Louisiana Department of Public Safety
Office of Motor Vehicles

Policy 37.00 Transfer of Equity or Sale With Assumption of Mortgage or Security Agreement

Section: 4. Motor Vehicle Registration Requirements

Effective Date: 03/01/1982

Revised Date: 06/06/2018

Authority:
R.S. 32:711
To view Louisiana Statutes: http://www.legis.state.la.us/

Definitions:

- A **transfer of equity** takes place when an individual sells his vehicle to another individual before the mortgage recorded on his title has been satisfied.

Requirements:

- If an individual sells his vehicle to another individual before the mortgage recorded on his title has been satisfied and the parties execute a notarized act of sale with an assumption of mortgage or security interest (or transfer of equity), the following must be submitted:
  - Copies of the documents specifying the unpaid balance being assumed and showing a complete description of vehicle.
  - The certificate of title.
  - An odometer declaration form, when applicable.
  - A completed vehicle application form (DPSMV 1799)
- A separate bill of sale is not required, provided the act of sale and assumption or transfer of equity specifically states what the purchaser paid the seller for his equity - over and above assuming the unpaid balance of the lien. Sales tax is due on the amount the purchaser paid the seller, for his equity plus the unpaid principal balance of the lien, as the total of those two figures is the total cost of the vehicle. If the lienholder fails to furnish an itemized breakdown of the principal, interest and insurance in the unpaid balance, then we have no alternative but to charge the sales tax on the total unpaid balance, plus the amount the purchaser paid the seller for his equity in the vehicle.
- It is not necessary for the lienholder to execute the release of lien on the seller's title. A fee of $10.00 will be charged to record same on the purchaser's title.
- All transfer of equity, or sale with assumption files must contain the seller's title, and the first assignment must be completed in order to conform to the Federal Truth in Mileage Act.
- A transfer of equity or sale with assumption cannot be done once a vehicle has been repossessed by the lienholder, or sold/traded to a dealer, since the transfer/sale was not transacted by the original mortgagor.
- There may be instances where an individual donates his equity in the vehicle and the donee assumes the balance of the lien. The donation of the EQUITY can be accepted, however, sales tax will be due on the unpaid principal balance of the lien. This amount represents payment for the vehicle by the transferee. If there is an existing mortgage

being assumed by the surviving spouse or a property settlement submitted, taxes will not be due on the unpaid principal balance of the mortgage.

- When a lien is assumed by the transferee and he subsequently defaults and the original mortgagor (transferor) is required to pay off the balance of the lien, he does not automatically become the legal owner of the vehicle. Unless the current titled owner assigns the title over to the original mortgagor, we would require a court order awarding the vehicle to him. If the title is assigned over, a notarized affidavit must be submitted from either the titled owner or the lienholder explaining the circumstances that the original mortgagor had paid off the lien and ownership of the vehicle is being transferred to him. A title could then be issued in the original mortgagor's name without the payment of sales tax provided he had previously titled the vehicle in his name in Louisiana and paid sales tax.
- In the case of a cosigner of a note who is not the titled owner but who has to pay off the balance, we would also require the same documents to title the vehicle in his name. He would be charged sales tax on the principal amount of the lien he is paying off, however, since he had never titled the vehicle or paid sales tax previously.

Fees:

- Title fee
- Sales / use tax
- Mortgage recordation fee, if applicable
- Plate fee, if applicable

Related Policies:

Section 4, Policy 52.00 Act Of Donation /Manual Gift
Section 4, Policy 74.00 Property Settlements