

## Chapter G

# Operation of Law & Trusts

### Operation of law

A vehicle title transfer by operation of law means that a legal process, other than the person's voluntary act, transfers a person's interest.

### Fee for operation of law title transfer

DMV charges a title fee for a title transfer by operation of law. The fee is based on vehicle type and weight.

The title must be submitted, if available. If the title is unavailable when the operation of law title transfer is submitted, DMV does not charge a replacement title fee.

### Divorce

#### ***Decree or property settlement***

The applicant must submit a copy of the final divorce decree. The decree must fully describe the vehicle. If the decree includes only a partial description, DMV accepts the document for review. If the vehicle named in the decree does not match the title, it is not acceptable. The decree must indicate to whom the vehicle was awarded.

The final decree must have been filed with the court, which may be shown by:

- The judge's signature,
- S/s, /s/ or ss on the signature line (indicates the judge has seen the decree),  
or
- Simply the words "filed" and the court name on the front of the decree.

The owner may have an approved property settlement instead of a divorce decree. The property settlement must be filed with the courts in the same way as the decree.

In addition to the divorce decree or property settlement, DMV must have releases from anyone listed on the vehicle record and not mentioned in the decree, unless these owners are also on the new application for title.

#### ***Title and releases***

The title must be submitted if available.

If the title is lost or otherwise unavailable, and there is no security interest holder shown on the DMV record, DMV will accept a completed application for title/registration, the divorce decree, any other supporting documents needed to transfer title.

If there is a security interest holder shown on the current DMV record, DMV requires either a lien release or the title from the security interest holder.

#### ***Odometer***

DMV requires an odometer disclosure if the party applying for title was not shown on the previous title as an owner.

If the party that was awarded the vehicle sold it, they must disclose odometer as seller. If the title is available, the seller and buyer must disclose odometer on the title itself. If the title is *not* available, the seller and buyer must complete a separate secure odometer disclosure/reassignment form.

## **Survivorship**

Survivorship means there are joint owners with right of survivorship of personal property. The front of Oregon titles shows survivorship information.

When DMV issued a title with survivorship and one of the owners is deceased, the surviving owner(s) may transfer with proof of death of the deceased owner.

Applicants for title can request survivorship:

- By submitting an application for title and checking the box in the survivorship section, or
- With a written request with an application for title, or
- By a written request with the current title.

## ***Proof of death***

Proof of death may be a copy of the death certificate, an obituary notice, or a newspaper article that clearly names the owner on record and states they are deceased.

## ***If all owners deceased***

If all owners are deceased, determine who died last.

If the estate of the person who died last is being probated, DMV requires copies of court-issued Letters of Testamentary or equivalent documents appointing the personal representative, and a release of interest from the personal representative.

If the estate of the person who died last is not being probated, DMV can accept an Inheritance Affidavit, or a Small Estate Certification, [Form 735-6797](#). For the other owner(s) you need proof of death.

If all owners died at the same time, review the death certificates to determine when the deaths occurred.

- If the owners died fewer than 120 hours apart, follow probate, Small Estate, or Inheritance Affidavit procedures for all deceased owners.
- If owners died 120 hours or more apart, follow probate, Small Estate, or Inheritance Affidavit procedures for the party that was deceased last.

If you have questions about Small Estate requirements, contact DMV Customer Assistance.

## ***Title and releases***

The title is required, if available.

If the title is lost or otherwise unavailable, and the DMV record does not show a security interest holder, DMV will accept a completed application for title and registration, the proof of death, any other supporting documents needed to transfer title, and the proper fee.

If the current DMV record shows a security interest holder, you must either submit a lien release or obtain the title from the security interest holder.

### **Odometer**

When one of the registered owners is deceased and the survivor has sold the vehicle to a new owner, the survivor must disclose odometer.

If the title is available, the seller and buyer must disclose odometer on the title itself. If the title is *not* available, the seller and buyer must complete a separate secure odometer disclosure/reassignment form.

If both owners are deceased, the personal representative must make the seller's disclosure.

## **Inheritance**

### ***Estate is probated***

Follow these procedures if the title was issued without showing survivorship.

If the estate of the deceased is being probated, DMV needs copies of the court-issued Letters of Testamentary or equivalent documents appointing the personal representative of the estate.

The person appointed in the court order must release the interest of the deceased on the title or on a separate bill of sale. If the court appointed more than one person, **each** person must sign to release the interest of the deceased.

If the estate was probated but has been closed, DMV needs a copy of the Decree of Final Distribution issued by the court indicating the disposition of the vehicle.

### ***Estate is not probated***

If the estate is **not** being probated, DMV will accept a fully completed Inheritance Affidavit, [Form 735-516](#) (see Example A). All heirs of the estate must sign it. The signatures must be notarized. The form must show to whom the heirs awarded the vehicle. Oregon DMV may accept another state's inheritance affidavit form for estates settled in Oregon. The out-of-state form is acceptable if it does not refer to another state's laws, and contains all the information required on Oregon's form.

If the heirs are minors under eighteen years of age, the parent or guardian must sign on their behalf. An example of a parent or guardian signature is: *John Doe, 10, by John Doe, parent*. If a guardian signs for a child, DMV needs a copy of the papers showing guardianship. An emancipated child under eighteen may sign the Form 735-516. A copy of their emancipation papers must be submitted with the Form 735-516.

If the heirs sell the vehicle, they may release on the title, a separate bill of sale, or secure odometer disclosure. The heirs may assign their interest to a buyer by naming that person on the Form 735-516. Evidence must be presented showing that all security interests have been satisfied, or that the security interest holder has given consent to transfer title to a new owner.

### ***Title and releases***

The title is required, if available.

If the title is lost or otherwise unavailable, and there is no security interest holder shown on the DMV record, DMV accepts a completed application for title and registration, the inheritance affidavit or probate document, any other supporting documents needed to transfer title, and the proper fee. If there is a security interest holder shown on the current DMV record, you must either submit a lien release or obtain the title from the security interest holder.

If the current DMV record shows a security interest holder, you must either submit a lien release or obtain the title from the security interest holder.


DMV can also accept an application for title when vehicle ownership is settled by a small estate affidavit filed with the county. Contact DMV headquarters in Salem for more information.

### ***Odometer***

In inheritance situations, the party that is awarded the vehicle in the operation of law discloses odometer. If that person is not the party who had possession of the vehicle, they may rely on information provided by the party who has physical possession of the vehicle.

The disclosure must be on the title itself if available. If the title is not available, the disclosure may be on a secure odometer disclosure/reassignment form.

**Example of INHERITANCE AFFIDAVIT, FORM 735-516**  
 Actual size 8½" x 11 "

 <small>DEPARTMENT OF TRANSPORTATION                  DRIVER AND MOTOR VEHICLE SERVICES                  1905 LANA AVENUE, SALEM OR 97314</small>	<h2 style="margin: 0;">INHERITANCE AFFIDAVIT</h2>		
<p>If a deceased owner's estate is not probated, their interest in a vehicle may be assigned through the use of this affidavit signed by all the heirs of the owner(s) stating the name of the person to whom the ownership interest has been assigned. (ORS 803.094)</p> <p>This form must be completed by the heir(s) and submitted to DMV with the title (if available), application for title, and title transfer fee.</p> <ul style="list-style-type: none"> <li>● <b>DMV must receive an affidavit completed and signed by all heirs.</b> Heirs are determined according to ORS Chapter 112. DMV cannot determine the heirs for you. You may wish to seek legal counsel to determine who the heirs are.</li> <li>● If there is more than one heir, the heirs may either complete and sign the same affidavit or complete and sign separate affidavits. Each affidavit must indicate to whom ownership of the vehicle is assigned.</li> <li>● If there are no other heirs, leave the space provided below, for listing heirs, blank.</li> <li>● If the heir is a minor or is incapacitated, the parent or guardian must sign for the heir. (Example: Jane Q. Public, age 10, by <i>Jofin Q. Public</i>, parent.) If the guardian signs, a copy of the court papers showing guardianship must be submitted with the affidavit.</li> <li>● The affidavit must be signed before a notary. (The notary does not have to be from the State of Oregon.)</li> </ul>			
<p>I/We, _____                  declare that _____                  died on the _____ day of _____, 20 ____; and that the estate has not                  and will not be probated.</p> <p>At the time of death, the deceased was the owner of the following described vehicle:</p>			
<small>PLATE NUMBER</small>	<small>YEAR</small>	<small>MAKE</small>	<small>VEHICLE IDENTIFICATION NUMBER</small>
<p>List all heirs. (Any heirs not signing this affidavit must complete a separate affidavit.) <b>I certify if there are no names listed below, there are no other heirs.</b></p>			
<p>I/we release any and all claim to the following party:</p>			
<small>NAME OF PERSON TO WHOM OWNERSHIP OF THE VEHICLE HAS BEEN ASSIGNED.</small>		<small>ADDRESS</small>	
<small>CITY</small>	<small>STATE</small>	<small>ZIP CODE</small>	
<b>ALL HEIRS MUST SIGN BELOW</b>			
<small>SIGNATURE OF HEIR</small>		<small>SIGNATURE OF HEIR</small>	
X		X	
<small>SIGNATURE OF HEIR</small>		<small>SIGNATURE OF HEIR</small>	
X		X	
N O T A R Y	State of _____ County of _____ Subscribed and sworn before me this _____ day of _____, 20 ____ by _____ X _____ <small>SIGNATURE OF NOTARY PUBLIC</small>		
	<small>735-516 (2-07)</small>		
	<small>STK# 300165</small>		

## **Repossession**

Repossession is the act of taking back possession of a vehicle when the purchaser fails to make payments based upon a contractual agreement.

To apply for title after repossession, the reposessor, or an authorized representative, may complete the Vehicle Repossession Certificate, [Form 735-263](#).

The repossession certificate must indicate all debtors shown on the security agreement. The certificate must show vehicle information (year, make, VIN), must be signed by the reposessor, and must be the original. The applicant must also obtain releases from all owners on the title not named in the security agreement. The form is not acceptable as a lien release.

The title is required, if available. If the title is lost or otherwise unavailable, DMV will accept a completed application for title and registration, the repossession certificate, any other supporting documents needed to transfer title, and the proper fee.

DMV will accept another state's repossession certification form. If the vehicle is titled in another state, the form must be accompanied by the out of state title. The reposessor must be the security interest holder on the out of state title. If no security interest holder is listed on the title, DMV needs a copy of the security agreement.

### ***When the security interest is not shown on the title***

The party that repossesses a vehicle is usually shown as the security interest holder on DMV records. However, there are times when the DMV record does not show the security interest holder, if the title was not transferred to show their interest.

If DMV records do not show the party repossessing as security interest holder, a copy of the contract or security agreement signed by the owner of record must be submitted with the transaction. DMV will accept it if there is no indication of any third party claim to the vehicle (for example, the registered owner has sold the vehicle to someone.)

### ***When the security interest has been reassigned***

Under certain circumstances, the security interest holder will sell or reassign their contract for a vehicle. If the registered owner defaults on the loan, the party the contract was sold or reassigned to has a right to repossess the vehicle. For example:


A dealership obtains financing for a customer from a lender based on an "unconditional guarantee;" the customer is expected to pay off the loan. If the customer defaults on the loan, the contract may be reassigned to the dealership by the lender. The dealership then has a right to repossess the vehicle from the customer.

In these instances, a copy of the contract with some indication the security interest was reassigned or sold must be submitted in addition to the other repossession papers.

## **Odometer**

When applying for title, the odometer disclosure is required from the reposessor.

**Example of VEHICLE REPOSSESSION CERTIFICATE, FORM 735-263**  
 Actual size 8½" x 5½"

 DEPARTMENT OF TRANSPORTATION DRIVER AND MOTOR VEHICLE SERVICES 1905 LANA AVE NE, SALEM OREGON 97314		<h2 style="margin: 0;">VEHICLE REPOSSESSION CERTIFICATE</h2> <p style="margin: 0;">For vehicles repossessed under Oregon law.</p>	
<p><b>INSTRUCTIONS:</b></p> <ol style="list-style-type: none"> <li>1. Complete and sign this form. List all debtor(s) shown on the security agreement.</li> <li>2. Please attach: ● Title properly endorsed for transfer; ● Title fee; ● Release of interest from any party shown on the title and not on the security agreement, unless the party shown is a lessee.</li> </ol>			
PLATE NUMBER	YEAR	MAKE	BODY STYLE
VEHICLE IDENTIFICATION NUMBER		TITLE NUMBER	
▼ FOLLOWING REPOSSESSION, THE VEHICLE WAS SOLD / ASSIGNED TO: ▼			
BUYER / ASSIGNEE (Print last, first, middle)			DATE OF SALE
ADDRESS (Street, City, State, Zip Code)			
I CERTIFY I (OR THE COMPANY I REPRESENT) HAVE A SECURITY AGREEMENT FOR THE ABOVE DESCRIBED VEHICLE WITH (LIST ALL DEBTORS ON THE SECURITY AGREEMENT):			
I ALSO CERTIFY THE DEBTOR(S) DEFAULTED IN THE SECURITY AGREEMENT, AND THE VEHICLE HAS BEEN LAWFULLY REPOSSESSED WITHOUT JUDICIAL PROCESS OR I AM AUTHORIZED TO DISPOSE OF THE VEHICLE IN ACCORDANCE WITH ORS 79.0601 THROUGH ORS 79.0628.			
<b>THIS CERTIFICATION IS MADE FOR THE PURPOSE OF OBTAINING TITLE OR IN SUPPORT OF MY ASSIGNMENT OF TITLE TO THE VEHICLE.</b>			
SIGNATURE OF SECURITY INTEREST HOLDER OR REPRESENTATIVE (Including company name)		TITLE OF REPRESENTATIVE	DATE
X			
735-263 (2-04)		STK# 300106	

## Possessory lien/abandoned vehicle

DMV provides the Possessory Lien/Abandoned Vehicle packet, Oregon DMV, [Form 735-6828](#). Customers may use this information to help them determine what form to use according to the laws they are following. The packet contains general information, the forms DMV issues that relate to possessory lien foreclosures, and copies of some of the laws covering common possessory lien and abandoned vehicle situations. This form is available at DMV offices, online, and through the ODOT Storeroom.

### DMV forms

DMV requires that all possessory lien transactions are submitted on DMV forms, when DMV has a form available as adopted by Administrative rule. DMV does not have forms for city and county ordinances or for vehicles sold through a sheriff certificate of sale.

### Out of state possessory liens

Oregon DMV does not accept applications for vehicle titles when ownership is being transferred under out-of-state abandoned vehicle laws or out-of-state foreclosure laws. Oregon DMV may only issue a title after the jurisdiction where the foreclosure occurred issues a certificate of title to the lien claimant or purchaser.

### Abandoned

[ORS 98.810](#) defines an unauthorized parking of a vehicle at a “proscribed” property.

[ORS 98.805](#) defines “proscribed” property. It means private property where parking is not normally permitted at all or that is used primarily for residences, including but not limited to houses and apartments, where there is designated parking for not more than 10 vehicles.

[ORS 98.812](#) describes the conditions when the owner of the property with an unauthorized parked vehicle may have a vehicle towed and when the owner of the property with an unauthorized parked vehicle is entitled to a lien on the vehicle. You may wish to read chapter 98.805 through 98.991 if you believe you are entitled to dispose of a vehicle parked without authorization on your property.

### ***Vehicles towed at the request of an authority - ORS 819.160***

[ORS 819.110 through 819.260](#) describe the removal and disposal of abandoned vehicles from a public way. You may wish to read these statutes before disposing of a vehicle towed under these conditions.

### ***Vehicles stored, repaired, etc.***

[ORS 87.152](#) describes a possessory lien for labor or material expended on a chattel. [ORS 87.156](#) describes an innkeeper’s lien and [87.162](#) describe a landlord’s lien. You may wish to read chapter [87.152 through 87.214](#) if you believe you are entitled to foreclose a lien against a vehicle for any of these reasons.

**Note:** Oregon licensed towers that sell passenger vehicles with Oregon registration plates to any person or entity, other than an Oregon licensed dealer or Oregon licensed dismantler, must remove the stickers from the plates prior to selling the vehicle. Oregon licensed dealers must remove the stickers unless they sell the passenger vehicle to another Oregon licensed dealer or unless they submit the title paperwork to DMV for their buyer.

## **Trusts**

A trust is “a right of property, real or personal, held by one party for the benefit of another.” There are many types of trusts, such as Family Trust, Honorary Trust, Irrevocable Trust, Revocable Trust, and many more. For DMV purposes, trusts, except for business trusts, are all treated the same.

A copy of the trust agreement is not required when a transaction involving a trust is submitted to DMV.

DMV will not enter dates in the vehicle record as part of the trust name. The date may be needed for the trust but it not considered part of a trust’s name for DMV title purposes.

### ***Business and/or corporate trusts***

A business trust is a business entity, similar to a corporation or partnership. It is a legal entity formed to operate a business and it can acquire, sell, or lease real property or personal property such as vehicles.

If the application shows a business trust, DMV will issue the title showing the name of the business trust., DMV will issue the title with the names of the trustees or nominees, in addition to the name of the business trust, only if a copy of the trust is submitted and the trustees or nominees for the business are named in the trust.



## **Private trusts**

### **Application for title**

The application for title for a non-business (private/individual) trust must list all current trustees of the trust. The application must include an indication of their title as trustee.

If the name of the private trust is included in the application, DMV will issue the title with the name of the trust as well as the names of the trustees.

### **Release of interest**

Trustees are the owners and the persons with authority to release for the trust. The trust itself is not an owner; therefore, we do not need a release from the trust.

If the title only shows the name of the trust and not the trustees, a trustee statement is required. If a trustee is deceased, we need a trustee statement. No proof of death is required.

A trustee statement can be in the remarks section of a DMV form or on a separate piece of paper.

Two examples of trustee statements are:

1. *Jane Doe is no longer trustee of the John Doe Happy Trust due to her death. I, John Customer, am the successor trustee of the John Doe Happy Trust.*

*Signed by (John Customer's signature), Trustee*

2. *John and Jane Customer are no longer trustees of the John Doe Happy Trust. The trustees of the John Doe Happy Trust are Robert Somebody, Susan Somebody, and Chris Anybody.*

*Signed by (Susan Somebody's signature), Trustee*

A title may have been issued in the names of the registered owners who later include the vehicle in a trust, naming themselves as trustees. If the owners are on the title as registered owners and not as trustees, they must release as registered owners. Trust procedures are only a requirement when the vehicle is titled in a trust.

When trustees release interest, they must sign with some indication that they are signing as a trustee; for example:

*(Just A. Customer's Signature), Trustee*

-OR-

*Trustee (Just A. Customer's Signature)*

All applicable fees and other title and registration requirements apply.