

Florida

Department of Highway Safety and Motor Vehicles

Division of Motorist Services

PROCEDURE	SUBJECT:	
TL-16	APPLICATION FOR CERTIFICATE OF TITLE UPON DISPOSITION OF PERSONAL PROPERTY UNDER THE LANDLORD-TENANT ACT	
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 ESTABLISHING REQUIREMENTS FOR CERTIFICATE OF TITLE TO MOTOR VEHICLES <u>AND VESSELS</u> SOLD UNDER THE LANDLORD-TENANT ACT.		
<p>I. PROVISIONS OF LAW:</p> <p style="padding-left: 20px;">Section 715.104, Florida Statutes, provides for the notification to the former tenant of the personal property remaining on the premises after tenancy has terminated.</p> <p style="padding-left: 20px;">Section 715.105, Florida Statutes, provides for a form of notice to the former tenant.</p> <p style="padding-left: 20px;">Section 715.106, Florida Statutes, provides for a form of notice to owner other than former tenant.</p> <p style="padding-left: 20px;">Section 715.108, Florida Statutes, provides for the release of personal property to the owner, if the owner pays the reasonable costs of storage and advertising and takes possession of the property not later than the date specified in the notice for taking possession.</p> <p style="padding-left: 20px;">Section 715.109, Florida Statutes, provides for the sale of abandoned property at public sale by competitive bidding, if the property is not released pursuant to s. 715.108, Florida Statutes. However, if the landlord reasonably believes that the total resale value of the property not released is less than \$500, she or he may retain such property for her or his own use or dispose of it in any manner he/she chooses. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale. The successful bidder's title is subject to ownership rights, liens and security interest which have priority by law.</p> <p style="padding-left: 20px;">Section 715.111, Florida Statutes, provides for the assessing of storage costs.</p> <p>II. DOCUMENTATION REQUIRED AND SPECIAL INSTRUCTIONS:</p> <p style="padding-left: 20px;">After all statutory requirements, have been met, the following documentation should be submitted to the tax collector's office to be screened for completeness and accuracy:</p> <p style="padding-left: 40px;">A. If the motor vehicle <u>or vessel</u> is CURRENTLY TITLED IN FLORIDA:</p> <p style="padding-left: 80px;">1. A 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 by the applicant.</p>		
<i>Revision(s) to this Procedure: Added vessels throughout the procedure.</i>		
EFFECTIVE DATE	REVISION DATE	PAGE #
Immediately	08/09/13	TL-16-01

STATE OF FLORIDA
Division of Motorist Services

PROCEDURE # TL-16	SUBJECT: APPLICATION FOR CERTIFICATE OF TITLE UPON DISPOSITION OF PERSONAL PROPERTY UNDER THE LANDLORD-TENANT ACT
---------------------------------	--

2. A copy of the Notice of Right to Reclaim Abandoned Property which was personally delivered or sent by first-class mail, to the former tenant or to the owner if different from the former tenant. The notice must contain the following:
 - a. Date of the notice;
 - b. name and a CURRENT address for the former tenant or the owner if different from the former tenant;
 - c. name of the former tenant and his/her former vacated address;
 - d. a complete description of the vehicle or vessel;
 - e. the address where the vehicle or vessel may be claimed;
 - f. that if the vehicle or vessel is not claimed and reasonable costs of storage and advertising are not paid, the vehicle or vessel will be sold pursuant to s. 715.109, Florida Statutes;
 - g. printed name and signature of the landlord, including his/her telephone number and address;
 - h. a final date for reclaiming the vehicle or vessel, AND
 - i. must contain ONE of the following statements:
 1. If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within one (1) year after the county receives the money.
 2. Because this property is believed to be worth less than \$500, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated in the notice.

If the notice is delivered in person, submit a notarized/perjury clause affidavit which states the notice was personally delivered. If the notice is sent by first-class mail, submit a notarized/perjury clause affidavit which states that fact. The date specified in the notice must be not less than 10 days after the notice is personally delivered, or, if mailed, not less than 15 days after the notice is deposited in the mail. (see Exhibit B).

NOTE: When counting days, do not include the date mailed or delivered, or date of sale.

STATE OF FLORIDA
Division of Motorist Services

PROCEDURE # TL-16	SUBJECT: APPLICATION FOR CERTIFICATE OF TITLE UPON DISPOSITION OF PERSONAL PROPERTY UNDER THE LANDLORD-TENANT ACT
---------------------------------	--

NOTE: If the vehicle or vessel is believed to be worth less than \$500, it may be titled to the landlord or sold by the landlord to a purchaser without giving further notice to the former tenant or owner. Therefore, the requirement for holding an advertised public sale would NOT be necessary (#3 below would not be required).

3. A copy of the newspaper advertisement which was published once a week for two consecutive weeks in a newspaper of general circulation where the public sale is to be held. The public sale must be held at the nearest suitable place to that where the personal property is held or stored. The sale must take place at least 10 days after the first publication and the last publication shall be at least 5 days prior to the sale. The advertisement must include a complete description of the motor vehicle or vessel including the year, make and vehicle/hull identification number, and the time and place of the sale. The public sale must take place at least 10 days after the first publication and the last publication shall be at least 5 days before the public sale. If there is no newspaper of general circulation where the public sale is to be held, the advertisement must be posted at least 10 days before the sale in not less than six conspicuous (visible) places in the neighborhood of the proposed sale. The 10 days must not include the date of the notice or the date of the sale.
4. **If the vehicle or vessel is sold, the original bill of sale from the landlord to the purchaser showing the selling price and a complete description of the vehicle or vessel. If the vehicle or vessel is not sold, the landlord MUST apply for a certificate of title in their name.**

NOTE: If the application for certificate of title is not made within 30 days of the date of the public sale; a penalty is due.

5. Lien satisfaction(s), for any liens, as shown on the motor vehicle/vessel records of this or any other state, if applicable.

NOTE: If the lien satisfaction(s) cannot be obtained, the lien(s) should be carried forward (shown on the completed form HSMV 82040 or 82041) and assumed by the new purchaser.

6. 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.
7. The Florida license plate number transferred to or purchased for the motor vehicle, or a non-use affidavit. The mobile home decal number purchased for or an RP decal transferred to or purchased for the mobile home. A non-use affidavit is not acceptable for mobile homes. **The Florida registration transferred to or issued for the vessel, or a nonuse affidavit.**
8. Title fees.

STATE OF FLORIDA
Division of Motorist Services

PROCEDURE # TL-16	SUBJECT: APPLICATION FOR CERTIFICATE OF TITLE UPON DISPOSITION OF PERSONAL PROPERTY UNDER THE LANDLORD-TENANT ACT
---------------------------------	---

B. If the motor vehicle or vessel was **PREVIOUSLY TITLED OUT OF STATE:**

1. **When applicable:**

A form HSMV 82042, Vehicle Identification Number and Odometer Verification, accurately completed by the applicant(s) with the vehicle identification number verified by one of the four officials shown on the lower portion of the form.

Form HSMV 82040, Application for Certificate of Title with/without Registration, may be used in lieu of the above listed form.

or,

An affidavit from the seller(s) and the purchaser(s) verifying that the vehicle identification number shown on the affidavit is identical to the vehicle identification number shown on the motor vehicle.

Verification is not required for any mobile home; any trailer or semitrailer with a net weight of less than 2,000 pounds; or any travel trailer, camping trailer, truck camper, fifth-wheel recreation trailer or vessel.

2. Verification of ownership and lien status information from the motor vehicle division of the state of previous registration. Verification may be one of the following:

a. A computer generated printout from the out-of-state motor vehicle division.

b. A letter on original letterhead stationery from the out-of-state motor vehicle division.

c. A copy of the teletype printout or statement which shows the ownership information, the name of the law enforcement agency and the official's name who provided the verification information.

d. Photocopy of the out-of-state certificate of title.

Additional information for vessels:

e. A photocopy of the release from federal documentation papers, when applicable.

3. When the state where the motor vehicle was previously registered is unknown, a notarized/perjury clause affidavit by the landlord stating that fact must be submitted. The affidavit must state that at the time the motor vehicle or vessel was abandoned, a license plate number or registration number was NOT on the motor vehicle or vessel.

4. Documentation as listed under II, A, 1-8, is also required.

STATE OF FLORIDA
Division of Motorist Services

PROCEDURE # TL-16	SUBJECT: APPLICATION FOR CERTIFICATE OF TITLE UPON DISPOSITION OF PERSONAL PROPERTY UNDER THE LANDLORD-TENANT ACT
<p>III. MISCELLANEOUS INFORMATION:</p> <ol style="list-style-type: none">1. When a motor vehicle, mobile home or vessel has been abandoned by a tenant or owner in a mobile home park, the owner of the property may follow DMS Procedure TL-16. However, if the owner does not choose to follow this process, he/she may call a towing company to have the mobile home, motor vehicle or vessel removed from the premises. The towing company would apply for title by complying with DMS Procedure TL-26.2. This procedure may be followed when the tenant is deceased and no heirs have come forward to claim the abandoned motor vehicle, mobile home or vessel.3. A documentation check list is attached to this procedure as Exhibit A.4. A sample of Notice To Former Tenant/Owner Other Than Former Tenant is attached to this procedure as Exhibit B.5. A “Definitions” page is attached as Exhibit C.6. Section 715.104, Florida Statutes is located at: http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0715/Sections/0715.104.html7. Section 715.109, Florida Statutes is located at: http://www.leg.state.fl.us/STATUTES/index.cfm?App_mode=Display_Statute&Search_String=&URL=0700-0799/0715/Sections/0715.109.html8. See Forms Appendix for a sample of the HSMV forms referred to in this procedure.	
PAGE #	TL-16-05

EXHIBIT A

LANDLORD-TENANT ACT CHECK LIST

FLORIDA RECORD

OUT-OF-STATE RECORD

_____ HSMV 82040 or HSMV 82041

_____ HSMV 82040 or HSMV 82041

_____ HSMV 82042, or the VIN
Verification section on form
HSMV 82040 (when applicable).

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

_____ Copy of Notice of Right to Reclaim Abandoned Property

_____ Hand delivered (No less than 10 days prior to sale.)

or,

_____ Mailed (No less than 15 days prior to sale.)

NOTE: If the vehicle or vessel is believed to be worth less than \$500, it may be titled to the landlord or sold by the landlord to a purchaser without giving further notice to the former tenant or owner. Therefore, the requirement for holding an advertised public sale would NOT be necessary.

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

_____ Newspaper advertisement showing the name of the newspaper and the dates published (must be published once a week for two consecutive weeks). The sale must take place at least 10 days after the first publication and the last publication shall be at least 5 days before the sale.

or,

_____ Posted notice (at least 10 days prior to date of sale in not less than 6 visible places in the neighborhood of the proposed sale).

NOTE: The 10 days does not include the date of the notice or the date of the sale.

_____ If the vehicle or vessel is sold, a bill of sale from the landlord to the purchaser, showing the selling price and a complete description of the vehicle or vessel.

_____ Lien satisfaction(s)

NOTE: If the lien satisfaction(s) cannot be obtained, the lien(s) should be carried forward (shown on the completed form HSMV 82040 or 82041) and assumed by the new purchaser.

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

_____ Florida license plate number, non-use affidavit or the mobile home or RP decal, or the Florida registration transferred to or issued for the vessel, or a nonuse affidavit.

_____ Title fees.

EXHIBIT B

715.105 (FORM OF NOTICE TO FORMER TENANT)

715.106 (FORM OF NOTICE TO OWNER OTHER THAN FORMER TENANT)

A notice which is in substantially the following form given to the former tenant or a person who is not the former tenant and whom the landlord reasonably believes to be the owner of any of the abandoned personal property satisfies the requirements of section 715.104, Florida Statutes.

Notice of Right to Reclaim Abandoned Property

To: Former Tenant Owner of Abandoned Property:

(Name) _____

(Address) _____

(City, State & Zip) _____

When (name of former tenant) _____ vacated the premises at
(address of premises, including room or apartment number, if any) _____
_____, the following personal property remained,
(complete description of vehicle or vessel) _____

If you own this property, you may claim it at (address) _____
_____.

Unless you pay the reasonable costs of storage and advertising, if any, for the above described property and take possession of the property to which you are entitled or claim, not later than **(insert date not fewer than 10 days after notice is personally delivered, or, if mailed, not fewer than 15 days after notice is deposited in the mail)** _____, this property may be disposed of pursuant to section 715.109, Florida Statutes.

Dated: _____

Signature of Landlord _____

(Type or print name of landlord)

Telephone number _____

Address _____

City _____ State _____ Zip _____

Check the statement below which applies:

- If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the costs of storage, advertising, and sale are deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within 1 year after the county receives the money.

- Because this property is believed to be worth less than \$500, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above.

EXHIBIT C

DEFINITIONS

LANDLORD	Any operator, keeper, lessor, or sublessor of furnished or unfurnished premises for rent, or her or his agent or successor-in-interest.
OWNER	Any person other than the landlord who has any right, title, or interest in personal property.
PREMISES	A dwelling unit and structure, including a mobile home, the lot and the connected grounds, areas, facilities, and property for use by the tenants. Any common areas associated therewith.
REASONABLE BELIEF	The actual knowledge or belief a person should have without making an investigation, including any investigation of public records; except that when the landlord has specific information that such an investigation would more probably than not reveal pertinent information and the cost of such an investigation would be reasonable in relation to the probable value of the personal property involved, the term "reasonable belief" includes the actual knowledge of belief a prudent person would have if such an investigation were made.
TENANT	Any paying guest, lessee, or sublessee of any premises for rent, whether a dwelling unit or not.
RENT	The periodic payments due the landlord from the tenant for occupancy under a rental agreement and any other payments due the landlord from the tenant as may be designated as rent in a written agreement.
RENTAL AGREEMENT	Any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises.