**Section 1010.193  Procedures for Application for Title for Vehicles Purchased at Mechanic's Lien Sales**

a) Purpose. This Section sets forth the procedures that must be followed by persons who are applying for certificates of title, salvage certificates or junking certificates for vehicles purchased at sales conducted to foreclose liens on vehicles (commonly referred to as "mechanic's liens"), when the sales were held pursuant to the Labor and Storage Lien Act [770 ILCS 45] using the procedures set forth in the Sale of Unclaimed Property Act [770 ILCS 90], or pursuant to the Labor and Storage Lien (Small Amount) Act [770 ILCS 50].

b) For the purposes of this Section:

1) "Applicant" means an individual who is applying for a certificate of title, salvage certificate, or junking certificate for a vehicle purchased at a sale conducted pursuant to the Labor and Storage Lien Act, using the procedures set forth in the Sale of Unclaimed Property Act, or conducted pursuant to the Labor and Storage Lien (Small Amount) Act.

2) "Consent for materials, labor or storage", which must be given before any materials, labor or storage is provided, means either:

A) the written consent as shown via a signature of the registered owner of the vehicle, the owner's authorized agent, or the lawful possessor; or

B) a written record of a verbal consent of the registered owner, owner's authorized agent, or lawful possessor that includes the date and time of the conversation, a notation of the services that were consented to, the name of the individual spoken to, and, if available, that individual's phone number.

3) "IVC" means the Illinois Vehicle Code.

4) "Lawful possessor" means an individual who has the registered owner's or the owner's authorized agent's permission to be in possession of the vehicle and to approve or agree to repair or storage charges for the vehicle.

5) "Owner" means the individual or individuals, or other legal entity, appearing on the vehicle title as the owner, lessor or lessee.

6) "Owner's authorized agent" means an individual given authority by the registered owner of the vehicle to act on the registered owner's behalf with regard to authorizing vehicle repairs and storage.

7) "Secretary" means the Illinois Secretary of State or his or her designee.

8) "Vehicle" shall have the same meaning as ascribed in IVC Section 1-217.

c) An applicant who has purchased a vehicle pursuant to a mechanic's lien sale, as set forth in the Labor and Storage Lien Act, using the procedures set forth in the Sale of Unclaimed Property Act, or the Labor and Storage Lien (Small Amount) Act shall submit the following to the Secretary when applying for a certificate of title, salvage certificate, or junking certificate for the purchased vehicle:

1) a Mechanic's Lien Affirmation (VSD-526), provided by the Secretary, that is properly completed, in full, by the lienholder offering the vehicle for sale and signed by the applicant or the applicant's agent;

2) a fully completed application for certificate of title, salvage certificate or junking certificate;

3) documents provided to the applicant by the lienholder offering the vehicle for sale showing the notice requirements of the Labor and Storage Lien (Small Amount) Act or the Sale of Unclaimed Property Act were fulfilled. These documents shall include:

A) verification of ownership of the vehicle at the time notices of the sale were mailed and published, including a title search conducted by the Secretary's Vehicle Records Division and, if the vehicle is not found in the Secretary's records, a search of a national database (e.g., Carfax, Experian, NMVTIS) to determine the state in which the vehicle was last registered and a title search conducted by the department of motor vehicles in that state; the search of another state's department of motor vehicle records may be conducted by a third party vendor when those services are available;

B) proof of notifications:

i) notices sent by certified mail at least 30 days prior to the date of the sale, that include an original or a copy of the actual notices mailed to the owners and lienholders of record of the vehicle, along with:

• the USPS date-stamped receipts for certified mail, and a signed return receipt, or any unopened certified letter or letters returned by the USPS as undeliverable or unclaimed; or

• a receipt for the certified mailing along with the USPS printout showing the actual or attempted delivery of the mailing;

ii) original or copy of publication of the sale in a newspaper of general circulation in the municipality or county where the sale is to be held, published at least 30 days prior to the date of the sale (one publication for liens of $2,000 or less, and one per week for three consecutive weeks for liens in excess of $2,000) that show the published notices and a certificate of publication identifying the name of the publication and publication dates;

iii) notice by service, if applicable, when an affidavit of service is filed with the Clerk of the Circuit Court with liens in excess of $2,000 for unknown owners or lienholders or in cases in which the mail is undeliverable;

iv) all notices shall include the amount of the lien; and

v) not less than 15 business days after the submission of a completed application for title pursuant to a mechanic's lien foreclosure, the Secretary shall verify that no additional parties have an interest in the vehicle that requires notification as set forth in subsection (c)(3)(B)(i);

4) a copy of the invoice or work order reflecting the vehicle make, model, year, VIN and registration state and license plate number, the services rendered, including materials, labor and storage, the total amount due, the date the vehicle was brought in for services, and the owner's complete name, address and contact information;

5) documentation showing the materials, labor or storage services were consented to by the owner, the owner's authorized agent, or the lawful possessor who brought the vehicle in for service, along with an explanation of the relationship between the authorized agent or lawful possessor and the registered owner if the services charges for the vehicle were incurred at the request of an authorized agent or lawful possessor;

6) photographs showing the front, rear and both sides of the vehicle to determine the status of the repairs, if any, to assist in determining the appropriate title or brand to be issued for the vehicle, and, if requested by the Secretary, a photograph of the dashboard VIN plate to assist in identifying the vehicle;

7) the appropriate, current certificate of title or salvage certificate fee;

8) the appropriate sales or use tax form and sales or use tax payment payable to the Illinois Department of Revenue, if applicable; and

9) any other documents the Secretary deems necessary (e.g., proof that a foreign made, limited production vehicle is exempt from EPA regulations).

d) The contracted charges that are incurred against a vehicle, whether for materials, labor or storage, shall not be adjusted or manipulated to meet the lien amount set forth in Sections 5 and 6 of the Labor and Storage Lien (Small Amount) Act, thereby altering the statutory priority of existing prior perfected security interests or lienholders under Section 4 of the Labor and Storage Lien Act. Storage shall be charged at an agreed-upon or posted rate, or at a usual and customary rate for the geographical area where the vehicle is stored.

e) The vehicle for which a certificate of title, salvage certificate or junking certificate application is filed pursuant to a mechanic's lien sale shall be subject to all statutory and administrative rule provisions in regards to the appropriate type of title, or brand on the title, that will be issued for the vehicle, including, but not limited to, certificate of title, rebuilt title, salvage certificate, junking certificate, flood or corrected branding, any applicable lienholders, and any safety inspections prior to processing the application.

f) Vehicles removed from public or private property at the request of a vehicle owner or operator, or as authorized by a law enforcement agency in compliance with IVC Sections 4-201, 4-202 and 4-203, and stored by a commercial vehicle relocator or any other towing service, shall be subject to a possessor lien for services pursuant to the Labor and Storage Lien (Small Amount) Act. Consent for the towing and storage shall be deemed satisfied by compliance with Sections 18a-302 and 18a-300(6) of the Illinois Commercial Relocation of Trespassing Vehicles Law [625 ILCS 5/Ch. 18a, Art. 3]. However, no such lien shall exceed $2,000 in its total amount, or be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by the IVC.

g) Vehicles removed from non-residential private property at the request of the owner of the private property or other person in lawful possession or control of the private property, in compliance with the Illinois Commercial Relocation of Trespassing Vehicles Law shall be subject to a possessory lien for services pursuant to the Labor and Storage Lien (Small Amount) Act. Consent for the towing and storage shall be deemed satisfied if the private property owner has posted appropriate signs as required by Section 18a-302 of the Commercial Relocation of Trespassing Vehicles Law. In no event shall any such lien be increased or altered to reflect any charge for services or materials rendered in addition to those authorized by the Commercial Relocation of Trespassing Vehicles Law.

h) The Secretary reserves the right to compare the signature of the owner of the vehicle, the owner's authorized agent, or the lawful possessor that is presented as proof of consent to the signature on file with the owner's, the authorized agent's, or the lawful possessor's driver's license or identification card to ensure the validity of the signature.

i) The Secretary shall consider each application for certificate of title, salvage certificate or junking certificate for a vehicle purchased at a mechanic's lien sale a maximum of 3 times. Notice of the second or third denial shall be sent directly to the applicant, as well as to any intermediary party acting on the applicant's behalf. If the application is denied after the third submission, the applicant shall have the right to appeal the denial of the application through the administrative hearing process (see 92 Ill. Adm. Code 1001.Subpart A). The Secretary may allow one additional review before issuing a final decision regarding the application when it is determined that the information or documentation necessary to complete the application exists, but was not previously submitted due to a misunderstanding or oversight.

(Source: Added at 39 Ill. Reg. 5106, effective March 20, 2015).