

**Motor Vehicle Division Informational Memo # 17-08**  
***2017 Legislation – Salvage Titles for Insurance Companies***

**DATE:** July 10, 2017

**FROM:** Tina Hargis, Office of Vehicle and Motor Carrier Services, Director

**TO:** All Bureau of Investigation and Identity Protection (BIIP) staff, all Office of Vehicle and Motor Carrier (OVMCS) staff, and all Iowa County Treasurers.

**SUBJECT**

This informational memo explains legislation enacted during the 2017 legislative session regarding the issuance of salvage certificates of title to insurance companies when they acquire damaged vehicles through claim settlements.

**SUMMARY**

SF448 provides that an insurer may apply for and be issued a salvage certificate of title that is free and clear of all liens and claims of ownership for a motor vehicle without surrendering the certificate of title or manufacturer's or importer's statement of origin.

This only applies if ownership of the vehicle was transferred, or will transfer, to the insurer pursuant to a settlement with the previous owner of the vehicle arising from circumstances involving damage to the vehicle, provided at least 30 days have expired since the effective date of the settlement.

**The legislation became effective on July 1, 2017.**

**LINK TO LEGISLATION**

2017 Iowa Acts, Senate File 448:

<https://www.legis.iowa.gov/legislation/BillBook?ga=87&ba=SF%20448>

**CURRENT**

Under previous Iowa Code chapter 321, insurers in need of a title for a motor vehicle that was to be transferred to an insurer as a result of a settlement with the owner were required to surrender the previous certificate of title. In circumstances where the vehicle owner failed to provide the insurer with the certificate of title after already having received the settlement, the insurer was unable to obtain a salvage certificate of title in their name unless they applied for a bonded certificate of title.

**NEW**

Under new Iowa Code sections 321.45, 321.52, and 321.67, an insurer who applies for a salvage certificate of title for a motor vehicle that is expected to be transferred to an insurer as a result of a settlement with the owner may apply for and be issued a salvage certificate of title without surrendering the previous certificate of title, provided the following conditions are satisfied:

- (1) At least 30 days have expired since the effective date of the settlement.
- (2) The insurer has submitted the application for salvage title to the county treasurer of the county where the vehicle is stored.
- (3) The application is accompanied by an affidavit from the insurer certifying that it has made a least two written attempts to obtain a certificate of title.
  - a. The two written attempts must be made to the vehicle owner(s) and to any lienholder(s) using certified mail or a similar service that provides proof of service using a return receipt.
  - b. The required contents of the affidavit are as follows:
    - i. Information identifying the vehicle, such as: year, make, and VIN
    - ii. Information pertaining to the owner(s) and lienholders(s) from whom the vehicle was acquired
    - iii. A statement that at least 30 days have passed since the effective date of the settlement
    - iv. A certification that at least two written attempts have been made to contact the previous owner(s) and lienholder(s) by, certified mail or similar service, to obtain the certificate of title and that said title has not been provided

\*\*The affidavit should be notarized and signed by an authorized agent for the insurer
- (4) The application is accompanied by the requisite application fee.
- (5) The application is accompanied by proof of payment of the total amount of the settlement by the insurer to the previous owner(s) of the vehicle.

## **BUSINESS IMPACT**

The legislation may change the distribution of salvage title applications by increasing the number of applications in counties where insurers store large numbers of salvage vehicles. The number of bond title applications processed by Vehicle & Motor Carrier Services may be reduced due to this change.

## **RESULT**

This legislation will result in a change in the supporting documents required for some salvage title transactions. There will be a minor programming change to the ARTS system to include the new document type of “Insurers Affidavit” in the various titling transactions. County staff should select this new document type for a salvage title transaction in which the insurer is utilizing the affidavit as permitted by this legislation.

## **HELPFUL QUESTIONS AND ANSWERS**

The following questions and answers provide additional information that will be helpful to you and to customers.

### **IS THE INSURER REQUIRED TO USE AN IOWA DOT PROVIDED AFFIDAVIT?**

To promote consistency, we will ask insurers to use the affidavit attached to this memo. It has been approved by us and will likely become effectuated through administrative rule as soon as practicable. The form number is 411356.

### **WHAT DOES IT MEAN TO BE FREE AND CLEAR OF ALL LIENS AND CLAIMS OF OWNERSHIP?**

This means that the salvage certificate of title, if issued to an insurer under proper circumstances, is free of all encumbrances. That means that the only interested party is the insurer that submits the application. For example, let's say an insurer obtains a salvage certificate of title pursuant to the new code provisions, and then they want to sell the vehicle (because insurers are generally not in the business of fixing up damaged vehicles, they just want to liquidate the asset and move on with life). If another person, party, entity, etc. comes along and says "wait a minute, I have an interest in that vehicle because I had a contract, filed a lien, etc. with the previous owner, then under the new code provisions that claim is no longer valid. ALL liens AND claims of ownership are extinguished after the Iowa salvage certificate of title is issued pursuant to this new process.

### **WHAT ABOUT DELINQUENT REGISTRATION FEES?**

In Iowa, a delinquent registration fee is considered a lien that is attached to the vehicle when the fee is first payable.<sup>1</sup> The new code provisions state that the salvage certificate of title shall be free and clear of all liens and claims of ownership (as described above). Therefore, if an insurer sends a settlement check to an insured, complies with the settlement requirements, and fills out the affidavit when submitting the application for the salvage certificate of title, then the registration lien that was attached is extinguished and is no longer enforceable. Changes to the ARTS system will be implemented to eliminate accrued delinquent fees when a salvage certificate of title is issued to an insurer utilizing an insurer's affidavit.

### **WHAT IS THE SETTLEMENT TIMELINE AND DOES IT HAVE TO BE AFTER 07/01/2017?**

The settlement time-line refers to the effective date in which the insurer reached a settlement regarding the insured's claim. Likely, the insurer issued the insured a check and other paperwork regarding the closure of the claim. Once 30 days have passed since the effective date of the settlement, the insurer may apply for an Iowa salvage certificate of title.

For example, the insurer may have set a specific date for the claim and subsequent settlement to close and become effective; therefore, the actual date may not line up with other intuitive events (such as the mailing of a check).

It would apply to settlements made before or after 7/1/17, provided all requirements are met.

### **DOES THE INSURER HAVE TO PAY THE APPLICATION FEE FOR THE SALVAGE CERTIFICATE OF TITLE?**

Yes, the insurer is required to pay the fee associated with obtaining a salvage certificate of title. The fee for the salvage certificate of title is a total of \$15.<sup>2</sup>

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<sup>1</sup> Iowa Code § 321.131 states that "All registration or other fees provided for under this chapter shall constitute a lien against the vehicle for which the fees are payable unless otherwise provided in this section until such time as they are paid as provided by law, with any accrued penalties."

<sup>2</sup> The \$15 is based on the following requirements. Iowa Code § 321.52(4)(a) "Upon payment of a fee of ten dollars, the county treasurer shall issue a salvage certificate of title which shall bear the word "SALVAGE" stamped or printed on the face of the title in a manner prescribed by the department." Iowa Code § 321.52A "In addition to the fee required for the issuance of a certificate of title under [section 321.20](#), [321.20A](#), [321.23](#), [321.42](#), [321.46](#), [321.47](#), [321.48](#), or [321.52](#), a surcharge of five dollars shall be required. Of each surcharge collected under those sections, the county treasurer shall remit five dollars to the office of treasurer of state for deposit as set forth in [section 321.145, subsection 2](#)."

### **WHAT IS AN ACCEPTABLE PROOF OF PAYMENT OF THE SETTLEMENT AMOUNT MADE TO THE PREVIOUS OWNER(S)?**

Proof of payment refers to reasonable documentation which shows that the insurer has in fact remunerated the previous owner(s). It will vary depending upon the manner in which the insurer makes settlement payments. For example, proof of payment could be a copy of a settlement check. If payments are made via ACH/EFT, then a copy of an email confirming deposit of the settlement amount in the account of the previous owner would be acceptable.

### **WHAT ABOUT THE ODOMETER DISCLOSURE?**

An insurer who seeks to obtain a salvage certificate of title in this manner will likely not have received an odometer certification from the “seller;” therefore, the mileage (if the vehicle is new enough) on the insurance companies' salvage certificate of title will have to be noted as "not actual" in accordance with federal law. The same is true if an insurer avails themselves of the existing bond title process and the vehicle is new enough to be subject to mileage disclosure.

### **WHAT IF THE VEHICLE ON THE INSURER’S AFFIDAVIT IS ON A FOREIGN TITLE?**

Under the current iteration of the Iowa Code, it does not matter whether the vehicle is on a foreign jurisdiction’s title. The reason for this was that this law was pursued, in part, to move these vehicles along; lessening the depreciation value for the insurance companies without creating undue burden on the salvage pools that house the vehicles.

The only “location requirement” is that the vehicle is stored in Iowa, by or on behalf of an insurer. Therefore, if an insurer presents an affidavit with an application for a salvage certificate of title and the vehicle is on a foreign jurisdiction’s title, then continue the process as if the vehicle were titled in Iowa.

### **DOES THE ARTS RECORD NEED TO BE MARKED WHEN AN INSURER UTILIZES THE AFFIDAVIT TO OBTAIN A SALVAGE TITLE?**

Yes, under the Documents tab within the title transaction, the User should select the document named “Insurer’s affidavit.”

**INSURER'S AFFIDAVIT**

**Please read all instructions before completing this form.**

This affidavit may be used by an insurer admitted to do business in this state to apply for a salvage title without surrendering the certificate of title or manufacturer's certificate of origin properly assigned if ownership of a motor vehicle was transferred, or will transfer, to the insurer pursuant to a settlement with the previous owner of a vehicle arising from circumstances involving damage to a vehicle.

1. This affidavit may only be used by an insurer to apply for an Iowa salvage certificate of title.
2. This affidavit must be notarized and submitted with an application for title, proof of payment of the total amount of the settlement paid by the insurer, and the fee for a salvage title.
3. Application for a salvage title must be made in the county where the vehicle is stored.
4. Facsimiles and photocopies are not acceptable.

**PART A – VEHICLE DESCRIPTION**

Year \_\_\_\_\_ Make \_\_\_\_\_ VIN \_\_\_\_\_

Title or MCO# \_\_\_\_\_

**PART B – PREVIOUS OWNER INFORMATION**

The insurer acquired the motor vehicle from:

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Effective date of settlement \_\_\_\_\_

**PART C – STATEMENT OF TITLE STATUS**

At least 30 days have passed since the effective date of the settlement and the undersigned has made at least two written attempts to the previous vehicle owner(s) and all lienholder(s) of record via certified mail or similar service and the previous owner has failed to provide a certificate of title or manufacturer's certificate of origin properly assigned.

**PART D – EXECUTION BY INSURER**

Under penalty of perjury, the undersigned states that the above statements are true and correct and will warrant and defend the title of any person to the described vehicle insofar as the claim rests upon the title issued by virtue of this affidavit. The undersigned will protect and hold harmless the county treasurer or Department of Transportation from any damages that might arise from the issuance of such title.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Insurer

\_\_\_\_\_  
Printed Name of Representative

\_\_\_\_\_  
Signature of Representative

\_\_\_\_\_  
Title

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

(Seal)

\_\_\_\_\_  
Notary Public