

MEMO

TO: Persons seeking to file a Petition for Duplicate or Lost Title of Vehicle

FROM: JUDGE DAVID L. CHIDESTER, PORTER SUPERIOR COURT IV

For the past 5 years, our court has provided applicants a Court Order to the Indiana BMV for those who either lost their title, never received a title from their purchase, or needed the Bureau to issue a title.

Recently, the Indiana Judicial Center has requested that individuals take a greater role in either 1.) Hiring a lawyer to complete the necessary paperwork to obtain a title or 2.) The individual or litigant assume a greater role in providing the court with all necessary documents, petitions, proof and orders.

Thus, YOU (not the Court Staff or Judge) will have to perform the necessary work to obtain your title. For your help and to guide you through the process, the Court has attached some sample forms and information sheets for your review. PLEASE DO NOT ASK THE CLERK, COURT STAFF, OR JUDGE TO ISSUE LEGAL GUIDANCE TO YOU. ONLY AN ATTORNEY CAN PROVIDE THIS EXPERTISE. IF YOU ARE WITHOUT COUNSEL, YOUR PETITIONS WILL BE HELD TO THE SAME STANDARD AS AN ATTORNEY.

FIRST, YOU WILL NEED TO OPEN A NEW CASE BY PAYING A FILING FEE TO THE CLERK.

LOST OR MISPLACED VEHICLE TITLES

I. General

The Indiana Bureau of Motor Vehicles will occasionally refer individuals to the Court to obtain an order for a certificate of title to a vehicle. This usually happens when the individual has been unable to obtain a certificate of title because the previous title has been lost, the previous owner is unknown, or the title is unavailable for some other reason.

II. Authority

The Court has general authority to determine ownership of a vehicle. The Bureau of Motor Vehicles by regulation recognizes that the Court may issue an order to the Bureau to issue a title certificate when a title is unavailable. By regulation the Bureau in 140 IAC 6-1-11, Section II (B) (3) (c) says: "If the vehicle in question is valued in excess of twenty-five hundred dollars (\$2500) a court order from a court of competent jurisdiction pursuant to that court's equitable or legal powers will be required."

III. Process

For a vehicle valued at \$2500.00 or less the individual should be referred back to the Bureau of Motor Vehicles. If the vehicle's value is in excess of \$2500.00 the applicant should present to the Court sufficient proof to establish ownership. A hearing should be held with sworn testimony, which is recorded. The Court should consider obtaining the information that is set forth in the following checklist before making its determination. The Court may wish to confer with the local branch of the Bureau about whatever information it may need to issue a certificate of title. A police check should be obtained to determine whether the vehicle has been reported as stolen. A sample verified request form is attached.

IV. Order and Docket

A sample order is included which the Court may use if the Court is satisfied that the applicant has substantiated his or her right to ownership. This case should be docketed as a Civil Miscellaneous (MI).

V. Checklist

The Court may wish to consider the following list of items in determining whether to issue an order to the Bureau of Motor Vehicles:

1. The applicant's full name, address, county of residence, and other identifying information.

2. The items listed in 140 IAC 6-1-11 (B) (a) (1) through (5), which follows.
3. Complete description of the vehicle, including type, manufacturer, make/model, year, and vehicle identification number.
4. Present location of the vehicle.
5. The name, address, and all other known information regarding the previous owner or owner of record of the current title.
6. The circumstance surrounding how the applicant came into possession of the vehicle.
7. Copies of documents, including bills of sale, title, police checks, etc.
8. Information regarding any liens.
9. Any other information that is relevant to ownership of the vehicle.

PROCEDURES AND REQUIREMENTS FOR APPLICATION

140 IAC 6-1-11 Procedures and requirements for application

Authority: IC 9-14-2-2

Affected: IC 6-2.5; IC 9-17; IC 9-18; IC 9-23

Sec. II. Procedures and requirements for applying for certificate of title. All persons applying for title in Indiana must comply with the following requirements for the type of vehicle or type of transfer which they intend to make.

(A) New motor vehicles. (1) Any person applying for title on a vehicle which has never been titled must surrender the manufacturer's statement, certificate of origin, or equivalent regardless of whether the vehicle was purchased in Indiana or not.

(2) A certificate of origin is supplied by the dealer at the time of purchase. If the applicant does not have this document, he must obtain the document or a duplicate of the document from the dealer where he purchased the vehicle.

(3) An applicant with a certificate of origin from an Indiana dealer must also provide on a form designated by the commissioner proof that the Indiana sales (use) tax has been paid to the dealer for the sale of the vehicle.

(4) A police check on the form designated by the commissioner is required for most out-of-state certificate of origins.

(B) Vehicles previously titled in Indiana. (1) Any person applying for title on a vehicle currently titled in Indiana must surrender a properly signed-over certificate of title at the time of application.

(2) If the vehicle was purchased from an Indiana dealer, proof of payment of sales (use) tax on a form designated by the commissioner must accompany the application. If the vehicle is purchased from a private owner or an out-of-state dealer, the sales (use) tax will be collected by the branch of the bureau of motor vehicles.

(3)(a) If the purchaser is unable to obtain a properly signed-over title and the vehicle in question is valued at twenty-five hundred dollars (\$2,500) or less, the purchaser may present:

(1) A notarized bill of sale.

(2) An affidavit of ownership on the form designated by the commissioner.

(3) A registered letter sent to the registered owner at their last known address returned to the sender unclaimed and unopened.

(4) A police check.

(5) A lien release, if necessary.

(b) Title will be issued if in the opinion of the bureau there is enough evidence to substantiate ownership.

(c) If the vehicle in question is valued in excess of twenty-five hundred dollars (\$2,500) a court order from a court of competent jurisdiction pursuant to that court's equitable or legal powers will be required.

(C) Foreign vehicles. (1) A person applying for Indiana title on a vehicle from a foreign country must meet the same requirements as is required in subsection (B) for an out-of-state vehicle.

(2) United States government verification will be accepted as proof of ownership from military personnel.

(3) Indiana sales (use) tax is due on any title application that is accompanied by an out-of-country ownership document. Military individuals are included.

(4) A police check is required on all military-registered, government-owned, and out-of-country vehicles seeking an Indiana title.

(D) Lien addition titles. (1) In order to record a lien on an Indiana title, a new title must be applied for.

(2) A title application must be completed noting the new or additional lienholder.

(3) The title application must be signed by the applicant and notarized. If the original title shows joint ownership, the application must be signed by all parties.

(4) On a form designated by the commissioner, the applicant must note exemption from payment of sales tax.

(5) To record the additional or new lien, the title fee must be paid.

(Bureau of Motor Vehicles; (9-1-2-2)-2; filed Feb 13, 1978, 10:31 a.m.: Rules and Regs. 1979, p. 139; filed Sep 23, 1988, 8:30 a.m.: 12 IR 252; errata filed Aug 10, 1992, 3:00 p.m.: 15 IR 2595; readopted filed Jul 30, 2001, 10:29 a.m.: 24 IR 4230)

STATE OF INDIANA)
)SS:
COUNTY OF _____)

IN _____ CIRCUIT COURT
ANNUAL TERM

IN THE MATTER OF:
VEHICLE TITLE REQUEST
FOR *(Insert year, make and model)*,
VIN # _____.

CASE NO. _____ - _____ -MI- _____

**VERIFIED REQUEST FOR COURT
ORDER FOR VEHICLE TITLE**

Comes now the Petitioner _____ and requests that the Court issue an order to the Indiana Bureau of Motor Vehicles to issue a title for the following vehicle and in support of said request states, under oath, that the following is true:

1. Petitioner's full name: _____
Petitioner's Address: _____
County of Residence: _____
Social Security Number: _____
Telephone Number: Home: _____
Work: _____
Date of Birth: _____

2. Description of Vehicle: _____
Type of Vehicle: _____
Manufacturer: _____
Make/Model: _____
Year: _____
Estimated value: _____
VIN Number: _____

3. Present location of vehicle:

3. State the name, address, and all other known information regarding the previous owner and the owner of record of the current title:

4. Describe the circumstances how you acquired or came into possession of the vehicle:

5. Describe the efforts you made and why you cannot obtain a title for the vehicle:

6. Please attach any written documents including bills of sale, titles, police checks, etc.

7. Any other information you want the Court to consider (If you need more space you may use the back of the form):

I affirm under the penalties for perjury that the foregoing representations are true.

Dated: _____

Petitioner's Signature

Printed

STATE OF INDIANA)
)SS:
COUNTY OF _____)

IN THE _____ CIRCUIT COURT
ANNUAL TERM

IN THE MATTER OF:
VEHICLE TITLE REQUEST
FOR *(Insert year, make and model)*,
VIN # _____.

CASE NO. _____ - _____ -MI- _____

ORDER

Comes now _____ and requests that the Court issue an order for one *(Insert year, make and model of vehicle)*, VIN # _____. The Court being duly advised and having considered the evidence now finds that _____ is the owner of one *(Insert year, make and model of vehicle)*, VIN # _____, and that the Indiana Bureau of Motor Vehicles should issue a title to _____ for said motor vehicle.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED by the Court that _____ is the owner of one *(Insert year, make and model of vehicle)*, VIN # _____, and that the Indiana Bureau of Motor Vehicles issue a title to _____ for said motor vehicle.

Dated this ____ day of _____, 20__.

Judge

Distribution: