FILING CAPTION: Possessory Lien by an Auction Company and Resulting Title Transaction

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RULES:
735-020-0012, 735-150-0250

AMEND: 735-020-0012

NOTICE FILED DATE: 08/29/2019

RULE SUMMARY: SB 759 amended ORS 87.152 and now authorizes an auction company to title a motor vehicle in the name of the auction company, insurance company or a 501(c)(3) organization. As a result, DMV amended the rule language and the language on the DMV Certificate of Possessory Lien Foreclosure form (DMV Form 735-520) to accurately identify the uses of the form.

CHANGES TO RULE:

735-020-0012
Application for Title by Possessory Lien Foreclosure ¶

(1) This rule designates the forms and procedures to be used when evidence of a possessory lien foreclosure is submitted to DMV in support of an application for vehicle title.¶

(2) A lien claimant making application for title that is supported by evidence of a possessory lien foreclosure must submit the appropriate completed certification form as described below:¶

(a) For a landlord’s lien pursuant to ORS 87.162, a Certificate of Possessory Lien Foreclosure (DMV Form 735-518);¶

(b) For an abandoned vehicle pursuant to ORS 98.8350, a Certificate of Possessory Lien Foreclosure (DMV Form 735-519);¶

(c) For a possessory lien for labor or material expended on chattel (mechanic’s lien) pursuant to ORS 87.152, a Certificate of Possessory Lien Foreclosure (DMV Form 735-520);¶

(d) For property abandoned by a tenant pursuant to ORS 90.425, a Certificate of Possessory Lien Foreclosure (DMV Form 735-521);¶

(e) For a lien for towing a vehicle pursuant to ORS 819.160, a Certificate of Possessory Lien Foreclosure (DMV Form 735-6604); or¶
(f) For towing, care and storage charges of an unlawfully parked vehicle pursuant to ORS 98.812, a Certificate of Possessory Lien Foreclosure (DMV Form 735-6605).¶

(3) A certification form described under section (2) of this rule must be the version of the form in effect at the time the lien was foreclosed or the version in effect at the time the application for title is submitted to DMV.¶

(4) The lien claimant’s signature constitutes a certification that the information in the Certificate of Possessory Lien Foreclosure is true and accurate and that the lien claimant complied with all applicable statutory requirements for the possessory lien foreclosure.¶

(5) A certification form submitted and completed as described under sections (2) and (3) of this rule constitutes proof of ownership for purposes of ORS 803.205.¶

[ED. NOTE: Forms referenced are available from the agency.]

Statutory/Other Authority: ORS 184.616, 184.619, 802.010, 803.045, 803.094, 803.097
AMEND: 735-150-0250
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RULE SUMMARY: DMV has amended this rule so auction companies using the new possessory lien method in ORS 87.152(3) adhere to the same records requirements as other possessory liens.

CHANGE TO RULE:

735-150-0250
Lien Claimant Records; Notification of Sale ¶

(1) Purpose. This rule establishes the requirements, form and retention period for lien claimant records pursuant to ORS 822.093. The rule also specifies how a lien claimant will notify DMV of the sale of a subject vehicle.¶

(2) Definitions. For purposes of ORS 822.093, OAR 735-150-0260 and this rule:¶

(a) "Owner" means any individual(s) or business shown in the records of DMV as having an ownership interest in a subject vehicle.¶

(b) "Subject vehicle" means a vehicle:

(A) Sold by a lien claimant to foreclose a possessory lien, or a;

(B) For which a Certificate of Title or salvage title is issued by DMV pursuant to ORS 87.152(3); or ¶

(C) Acquired by a lien claimant through a possessory lien foreclosure that is sold or offered for sale by the lien claimant.¶

(c) "Violation" means failure by a lien claimant to keep records in accordance with this rule.¶

(3) Records. A lien claimant who sells or offers for sale a subject vehicle, or who obtains an Oregon Certificate of Title or salvage title from DMV for a subject vehicle, must maintain records sufficient to establish that subject vehicles were acquired by the lien claimant as the result of a possessory lien. The following records must be maintained:

(a) A signed and dated copy of an original tow notification, repair order, an impound form from law enforcement or other similar form or document showing how the lien claimant acquired possession of the subject vehicle, or a written record that identifies the person or entity that authorized the lien claimant to take possession of the subject vehicle (e.g. specific law enforcement agency, business, etc.) and the time and date of contact.¶

(b) A signed and dated copy of an original claim or notice of possessory lien, a notice of foreclosure sale form applicable to the possessory lien or similar form or document showing the owner of the vehicle was notified of the possessory lien;¶

(c) A signed and dated copy of the DMV certificate of possessory lien foreclosure form applicable to the possessory lien as specified in OAR 735-020-0012 for each subject vehicle; and¶

(d) A bill of sale, if applicable.¶

(4) Retention. Records required under this rule must be retained for a period of five (5) years by the lien claimant:

(a) For an individual, at a location that complies with section (5) of this rule;¶

(b) For a business, including the holder of a current valid towing business certificate issued under ORS 822.205, for a period of five years: two years on the premises of the main business location or at a supplemental location of the lien claimant if the vehicle is sold to foreclose a possessory lien, or if a Certificate of Title or salvage title is issued for the vehicle to foreclose a possessory lien, and an additional three-year period at any location within the State of Oregon that is convenient for the lien claimant; or ¶

(c) Any other location that is approved in writing by DMV.¶

(5) Maintenance; Form. Lien claimant records must be maintained in a manner allowing for timely and efficient retrieval of any record requested by DMV for inspection. Records maintained under this rule must be the original records or an exact copy of the original records and may be maintained in hard copy, on film, or by electronic means. DMV may require that any record printed or completed in a language other than English be accompanied by a copy translated into English.¶

(6) Notice to DMV. A lien claimant must notify DMV within 10 days of the sale or transfer of interest of a subject
vehicle by submitting to DMV:

(a) A completed and signed Notice of Sale or Transfer of Vehicle (DMV Form 6890), if the subject vehicle is covered by an Oregon title; or

(b) A completed and signed Notice of Lien Foreclosure; Sale or Transfer of Vehicle (DMV Form 6890A), if the subject vehicle is not covered by an Oregon title.

Statutory/Other Authority: ORS 184.616, 184.619, 803.097, 822.035, 822.042, 822.093, 802.010