



July 6, 2017

## Registration and Title Bulletin # 003-17 Policy and Procedure

**TO:** All County Tax Assessor-Collectors

**SUBJECT:** Licensed Vehicle Storage Facility Lien Notifications

### **PURPOSE**

To explain changes to licensed vehicle storage facility (VSF) lien procedures adopted by the 85<sup>th</sup> Legislature.

### **BACKGROUND**

Currently, a licensed VSF must send two notices to the owner(s) and applicable lienholder(s) within statutorily required time frames. If the VSF does not send the notices within the time frames required, the vehicle may only be transferred by court order. These notices also required proof of mailing and proof of delivery at the time of title application. Additionally, proof of law enforcement notice was required for each vehicle.

### **DETAILS**

Senate Bill 1501 enacted by the 85<sup>th</sup> Legislature made several changes to Occupation Code, Sections 2303.151 and 2303.154, impacting VSF lien foreclosures. These changes are effective immediately, apply to vehicles obtained on or after June 15, 2017, and do not impact any other miscellaneous lien foreclosures.

Failure of a VSF to send any notice to the owner(s) or applicable lienholder(s) within the statutorily required time frame no longer invalidates a title application. As a result, the department or a county tax assessor-collector may no longer reject a title application and require a court order when a VSF does not send notices within the time frame required. However, the public sale of the vehicle cannot occur prior to the 31<sup>st</sup> day after the second notice (regardless of when it is made) or law enforcement notification (if it is required), whichever is latest. A VSF is now required to send the second notice to all recorded lienholders and not just the primary.

A VSF must continue to submit **proof of mailing** by certified mail or electronic certified mail; however, **proof of delivery** is no longer required. The requirement for a return receipt (green card) or electronic return receipt is eliminated.

The bill also amends the requirements for law enforcement notification. Law enforcement notification is now only required if the law enforcement agency with local jurisdiction requires the notice from the VSF. If the law enforcement agency does not require this notification, the VSF must self-certify to this fact on the revised *Licensed Vehicle Storage Facility Lien Foreclosure* (Form VTR-265-VSF).

### **COUNTY ACTION**

Please review the revised *Licensed Vehicle Storage Facility Lien Foreclosure* (Form VTR-265-VSF) and the two "Licensed Vehicle Storage Facility Lien Foreclosure" flow charts. The notary requirement has been removed from the revised Form VTR-265-VSF.

For vehicles obtained by the VSF prior to June 15, 2017, please continue to enforce the requirements in place at that time. This includes requiring proof of delivery, law enforcement notification, and ensuring notifications were sent within the statutory time frame. A court order would still be required if a VSF fails to abide by the laws in place at the time vehicle possession occurred.

Do not reject any title applications for the VSF failing to send either of the notices to the owner(s) or lienholder(s) within the required time frame if possession occurred on or after June 15, 2017. You are only required to ensure the required proof of mailings in the form of certified mail or electronic certified mail have been submitted with the application in addition to any other requirements.

Please ensure proof of law enforcement notification is submitted as previously required or the VSF has self-certified the law enforcement agency with jurisdiction does not require notification if the vehicle was obtained on or after June 15, 2017. If law enforcement does not require notification, the VSF is required to utilize the revised Form VTR-265-VSF in order to complete the self-certification.

Based on the notification requirements, the earliest application date for a vehicle obtained on or after June 15, 2017 is July 16, 2017. Any application received by your office before July 16, 2017 would not fall under the new notification requirements and must comply with the previous requirements.

Continue to reject any application and require a court order if the public sale occurred prior to the 31<sup>st</sup> day after the second notice or law enforcement notification (if required) was made, whichever is latest.

If an application for a VSF lien foreclosure has not complied with the statutory notification time frames, a county may submit a copy of the entire application to the Texas Department of Licensing and Regulation (TDLR) Enforcement Division. To submit a complaint, email the scanned documents and a brief statement to [intake@tdlr.texas.gov](mailto:intake@tdlr.texas.gov). Alternatively, you may submit a complaint directly through TDLR's website at [www.tdlr.texas.gov/complaints](http://www.tdlr.texas.gov/complaints). Filing a complaint should not delay or prevent the processing of the title application. Once opened, a tracking number will be issued that must be used to mail a copy of the documents to TDLR at:

Enforcement Division  
Texas Department of Licensing and Regulation  
P.O. Box 12157  
Austin, Texas 78711

### **CONTACT**

If you have any questions, please contact your local Texas Department of Motor Vehicles Regional Service Center.

Sincerely,



Jeremiah Kuntz, Director  
Vehicle Titles and Registration Division

JK:KK

Attachments