



California Outdoor
HOSPITALITY ASSOCIATION

DMV Lien Sale Instruction Flyer

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Written in Partnership with:

HKP
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HART KIENLE PENTECOST

Attorneys at Law

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“Those Darn Abandoned Vehicles – What to Do?”

By John H. Pentecost, Esq., Hart Kienle Pentecost, Attorneys at Law

I am sure that you have one, a vehicle that appears abandoned in a park space or in a storage yard. The tenant has left and/or no payment for the storage has been paid. What do you do? California law has developed an all-inclusive set of laws to assist the park owner – a DMV Lien Sale. The DMV lien sale process is contained in the California Civil Code at Section 3072. We will break this discussion into four parts:

1. Determining whether the vehicle is “abandoned.” There is no bright line test; however, the park owner must use common sense. If the vehicle has been left for an extended period of time, it is covered in dust, you do not recognize the vehicle and your investigation has failed to turn up any owners within the park, then there is a good chance that the vehicle has been abandoned in your park. If you have a storage area and the owner of the vehicle has moved from the park and/or has stopped paying the storage fee, then the vehicle is abandoned. If there is a vehicle parked on a space that the occupant/tenant/resident vacated with or without notice, then there is a good chance that the vehicle has been abandoned. If in doubt, contact your legal counsel. Based on the circumstances of the particular situation, if you reasonably determine that the vehicle has been abandoned, proceed to the next step.

2. Determining the value of the vehicle. Given the access of the vast amount of information on the internet (Kelly Blue Book, Edmunds Blue Book, Auto Trader, NADA, etc.), it is relatively simple to determine the estimated value of a specific vehicle. You type in the make, model and year of the vehicle and out pops an estimated value. The DMV Lien Process uses two benchmarks: If the vehicle’s value is less than \$4,000 or more than \$4,000. While there is no guidance as to if you use the trade in value (the lowest figure) or private party value (mid-range), you could probably use the trade in value of the vehicle as that is what you could expect to get from a company that buys vehicles. If you want to be on the conservative side, then you might use the “private party” value. You can type in the specific information for the vehicle as can be obtained from a visual inspection from the outside of the vehicle. Again, if you use common sense, then you will not go wrong. The \$4,000 magic number benchmark simply determines who will give the notice to all persons or entities having an interest in the vehicle. With vehicles having a value of less than \$4,000, the notification comes from the party conducting the lien sale. With vehicles having a value of more than \$4,000, the DMV gives the notice.

3. DMV Lien Process. CampCalNOW has developed the attached “Lien Process” Chart. This great chart goes through the required steps of processing a vehicle lien sale in California.

4. Allowable Charges. As for the amounts to be included in the lien sale, you can charge the storage fees that you normally charge or a reasonable fee. Talk to your legal representative on what amount to use for the daily rate. As to allowable “fees” for conducting the lien sale, those are covered by California Civil Code Section 3074. The lien holder may charge a fee for lien sale preparations not to

exceed \$70 in the case of a vehicle having a value determined to be \$4,000 or less and not to exceed \$100 in the case of a vehicle having a value determined to be greater than \$4,000, from any person who redeems the vehicle prior to disposal or is paid through a lien sale pursuant to this chapter. These charges may commence and become part of the possessory lien when the lien holder requests the names and addresses of all persons having an interest in the vehicle from the Department of Motor Vehicles. Not more than 50 percent of the allowable fee may be charged until the lien sale notifications are mailed to all interested parties and the lien holder or registration service agent has possession of the required lien processing documents. This charge shall not be made in the case of any vehicle redeemed prior to 72 hours from the initial storage.

The required forms for DMV Lien Sales are obtained from the DMV. The DMV also has a useful help line (916.657.7617) to use in case you get stumped or have a question.

You can also go online at www.dmv.ca.gov to obtain more information on DMV lien sales. Before you know it, you will be a pro and you will get rid of those pesky abandoned vehicles from your park.



John H. Pentecost is a Partner and litigation attorney with the law firm of Hart, King & Coldren in Santa Ana. His practice has emphasized representation of recreational vehicle communities, manufactured housing communities as well as other community owners, throughout the State of California.

This chart and instruction materials were developed for members of the California Outdoor Hospitality Association

DMV LIEN SALE PROCESS		
STEP 1	Determine Vehicle Value	Less than \$4,000
STEP 2	Registration Information Request	More than \$4,000
	If the vehicle's value is \$4,000 or less, the registered and legal owners of record will be notified by the party conducting the lien. If the vehicle's value is greater than \$4,000, DMV notifies all interested parties.	INF 1126 The DMV will provide a vehicle history record with the registered and legal owner(s) of record and known interested parties.
STEP 3	Notifications	REG 656 Apply to DMV and wait for Authorization to Conduct Lien Sale (REG 338). <i>Fee applies.</i>
	Send to ALL; Certified Mail Return Receipt: Registered Owner(s) Legal Owner(s) Any known Interested Parties Also send 1 copy Certified Mail only: DMV Lien Sales Unit PO Box 932317 Sacramento, CA 94232-3170	REG 668 At least 31, but no more than 41 days before Lien Sale. Enclose a return envelope addressed to DMV Lien Sales Unit.
		REG 280 20 days before Sale

DMV LIEN SALE PROCESS cont....

STEP 4

Opposition to the Lien Sale

Any person having an interest in the vehicle may declare opposition to the sale. Whether you send the notifications (<\$4000) or DMV does (>\$4000) declarations of opposition will go to DMV Lien Sales Unit.

The department will deny the lien sale or cancel the authorization requested by the lienholder in possession of the vehicle if it receives a declaration of opposition. In such cases, the lienholder may pursue continuing the lien sale by obtaining and submitting any of the following to the department's Lien Sales Unit:

- The original signed copy of a release of interest from the opposer. This can be a letter or Statement of Facts (REG 256) or
- Through judicial proceeding. A copy of the court judgment with a copy of the plaintiff's claim and Statement of Facts (REG 256) stating, "A court judgment has been received in the lienholder's favor. It has been at least 35 days and no money has been received." This must be done within 30 days from the date on the denial letter. or

- A completed and signed Application to Continue Lien Sale After Unsuccessful Service form (REG 659) and court documents. Evidence of unsuccessful service is required.

After receiving the documents, DMV will send a letter allowing the sale to continue and notify the person who opposed the sale of the authorization.

STEP 5

Public Notice

All notices shall specify the make, year model, vehicle identification number, license number, and state of registration, if available. For motorcycles, the engine number must also be specified. The specific date, exact time, and place of sale must also be included.

Less than \$4,000

At least 10 days prior to sale post REG 668 conspicuously in your business office/sale site. Fold or cover to hide addresses.

More than \$4,000

At least 5, but no more than 20 days prior to sale give notice of sale by advertising for 1 day in local newspaper.

STEP 6

Day of the Lien Sale

On the sale date, the vehicle must be available for inspection at least one hour prior to the sale. A lien sale is a public auction. Anyone may appear and bid. Sealed bids are **not** allowed.

You are required to keep the vehicle for a 10-day redemption period before releasing to the buyer.

STEP 7

After the Lien Sale

The license plates must be removed and destroyed at the time of the sale, and you must submit to DMV within five (5) days of the sale a *Notice of Transfer and Release of Liability*. (REG 138)

STEP 8

Certificate of Lien Sale

If the auction price exceeds the amount of the lien, the excess amount must be sent to the Lien Sale Unit along with a *COPY* of Certificate of Lien Sale

Less than \$4,000

REG 168A

within 5 days

More than \$4,000

REG 168

within 15 days

If no one places a qualifying bid Complete the Certification of Lien Sale (REG 168 or REG 168A) showing you as the buyer (new owner), as well as the seller. Should you sell the vehicle following the lien sale where you were the buyer, you will be required to give the buyer a bill of sale in addition to the documents listed for registering the vehicle.

STEP 9

New Owner Registration

The following documents are required to register a vehicle purchased at a lien sale:

- Application for Title or Registration (REG 343) completed and signed by the new owner
- DMV Vehicle History Record or letter of Authorization to Conduct Lien Sale from DMV (REG 338) **STEP 2**
- Postal receipts for the notices you sent **STEP 3**
- Certification of Lien Sale (REG 168A or REG 168) completed by the lienholder **STEP 8**
- Applicable registration and/or transfer fees and use tax

The following may also be required:

- Vehicle/Vessel Transfer and Reassignment Form-Odometer Disclosure Statement (REG 262), if applicable
- Verification of Vehicle (REG 343) if there is no record of California registration
- Smog Certification, if applicable



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PO Box 5648, Auburn, CA 95604 | (530) 885-1624 | www.CalOHA.org