



# Franchise Mechanic's Lien Foreclosure

Use this form if you are a Franchise Dealer

INSTRUCTIONS ON PAGE 2

## A. GENERAL INFORMATION

YEAR	MAKE	BODY STYLE	MODEL
VEHICLE IDENTIFICATION NUMBER			
LICENSE PLATE NUMBER	YEAR OF LICENSE	STATE OF ISSUANCE	EXPIRATION
PRINT NAME OF PERSON THAT LEFT VEHICLE FOR REPAIRS		COMPLETE ADDRESS OF PERSON THAT LEFT VEHICLE FOR REPAIRS	

## B. MECHANIC'S LIEN INFORMATION

1. DATE VEHICLE LEFT FOR REPAIRS	2. STATE THE DATE REPAIRS WERE COMPLETED AND <b>ATTACH A COPY OF THE SIGNED WORK ORDER.</b>
3. CHARGES FOR PARTS AND LABOR	NOTE: The Form VTR-265-S must also be completed if the foreclosure includes storage charges. Additionally, a second notice will be required.
4. If a copy of the document required under item 2 above is not available provide an explanation as to the mechanic work or repairs performed.	

## C. FORECLOSURE INFORMATION

DATE	Date the owner(s) and lienholder(s), if any, were notified by certified mail of the charges. Notice must be given 30 days after the day on which charges accrued and the charges are unpaid. Attach a validated (date stamped) receipt from the U.S. Post Office or other certified mail provider.
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## D. AFFIDAVIT OF STATUTORY LIENHOLDER - State law makes falsifying information on this application a third-degree felony.

I, the undersigned statutory lienholder, certify that the statements are true and correct and that the vehicle described above was left for repair and that the owner(s) and lienholder(s) were notified, as required by statute, to come forward and pay the charges due and pick up the vehicle. Possession of the vehicle has continued for thirty (30) days after the dates on which notice of the amount of charges were mailed, and such charges remain unpaid. I further certify that I have complied with all applicable provisions of Chapter 70 of the State Property Code, and I am, therefore, proceeding to foreclose on the statutory mechanic's lien in accordance therewith.

PRINT NAME OF GARAGE	COMPLETE ADDRESS OF GARAGE
PRINT NAME OF AUTHORIZED AGENT	SIGNATURE OF AFFIANT

Subscribed and sworn to before me \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

Notary Seal \_\_\_\_\_ Notary Public \_\_\_\_\_ County, Texas

## E. PUBLIC SALE INFORMATION

DATE OF PUBLIC SALE	LOCATION OF PUBLIC SALE
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## F. SELLER/BUYER ASSIGNMENT/ODOMETER DISCLOSURE STATEMENT

By virtue of the public sale outlined above and in accordance with the laws of the State of Texas, I, the undersigned contractual lienholder, for the sum of \$ \_\_\_\_\_, sell and assign the vehicle described on this affidavit to the highest bidder at said sale to:

NAME	STREET ADDRESS	CITY	STATE	ZIP CODE
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Federal and State law requires that you state the mileage in connection with the transfer of ownership. Failure to complete or providing a false statement may result in fines and/or imprisonment. \_\_\_\_\_ Odometer Reading (no tenths)

I, the seller/agent, certify to the best of my knowledge that the odometer reading is the actual mileage of the vehicle unless one of the following statements is checked:

1. The mileage stated is in excess of the mechanical limits.

2. The odometer reading is not the actual mileage. **WARNING - ODOMETER DISCREPANCY**

DATE OF SALE	SIGNATURE OF SELLER/AGENT	PRINTED NAME (same as signature)
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I, the buyer/agent, am aware of the above odometer certification made by the seller/agent.

SIGNATURE OF BUYER/AGENT	PRINTED NAME (same as signature)
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## G. FRANCHISE MECHANIC'S LIEN FORECLOSURE PROCEDURES

**NOTE:** If unable to determine where the vehicle was last registered, this method of disposal of the vehicle **cannot** be used. Disposal of the vehicle must be by court order through a court of competent jurisdiction.

1. **POSSESSION** — Must have continued for 30 days after the charges accrued and the charges due have not been paid.
2. **FORECLOSURE NOTICE** — Thirty (30) days after the day on which repair charges accrue, the person claiming the lien must notify the owner(s) and lienholder(s) of record by certified mail, return receipt requested, the location of the vehicle, the charges due and request payment. **The notice must also be sent to the address that appears on the work order/document authorizing possession, if the addresses are different from the address on the motor vehicle record.** Notice by newspaper publication may be permitted. (See \* below.)
3. **STORAGE NOTICE, IF APPLICABLE** — If any amount of the charges include storage fees, a second notification must be made by certified mail to the registered owner and lienholder, or see \* below for applicable notice by newspaper publication. If last registered outside of Texas, notice must be made within fourteen (14) days of obtaining possession. A Storage Lien for Abandoned Vehicle or Private Tow, Form VTR 265-S, must also be completed. A release of lien is also required if any portion of the amount due represents charges for storage, otherwise foreclosure must be through a court of competent jurisdiction.
4. **PUBLIC SALE** — If charges are not paid before the 31st day after the day on which the notice of the amount of charges was mailed or published, the possessory lienholder may sell the vehicle at public sale without obtaining a release of lien. The proceeds must be applied to the payment of charges and the balance must be paid to the person entitled to it.
5. **APPLICATION FOR TITLE** — The highest bidder (named in field F) must apply for title.

\* **NOTIFICATIONS TO THE OWNER(S) AND LIENHOLDER(S), IF ANY** — In lieu of written notification, publication of the notice(s) in a newspaper of general circulation in the county in which the vehicle is stored may be used only if **ALL** of the following apply:

- (1) the motor vehicle is registered in another state; and
- (2) the holder of the lien submits a written request by certified mail, return receipt requested, to the governmental entity with which the motor vehicle is registered requesting information relating to the identity of the last known registered owner and any lienholder of record; and
- (3) the holder of a lien:
  - (a) is advised in writing by the governmental entity with which the motor vehicle is registered that the entity is unwilling or unable to provide information on the last known registered owner or any lienholder of record; or
  - (b) does not receive a response from the governmental entity with which the motor vehicle is registered on or before the 21st day after the date the holder of the lien submits a request under (2); and
- (4) the identity of the last known registered owner cannot be determined; and
- (5) the registration does not contain an address for the last known registered owner; and
- (6) the holder of the lien cannot determine the identities and addresses of the lienholders of record.

**NOTE:** The lienholder is not required to publish notice if a correctly addressed notice is sent with sufficient postage and is returned as unclaimed or refused, or with a notation that the addressee is unknown or has moved without leaving a forwarding address.

## H. EVIDENCE REQUIRED TO TRANSFER OWNERSHIP

- a. **Form VTR-265-FM** properly completed by the statutory lienholder.
- b. **VERIFICATION OF TITLE AND REGISTRATION**

If registered in Texas — Verification of Texas title and registration is required.

If registered outside of Texas — Verification of title and registration from the state of record. If not available, the following may be provided in lieu of title and registration verification from the state of record:

  - (1) If a lienholder sends a request for title and registration verification to the state of record (by certified mail) and is informed by letter that due to the Driver's Privacy Protection Act restrictions, the state elects to forward the lienholder's notification to the owner(s) for notification purposes, the original letter(s) from the state of record, along with certified receipts for each notification sent to that state, will be acceptable; or
  - (2) If notification is made by newspaper publication, proof that a correctly addressed request for the name and address of the last known registered owner(s) and lienholder(s) was sent to the state of record by certified mail with return receipt requested. Proof consists of a copy of the request sent along with certified receipts for the notification sent to the state of record.
- c. **PROOF OF NOTIFICATIONS**

Notices by Certified Mail — Proof consists of the date stamped receipts for certified mail and return receipt, together with any **unopened** certified letter(s) returned as undeliverable, unclaimed, or no forwarding address.

Notice by Newspaper Publication (Only if applicable) — Proof consists of the certified request (as listed above for certified mail) sent to the state of record requesting verification of owner(s) and lienholder(s), AND a legible photocopy of the newspaper publication which includes the name of the publication and the date of publication.
- d. **LIABILITY INSURANCE** — A copy of current proof of liability insurance in the applicant's name.
- e. **WORK ORDER** — Attach a copy of the work order, unless Item B (field 4) on page 1 of this form is completed.
- f. **PENCIL TRACING** — A pencil tracing of the motor and serial numbers may be required to establish the vehicle's correct identity.
- g. **OUT-OF-STATE VEHICLES** — If the vehicle was last registered outside of Texas, the following documentation is also required:
  - (1) Identification Certificate (Form VI-30); and
  - (2) Weight certificate on a commercial vehicle.