notices.**

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II.	GENERAL INFORMATION:  Section 319.27(3), and 328.15(1), Florida Statutes, provides that a person may file a notice of lien with regard to a motor vehicle, mobile home or vessel. The date of filing the notice of lien shall be the date of its receipt by the department, tax collector or license plate agency. Therefore, the "lien receipt date" must be captured in FRVIS on all title transactions involving the adding of a lien (i. e., transfer with lien, original with lien, etc.). The date of filing is not the same as the lien date. The lien date is the date that the security agreement or other similar instrument was executed. The receipt/file date is the date it is received by the "processing" agency. The transaction date is the date it is entered into the system. The receipt date and transaction date may be the same date, but not always. The agency must date stamp the signed document that specifies the lien.
III.	DOCUMENTATION REQUIRED AND SPECIAL INSTRUCTIONS:  A. "Lien Add" – Initial Lien: <ol style="list-style-type: none"><li>1. The Florida Certificate of Title, unless the Division of Motorist Services (DMS) database reflects "Electronic Title."</li><li>2. Sections 1 and 2 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, accurately completed and signed by the owner(s). or,</li><li>3. A form HSMV 82041, Application for Vehicle/Vessel Certificate of Title and/or Registration, signed by the applicant(s).</li></ol> <p><b>NOTE:</b> A form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, <b>MUST</b> be completed if the lienholder wishes to authorize the title (for the motor vehicle or mobile home) to be mailed to the registered owner. This does not apply to vessels.</p> <ol style="list-style-type: none"><li>4. Title and lien fees.</li></ol>
	B. "Lien Reassignment" - Application for Reassignment of Lien: <ol style="list-style-type: none"><li>1. The Florida Certificate of Title, unless the DMS database reflects "Electronic Title."</li><li>2. Sections 1 and 3 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, accurately completed by an authorized agent for the lienholder currently shown on the certificate of title as assignor and by an authorized agent for the new lienholder as assignee.</li><li>3. Title and lien fees.</li></ol>
	C. "Subsequent Lien": <ol style="list-style-type: none"><li>1. The subsequent lienholder must send a copy, by certified mail, return receipt requested, of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien to the first lienholder. Sections 1, 2, and 4 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, must be accurately completed and signed by the owner of record.  Upon receiving the returned, certified postal receipt card from the first lienholder, the subsequent lienholder must submit the following documentation to the local tax collector's office or license plate agency:</li></ol>

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- a. The original accurately completed form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien.
- b. The signed original or certified copy of the post office returned receipt card for the certified mail or the returned unclaimed certified letter(s).

**NOTE:** Tax Collector personnel are responsible for opening the returned unclaimed certified envelope and submitting it and all contents with the application. Please place your initials and the date you opened the letter on the outside envelope. Letters marked "Forwarding Order Expired" are acceptable.

- c. Title and lien fees.

**NOTE:** If the certified return receipt is lost and the certified mailing has not been returned, comply with IV, K of this procedure.

**NOTE:** If the DMS database reflects "Electronic Title", no further action is required from the first lienholder.

2. First lienholder is required to mail the following documentation directly to the Division of Motorist Services at the address shown below:

Division of Motorist Services  
Attn: Title and Registration Issuance  
2900 Apalachee Pkwy, MS 72  
Tallahassee, Florida 32399-0600

- a. The Florida Certificate of Title, unless the DMS database reflects "Electronic Title."
- b. The copy of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, received by certified mail.

**D. CHILD SUPPORT LIENS:**

1. "Lien Add" Initial Lien:
  - a. The Florida Certificate of Title, unless the DMS database reflects "Electronic Title."
  - b. Sections 1 and 2 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, accurately completed and signed by the director or the director's designee of the State Child Support Enforcement Program.
  - c. Title and lien fees.

**NOTE:** This type of transaction is only processed by the department.

**NOTE:** A child support lien is exempt from the ELT requirements; therefore, this customer will not be required to have an ELT vendor.

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2. "Subsequent Lien":

The subsequent lienholder must send a copy, by certified mail, return receipt requested, of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien to the first lienholder. Sections 1, 2 and 4 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, must be accurately completed and signed by the director or the director's designee of the State Child Support Enforcement Program.

Upon receiving the returned, certified postal receipt card from the first lienholder, the subsequent lienholder must submit the following documentation to the department:

- a. The original accurately completed form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien.
- b. The signed original or certified copy of the post office returned receipt card for the certified mail or the returned unclaimed certified letter(s).

**NOTE:** Tax Collector personnel are responsible for opening the returned unclaimed certified envelope and submitting it and all contents with the application. Please place your initials and the date you opened the letter on the outside envelope. Letters marked "Forwarding Order Expired" are acceptable.

- c. Title and lien fees.

**NOTE:** If the certified return receipt is lost and the certified mailing has not been returned, comply with IV, K of this procedure.

**NOTE:** This type of transaction is only processed by the department.

E. FLORIDA COURT ORDER DIRECTING ISSUANCE:

1. "Lien Add" Initial Lien:

- a. A photocopy of the court order showing the vehicle identification number(s) of specific motor vehicle(s) and directing the department to place the lien on the certificate of title.
- b. Sections 1 and 2 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, accurately completed and signed by the person named as the lienor in the Florida court order.
- c. Title and lien fees.

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2. "Subsequent Lien":

The subsequent lienholder must send a copy, by certified mail, return receipt requested, of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien to the first lienholder. Sections 1, 2 and 4 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, must be accurately completed and signed by the person named as the lienor in the court order.

Upon receiving the returned, certified postal receipt card from the first lienholder, the subsequent lienholder must submit the following documentation to the local tax collector's office or license plate agency:

- a. The original form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien.
- b. A photocopy of the court order showing the vehicle identification number(s) of specific motor vehicle(s) and directing the department to place the lien on the certificate of title.
- c. The signed original or certified copy of the post office returned receipt card for the certified mail or the returned unclaimed certified letter(s).

**NOTE:** Tax Collector personnel are responsible for opening the returned unclaimed certified envelope and submitting it and all contents with the application. Please place your initials and the date you opened the letter on the outside envelope. Letters marked "Forwarding Order Expired" are acceptable.

**NOTE:** If the certified return receipt is lost and the certified mailing has not been returned, comply with IV, K of this procedure.

- d. Title and lien fees.

**NOTE:** If the DMS database reflects "Electronic Title", no further action is required from the first lienholder.

IV. MISCELLANEOUS INFORMATION:

- A. When the Florida Certificate of Title record is in two names joined by "and", both owners must sign form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien.
- B. When the Florida Certificate of Title record is in two names joined by "or", either of the owners may sign form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien.

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<p>C. In order to change the name of the lienholder on the certificate of title when two lending institutions merge, sections 1 and 3 of form HSMV 82139, Application for Notice of Lien/Reassignment of Lien or Notice to First Lienholder of Subsequent Lien, must be submitted reassigning the lien to the institution's new name.</p> <p>D. The lien date is required (for a motor vehicle or mobile home) when the security agreement, retain title contract, conditional bill of sale, chattel mortgage or other similar instrument was executed prior to filing the notice of lien.</p> <p>E. The lien date (for a motor vehicle or mobile home) may be omitted when the notice of lien is filed before the security agreement or other lien document is executed. The notation "No Lien Date" must be shown on the notice of lien.</p> <p>F. The lien date is required for a vessel.</p> <p>G. The lien receipt date is required. The lien receipt date is the date the lien information is received by the processing agency.</p> <p>H. If a first lienholder fails, neglects or refuses to forward a certificate of title to the department after receiving notification of a subsequent lien, by certified mail, the department shall upon written request from the subsequent lienholder or an assignee thereof, write a letter to the first lienholder demanding the return of the title in their possession, in order for the subsequent lien to be recorded.</p> <p>I. 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: <a href="http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx">http://www.ffiec.gov/nicpubweb/nicweb/nichome.aspx</a></p> <p>J. A documentation checklist is attached to this procedure as Exhibit A.</p> <p>K. When the post office or applicant loses the green receipt for a certified letter, the applicant <b>MUST</b> submit an affidavit stating that fact along with one of the three following options to prove the certified letter was sent to whom it was mailed:</p> <ol style="list-style-type: none"><li>1. ONE of the following:<ol style="list-style-type: none"><li>a. The mailer must complete United States Postal Service (USPS) form 3811-A, (available at the post office), so that records of delivery can be checked. The post office uses the date of delivery and the name of the individual or organization to which the letter was delivered. The form 3811-A will specify whether the letter was delivered or not.</li><li>b. A copy of the postal service's tracking screen which confirms delivery.</li></ol></li></ol> <p><b>NOTE:</b> The USPS has implemented a new electronic process where delivery records are scanned and stored for customer inquiry purposes (tracing). The postal service can access their USPS Intranet to conduct a trace and print the tracking screen for the customer.</p>	
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c. A letter of verification from the USPS, which confirms that the certified letter was sent.

If the applicant does not wish to follow the above steps to obtain a copy of a green receipt or a copy of the delivery records, they must re-mail the certified letter to the first lienholder.

2. A certified copy of the form 3877, (Firm Mailing Book For Accountable Mail), may be submitted as proof the certified mail was sent. The form must list the name of the addressee, their complete address and the article number for the certified mail. The postmark and date of receipt must be stamped on the form by the postal service, verifying the listed information is accurate.

**NOTE:** A copy of the postal confirmation would also be required in addition to the form 3877.

3. If the signed green receipt for a certified letter has been lost or destroyed, a request for a duplicate copy of the green return receipt or a copy of the delivery records must be filed. USPS form 1510 (available at the post office) will be sent to the addressee by the postal service. If the reply indicates that the addressee has received the certified letter, the completed form 1510 along with delivery records may be used as a receipt. If form 1510 specifies the certified letter was not received, they must remail the Notice of Lien by certified mail to the first lienholder.

**EXHIBIT A**

**CHECK LIST**

**LIEN ADD**

- \_\_\_\_\_ The Florida Certificate of Title, unless records show "Electronic Title"
- \_\_\_\_\_ Sections 1 & 2 of form HSMV 82139
- \_\_\_\_\_ or,
- \_\_\_\_\_ HSMV 82041
- \_\_\_\_\_ Title and lien fees

**LIEN REASSIGNMENT**

- \_\_\_\_\_ The Florida Certificate of Title, unless records show "Electronic Title"
- \_\_\_\_\_ Sections 1 and 3 of form HSMV 82139
- \_\_\_\_\_ Title and lien fees

**SUBSEQUENT LIEN**

- \_\_\_\_\_ Sections 1, 2, & 4 of form HSMV 82139 (original)
- \_\_\_\_\_ Certified postal receipt card
- \_\_\_\_\_ Title and lien fees

**NOTE:** If the DMS database reflects "Electronic Title", the transaction must be processed in FRVIS as a "Lien Add."

**CHECK LIST FOR CHILD SUPPORT ENFORCEMENT PROGRAM**

**LIEN ADD (INITIAL LIEN)**

- \_\_\_\_\_ The Florida Certificate of Title, unless records show "Electronic Title"
- \_\_\_\_\_ Sections 1 and 2 of form HSMV 82139
- \_\_\_\_\_ Title and lien fees

**SUBSEQUENT LIEN**

- \_\_\_\_\_ Sections 1, 2 and 4 of form HSMV 82139 (original)
- \_\_\_\_\_ Certified postal receipt card
- \_\_\_\_\_ Title and lien fees

**NOTE:** If the DMS database reflects "Electronic Title", the transaction must be processed in FRVIS as a "Lien Add."

**EXHIBIT A (continued, page 2)**  
**CHECK LIST FOR COURT ORDER**

**LIEN ADD (INITIAL LIEN)**

- \_\_\_\_\_ A photocopy of the court order showing the VIN(s)
- \_\_\_\_\_ Section 1 & 2 of form HSMV 82139
- \_\_\_\_\_ Title and lien fees

**SUBSEQUENT LIEN**

- \_\_\_\_\_ A photocopy of the court order showing the VIN(s)
- \_\_\_\_\_ Sections 1, 2, & 4 of form HSMV 82139
- \_\_\_\_\_ The signed certified postal receipt card
- \_\_\_\_\_ Title and lien fees

**NOTE:** If the DMS database reflects "Electronic Title", the transaction must be processed in FRVIS as a "Lien Add."