

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 727
PROPOSED COMMITTEE SUBSTITUTE H727-PCS10385-RW-35

Short Title: Alt. Procedure for Obtaining Salvage Title. (Public)

Sponsors:

Referred to:

April 11, 2013

1 A BILL TO BE ENTITLED
2 AN ACT TO ALLOW THE DIVISION OF MOTOR VEHICLES TO ISSUE A SALVAGE
3 CERTIFICATE OF TITLE TO AN INSURANCE COMPANY OR USED CAR DEALER
4 IN CERTAIN SITUATIONS WHERE THE INSURANCE COMPANY OR USED CAR
5 DEALER IS UNABLE TO OBTAIN THE ORIGINAL CERTIFICATE OF TITLE FROM
6 THE OWNER OF THE MOTOR VEHICLE.

7 The General Assembly of North Carolina enacts:

8 **SECTION 1.** G.S. 20-109.1 reads as rewritten:

9 **"§ 20-109.1. Surrender of titles to salvage vehicles.**

10 ...

11 (b) Transfer to Insurer. –

12 (1) If a salvage vehicle owner does not want to keep the vehicle, the owner must
13 assign the vehicle's certificate of title to the insurer when the insurer pays the
14 claim. The insurer must send the assigned title to the Division within 10 days
15 after receiving it from the vehicle owner. The Division must then send the
16 insurer a form to use to transfer title to the vehicle from the insurer to a
17 person who buys the vehicle from the insurer. If the insurer sells the vehicle,
18 the insurer must complete the form and give it to the buyer. If the buyer
19 rebuilds the vehicle, the buyer may apply for a new certificate of title to the
20 vehicle.

21 (2) If a salvage vehicle owner fails to assign and deliver the vehicle's certificate
22 of title to the insurer within 30 days of the payment of the claim, the insurer,
23 without surrendering the certificate of title, may, at any time thereafter,
24 request that the Division send the insurer a form to use to transfer title to the
25 vehicle from the insurer to a person who buys the vehicle from the insurer.
26 The request shall be made on a form prescribed by the Division and shall be
27 accompanied by proof of payment of the claim and proof of notice sent to
28 the owner and any lienholder requesting the vehicle's certificate of title. If
29 the records of the Division indicate there is an outstanding lien against the
30 vehicle immediately before the payment of the claim and if the payment was
31 made to a lienholder or to a lienholder and the owner jointly, the proof of
32 payment shall include evidence that funds were paid to the first lienholder
33 shown on the records of the Division. The notice must be sent by the insurer
34 at least 30 days prior to requesting the Division send the insurer a form to
35 use to transfer title and must be sent by certified mail or by another
36 commercially available delivery service providing proof of delivery to the



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1 address on record with the Division. Upon the Division's receipt of such
2 request, the vehicle's certificate of title is deemed to be assigned to the
3 insurer. Notwithstanding any outstanding liens against the vehicle, the
4 Division must send the insurer a form to use to transfer title to the vehicle
5 from the insurer to a person who buys the vehicle from the insurer. The
6 Division's issuance of the form extinguishes all existing liens on the motor
7 vehicle. If the insurer sells the vehicle, the insurer must complete the form
8 and give it to the buyer. In such a sale by the insurer, the motor vehicle shall
9 be transferred free and clear of any liens. If the buyer rebuilds the vehicle,
10 the buyer may apply for a new certificate of title to the vehicle.

11 (c) Owner Keeps Vehicle. – If a salvage vehicle owner wants to keep the vehicle, the
12 insurer must give the owner an owner-retained salvage form. The owner must complete the
13 form and give it to the insurer when the insurer pays the claim. The owner's signature on the
14 owner-retained salvage form must be notarized. The insurer must send the completed form to
15 the Division within 10 days after receiving it from the vehicle owner. The Division must then
16 note in its vehicle registration records that the vehicle listed on the form is a salvage vehicle.

17 (d) Theft Claim on Salvage Vehicle. – An insurer that pays a theft loss claim on a
18 vehicle and, upon recovery of the vehicle, determines that the vehicle has been damaged to the
19 extent that it is a salvage vehicle must send the vehicle's certificate of title to the Division
20 within 10 days after making the determination. The Division and the insurer must then follow
21 the procedures set in subdivision (1) of subsection (b) of this section.

22 (e) Out-of-State Vehicle. – A person who acquires a salvage vehicle that is registered in
23 a state that does not require surrender of the vehicle's certificate of title must send the title to
24 the Division within 10 days after the vehicle enters this State. The Division and the person must
25 then follow the procedures set in subdivision (1) of subsection (b) of this section.

26 (e1) Owner or Lienholder Abandons Vehicle. – If an insurer requests a used motor
27 vehicle dealer, the primary business of which is the sale of salvage vehicles on behalf of
28 insurers, to take possession of a salvage vehicle that is the subject of an insurance claim and
29 subsequently the insurer does not take ownership of the vehicle, the insurer may direct the used
30 motor vehicle dealer to release the vehicle to the owner or lienholder. The insurer shall provide
31 the used motor vehicle dealer a release statement authorizing the used motor vehicle dealer to
32 release the vehicle to the vehicle's owner or lienholder.

33 Upon receiving a release statement from an insurer, the used motor vehicle dealer shall
34 send notice to the owner and any lienholder of the vehicle informing the owner or lienholder
35 that the vehicle is available for pick up. The notice shall include an invoice for any outstanding
36 charges owed to the used motor vehicle dealer. The notice shall inform the owner and any
37 lienholder that the owner or lienholder has 30 days from the date of the notice, and upon
38 payment of applicable charges owed to the used motor vehicle dealer, to pick up the vehicle
39 from the used motor vehicle dealer. Notice under this subsection must be sent by certified mail
40 or by another commercially available delivery service providing proof of delivery to the
41 address on record with the Division.

42 If the owner or any lienholder of the vehicle does not pick up the vehicle within 30 days
43 after notice was sent to the owner and any lienholder in accordance with this subsection, the
44 vehicle shall be considered abandoned, the vehicle's certificate of title is deemed to be assigned
45 to the used motor vehicle dealer, and the used motor vehicle dealer, without surrendering the
46 certificate of title, may request that the Division send the used motor vehicle dealer a form to
47 use to transfer title to the vehicle from the used motor vehicle dealer to a person who buys the
48 vehicle from the used motor vehicle dealer. The request shall be accompanied by a copy of the
49 notice required by this subsection and proof of delivery of the notice required by this
50 subsection sent to the owner and any lienholder. Notwithstanding any outstanding liens against
51 the vehicle, the Division must send the used motor vehicle dealer a form to use to transfer title

1 to the vehicle from the used motor vehicle dealer to a person who buys the vehicle from the
2 used motor vehicle dealer. The Division's issuance of the form extinguishes all existing liens on
3 the motor vehicle. If the used motor vehicle dealer sells the vehicle, the used motor vehicle
4 dealer must complete the form and give it to the buyer. In such a sale by the used motor vehicle
5 dealer, the motor vehicle shall be transferred free and clear of any liens. If the buyer rebuilds
6 the vehicle, the buyer may apply for a new certificate of title.

7 (f) Sanctions. – Violation of this section is a Class 1 misdemeanor. In addition to this
8 criminal sanction, a person who violates this section is subject to a civil penalty of up to one
9 hundred dollars (\$100.00), to be imposed in the discretion of the Commissioner.

10 (g) Fee. – G.S. 20-85 sets the fee for issuing a salvage certificate of title."

11 **SECTION 2.** G.S. 20-72(b) reads as rewritten:

12 "(b) In order to assign or transfer title or interest in any motor vehicle registered under
13 the provisions of this Article, the owner shall execute in the presence of a person authorized to
14 administer oaths an assignment and warranty of title on the reverse of the certificate of title in
15 form approved by the Division, including in such assignment the name and address of the
16 transferee; and no title to any motor vehicle shall pass or vest until such assignment is executed
17 and the motor vehicle delivered to the transferee. The provisions of this section shall not apply
18 to any foreclosure or repossession under a chattel mortgage or conditional sales contract or any
19 judicial sale. The provisions of this subsection shall not apply to (i) any transfer to an insurer
20 pursuant to G.S. 20-109.1(b)(2) or (ii) any transfer to a used motor vehicle dealer pursuant to
21 G.S. 20-109.1(e1).

22 When a manufacturer's statement of origin or an existing certificate of title on a motor
23 vehicle is unavailable, a motor vehicle dealer licensed under Article 12 of this Chapter may
24 also transfer title to another by certifying in writing in a sworn statement to the Division that all
25 prior perfected liens on the vehicle have been paid and that the motor vehicle dealer, despite
26 having used reasonable diligence, is unable to obtain the vehicle's statement of origin or
27 certificate of title. The Division is authorized to develop a form for this purpose. The filing of a
28 false sworn certification with the Division pursuant to this paragraph shall constitute a Class H
29 felony.

30 Any person transferring title or interest in a motor vehicle shall deliver the certificate of
31 title duly assigned in accordance with the foregoing provision to the transferee at the time of
32 delivering the vehicle, except that where a security interest is obtained in the motor vehicle
33 from the transferee in payment of the purchase price or otherwise, the transferor shall deliver
34 the certificate of title to the lienholder and the lienholder shall forward the certificate of title
35 together with the transferee's application for new title and necessary fees to the Division within
36 20 days. Any person who delivers or accepts a certificate of title assigned in blank shall be
37 guilty of a Class 2 misdemeanor.

38 The title to a salvage vehicle shall be forwarded to the Division as provided in
39 ~~G.S. 20-109.1.~~G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred
40 pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

41 **SECTION 3.** G.S. 20-75 reads as rewritten:

42 "**§ 20-75. When transferee is dealer or insurance company.**

43 When the transferee of a vehicle registered under this Article is:

- 44 (1) A dealer who is licensed under Article 12 of this Chapter and who holds the
45 vehicle for resale; or
- 46 (2) An insurance company taking the vehicle for sale or disposal for salvage
47 purposes where the title is taken or requested as a part of a bona fide claim
48 settlement transaction and only for the purpose of resale,

49 the transferee shall not be required to register the vehicle nor forward the certificate of title to
50 the Division as provided in G.S. 20-73.

1 To assign or transfer title or interest in the vehicle, the dealer or insurance company shall
2 execute, in the presence of a person authorized to administer oaths, a reassignment and
3 warranty of title on the reverse of the certificate of title in the form approved by the Division,
4 which shall include the name and address of the transferee. The title to the vehicle shall not
5 pass or vest until the reassignment is executed and the motor vehicle delivered to the transferee.

6 The dealer transferring title or interest in a motor vehicle shall deliver the certificate of title
7 duly assigned in accordance with the foregoing provision to the transferee at the time of
8 delivering the vehicle, except:

- 9 (1) Where a security interest in the motor vehicle is obtained from the transferee
10 in payment of the purchase price or otherwise, the dealer shall deliver the
11 certificate of title to the lienholder and the lienholder shall forward the
12 certificate of title together with the transferee's application for new
13 certificate of title and necessary fees to the Division within 20 days; or
- 14 (2) Where the transferee has the option of cancelling the transfer of the vehicle
15 within 10 days of delivery of the vehicle, the dealer shall deliver the
16 certificate of title to the transferee at the end of that period. Delivery need
17 not be made if the contract for sale has been rescinded in writing by all
18 parties to the contract.

19 Any person who delivers or accepts a certificate of title assigned in blank shall be guilty of
20 a Class 2 misdemeanor.

21 The title to a salvage vehicle shall be forwarded to the Division as provided in
22 ~~G.S. 20-109.1~~G.S. 20-109.1, except with respect to the title of any salvage vehicle transferred
23 pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

24 **SECTION 4.** G.S. 20-78(a) reads as rewritten:

25 "(a) The Division, upon receipt of a properly endorsed certificate of title, application for
26 transfer thereof and payment of all proper fees, shall issue a new certificate of title as upon an
27 original registration. The Division, upon receipt of an application for transfer of registration
28 plates, together with payment of all proper fees, shall issue a new registration card transferring
29 and assigning the registration plates and numbers thereon as upon an original assignment of
30 registration plates. The Division, upon receipt of an application for transfer thereof and
31 payment of all proper fees, but without receipt of a properly endorsed certificate of title, shall
32 issue a salvage certificate of title pursuant to G.S. 20-109.1(b)(2) or G.S. 20-109.1(e1)."

33 **SECTION 5.** G.S. 20-85(a)(10) reads as rewritten:

34 "(a) The following fees are imposed concerning a certificate of title, a registration card,
35 or a registration plate for a motor vehicle. These fees are payable to the Division and are in
36 addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- 37 ...
- 38 (10) Each application for a salvage certificate of title made by
39 an ~~insurer~~insurer or by a used motor vehicle dealer
40 pursuant to G.S. 20-109.1(e1) 15.00
41"

42 **SECTION 6.** G.S. 105-187.6(a)(1) reads as rewritten:

43 "(a) Full Exemptions. – The tax imposed by this Article does not apply when a
44 certificate of title is issued as the result of a transfer of a motor vehicle:

- 45 (1) To (i) the insurer of the motor vehicle under G.S. 20-109.1 because the
46 vehicle is a salvage ~~vehicle-vehicle~~ or (ii) a used motor vehicle dealer under
47 G.S. 20-109.1 because the vehicle is a salvage vehicle that was abandoned.

48"
49 **SECTION 7.** This act becomes effective October 1, 2013.