

APA-1
11/96

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control 810 Department or Agency REVENUE

Rule Nos. 810-5-75-21

Rule Title: TITLE PROCEDURE - First Lien or Security Interest Releases on Title. Reference: Sections 32-8-1 through 32-8-87, Code of Alabama 1975, as amended

New; Amend; Repeal; Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety?

No

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare?

Yes

Is there another, less restrictive method of regulation available that could adequately protect the public?

No

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree?

No

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule?

N/A

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public?

Yes

Does the proposed rule have any economic impact?

No

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 41-22-23, Code of Alabama 1975.

Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975 and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer *Michael D. Gumble*

Date 4/23/13

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**ECONOMIC IMPACT STATEMENT
FOR APA RULE
(Section 41-22-23(f))**

Control No. 810 Department or Agency REVENUE

Rule No: 810-5-75-.21

Rule Title: Title Procedure - First Lien or Security Interest Releases on Title

 New X Amend Repeal Adopt by Reference

- NO
 YES

This rule has no economic impact.

This rule has an economic impact, as explained below:

1. NEED/EXPECTED BENEFIT OF RULE:

2. COSTS/BENEFITS OF RULE AND WHY RULE IS THE MOST EFFECTIVE, EFFICIENT, AND FEASIBLE MEANS FOR ALLOCATING RESOURCES AND ACHIEVING THE STATED PURPOSE:

3. EFFECT OF THIS RULE ON COMPETITION:

4. EFFECT OF THIS RULE ON COST OF LIVING AND DOING BUSINESS IN THE GEOGRAPHICAL AREA WHERE THE RULE IS TO BE IMPLEMENTED:

5. EFFECT OF THIS RULE ON EMPLOYMENT IN THE GEOGRAPHICAL AREA HERE THE RULE IS TO BE IMPLEMENTED:

6. SOURCE OF REVENUE TO BE USED FOR IMPLEMENTING AND ENFORCING THIS RULE:

7. THE SHORT-TERM/LONG-TERM ECONOMIC IMPACT OF THIS RULE ON AFFECTED PERSONS, INCLUDING ANALYSIS OF PERSONS WHO WILL BEAR THE COSTS AND THOSE WHO WILL BENEFIT FROM THE RULE:

8. UNCERTAINTIES ASSOCIATED WITH THE ESTIMATED BENEFITS AND

BURDENS OF THE RULE, INCLUDING QUALITATIVE/QUANTITATIVE
BENEFITS AND BURDEN COMPARISON:

9. THE EFFECT OF THIS RULE ON THE ENVIRONMENT AND PUBLIC HEALTH:
10. DETRIMENTAL EFFECT ON THE ENVIRONMENT AND PUBLIC HEALTH IF THE RULE IS NOT IMPLEMENTED:
11. OTHER COMMENTS:

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**ALABAMA DEPARTMENT OF REVENUE
Motor Vehicle Division**

NOTICE OF INTENDED ACTION

RULE NO. & TITLE

810-5-1-.238 Registration of Motor Vehicles Not Subject to Titling

INTENDED ACTION: Adopt a new rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to adopt the above rule to provide guidelines regarding the registration of motor vehicles that are not subject to titling in Alabama.

RULE NO. & TITLE

810-5-1-.247 Vehicle Identification Number (VIN) Inspections

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify requirements related to Form MVT5-10.

RULE NO. & TITLE

810-5-75-.21 TITLE PROCEDURE - First Lien or Security Interest Releases on Title. Reference: Sections 32-8-1 through 32-8-87, Code of Alabama 1975, as amended

INTENDED ACTION: Repeal and Replace

SUBSTANCE OF PROPOSED ACTION: The department proposes to repeal the existing language in the above rule and replace it with new language to provide procedures for releasing the first lien or security interest recorded on a certificate of title and to provide procedures for maintaining the continuous perfection of liens of security interests otherwise released pursuant to Section 32-8-64.2, Code of Alabama 1975.

RULE NO. & TITLE

810-5-75-.39 Altered Documents. Reference: Sections 32-8-1 through 32-8-87, Code of Alabama 1975, as amended.

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to expand the definition of altered documents. In addition, the department proposes to amend the title of the rule.

RULE NO. & TITLE

810-5-75-.42 Dealer Records. Reference: Sections 32-8-1 through 32-8-87, Code of Alabama 1975, as amended.

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify dealer recordkeeping requirements for motor vehicle dealers. In addition, the department proposes to amend the title of the rule.

RULE NO. & TITLE

810-5-75-.15 Title Procedure - Application for Replacement Alabama Certificate of Title (Form MVT 12-1).

INTENDED ACTION: Amend an existing rule

SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to clarify the process for applying for a replacement certificate of title by all parties other than designated agents of the department. In addition, the department proposes to amend the title of the rule.

RULE NO. & TITLE

810-5-75-.68 Title Procedure - Exemption from Titling

INTENDED ACTION: Amend an existing rule

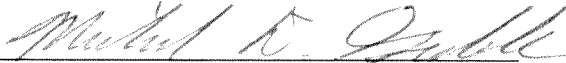
SUBSTANCE OF PROPOSED ACTION: The department proposes to amend the above rule to provide guidance in determining whether a motor-driven cycle meets the requirements for title exemption.

TIME, PLACE, MANNER OF PRESENTING VIEWS: A public hearing will be held at **2:00 p.m. on Tuesday, June 11, 2013, in the Office of the Legal Division, Room 3114,** Gordon Persons Building, located at 50 N Ripley Street, Montgomery, Alabama. Copies of the rule(s) can be obtained at www.revenue.alabama.gov/rulehear.html.

All interested parties may present their views in writing to the **Deputy Commissioner of the Alabama Department of Revenue, Room 4112, Gordon Persons Building, 50 N Ripley Street, Montgomery, Alabama 36132** at any time during the thirty-five (35) day period following publication of the notice or by appearing at the hearing.

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:
June 11, 2013

CONTACT PERSON AT AGENCY:
Patricia Toles
Alabama Department of Revenue
4131 Gordon Persons Building
Montgomery, Alabama 36132
(334) 242-1380


Michael D. Gamble, Secretary
Alabama Department of Revenue

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~~810-5-75-.21. TITLE PROCEDURE - First Lien or Security Interest Releases on Title. Reference: Sections 32-8-1 through 32-8-87, Code of Alabama 1975, as amended. (REPEALED)~~

~~(1) First lienholder will execute a release of his security interest on the face of the title held by him (original signature must be signed on release - NO STAMP IS PERMITTED FOR VALIDATION), and forward to the Department. The Department will issue a new title listing no liens and the new title will be mailed to the owner. If there is a second lienholder shown on the title, first lienholder will mail or deliver the title to the second lienholder. Second lienholder will immediately cause the title to be mailed or delivered to the Department. The Department will issue a new title listing the second lienholder as first lienholder on the new title. The new title will be mailed to the first lienholder with memorandum copy to owner.~~

~~(2) Supporting Documents:~~

~~(a) Surrender outstanding title with lien properly released.~~

~~(b) Fee: No charge. (§32-8-3(a)(2))~~

810-5-75-.21 Title Procedure - Lien or Security Interest Releases and Continuous Perfection of Lien or Security Interests. (NEW RULE)

(1) This rule provides the procedures for executing lien releases for liens and security interests in motor vehicles and manufactured homes for which certificates of title are required. The rule also provides procedures for continuous perfection of a lien or security interest, otherwise subject to release, pursuant to Section 32-8-64.2, Code of Alabama 1975.

(2) A lienholder recorded on a certificate of title may release the lien or security interest in the area prescribed on the certificate of title by providing the following information:

(a) Legal name of lienholder,

(b) Original signature of authorized representative of lienholder, and

(c) Date of lien release.

(3) A lienholder recorded on a certificate of title may release the lien or security interest on form MVT 5-63. The MVT 5-63 must accompany the certificate of title or application for replacement certificate of title and shall contain the following information:

(a) The legal name and address of the lienholder,

(b) The complete vehicle identification number (VIN) or manufactured home identification number,

(c) The name of the owner(s) with whom the lienholder held a security agreement.

(d) Date of lien release, and

(e) The notarized signature of an authorized representative of the recorded lienholder.

(4) A lienholder recorded on a certificate of title may release the lien or security interest by providing certain information on the lienholder's letterhead. This lien release must accompany the certificate of title or application for replacement certificate of title and shall contain the following information:

(a) The lien release must identify the vehicle or manufactured home by complete vehicle identification number (VIN) or manufactured home identification number,

(b) The lien release must provide the name of the owner(s) with whom the lienholder held a security agreement.

(c) The lien release must state clearly that the lien has been released and show the date of release, and

(d) The lien release must be signed by an authorized representative of the recorded lienholder.

(5) In the event that a lienholder recorded on a certificate of title is no longer in business and a replacement certificate of title is required, the following alternative method for evidencing the release of a lien or security interest may be used for a motor vehicle, other than a travel trailer or vehicle that weighs more than 12,000 pounds gross weight.

(a) Notarized affidavit from the owner referencing the VIN and attesting to the fact that the lien or security interest is satisfied and that the lienholder is no longer in business,

(b) Unopened envelope, accompanied by certified mail return receipt request, sent to lienholder's last known address, containing a letter requesting a release of lien or security interest,

(c) Evidence of satisfaction of the lien or security interest.

(6) Any lien or security interest shall be considered satisfied and a lien release shall not be required after 5 years from the date of the security agreement as recorded on the certificate of title for vehicles which are 12 or more model years old, other than a travel trailer or vehicle that weighs more than 12,000 pounds gross vehicle weight.

(a) If the lien or security interest release cannot be obtained as outlined in subsections 2 – 6 of this rule or the vehicle is a travel trailer or weighs more than 12,000 pounds gross vehicle weight, a surety bond shall be posted in accordance with Administrative Rule 810-5-75-.34 to obtain a certificate of title.

(7) Section 32-8-64.2, Code of Alabama 1975, provides for the automatic release of certain security interests and liens unless a second application to record the existence of a continuous security interest or lien is filed prior to the automatic release provision of the security interest or lien.

(a) In order to provide for the continuous perfection of a security interest or lien that would otherwise be satisfied pursuant to Section 32-8-64.2, Code of Alabama 1975, an application for a second title on which the security interest or lien is listed shall be submitted to a designated agent prior to the date the security interest or lien is automatically released. The application must be accompanied by the Alabama certificate of title and a notice of continuous lien perfection (form MVT 5-64) to extend the security interest or lien beyond the time period as provided in Section 32-8-64.2. The lien date on the notice of continuous lien perfection and the application shall be the date the notice of continuous lien perfection was executed. Otherwise, the security interest or lien shall be perfected as provided for by Section 32-8-61, Code of Alabama 1975.

Author: Don Clemons

Authority: Sections 40-2A-7(a)(5), 32-8-3(b)(2), 32-8-64, 32-8-64.2, 32-20-3(b)(2), and 32-20-44, Code of Alabama 1975

History: