



Eviction Process for an Occupant of 30 Days or Less

An "occupant" is defined in Civil Code Section 799.28 as *"the owner or operator of a recreational vehicle who has occupied a lot in a park for 30 days or less."*

You may remove a defaulting occupant from your park with a 72-hour notice. For this category, you have some unique rights that few others who rent property have. However, you have definite responsibilities and ***steps you must carry out if you are to exercise those rights.*** We might add here that you would not have this right without CampCalNOW. It was *your* association that introduced each process in the Legislature and then worked and secured the passage for each of these codes.

A "defaulting occupant" is defined in Section 799.22 as *"an occupant who fails to pay for his or her occupancy in a park or who fails to comply with reasonable written rules and regulations of the park given to the occupant upon registration."*

To attempt to carry out an eviction under the benefits of these sections of the Civil Code, without meeting your responsibility to do certain things that are spelled out, could result in legal action against you for an illegal eviction. Remember that there are two sides to every law. In every case, citizens on both sides of the law have responsibilities.

In order to use this law to evict an "occupant" you must do the following:

- A. Have a sign posted at the entrance to the park which says that the occupant may be evicted and gives the telephone number of the local traffic enforcement agency.
- B. Provide a written registration agreement.
- C. Give the occupant a copy of the park rules.

Now, if you meet the above requirements, you may evict a "defaulting occupant" with the following steps.

Step 1. Serve a 72-Hour Notice

These forms are available from CalOHA and have been reviewed by Rudderow Law Group, a California law firm. *NOTE: The information and forms provided are for general information purposes only, and are not a substitute for competent, individual, professional legal advice.*

The first step is to serve the proper 72-Hour Notice as outlined in Section 799.55 through 799.59. There are two notices—one for failure to pay rent and one for failure to comply with rules & regulations. The appropriate form should be filled out in triplicate; a copy for you to keep, a copy to serve, and a copy for law enforcement.

Please note the following:

- a) If serving the "defaulting occupant," the 72-Hour Notice must be delivered to the occupant personally or to a "person of suitable age and discretion who is occupying the recreational vehicle located on the lot. In the latter event, a copy of the notice shall also be affixed in a conspicuous place on the recreational vehicle and shall be sent through the mail addressed to the occupant at the place where the property is located and, if available, any other address which the occupant has provided to management in the registration agreement." (Section 799.56 (a)). It cannot be mailed or just posted on the door.
- b) In the event that the occupant is incapable of removing the recreational vehicle from the park because of a physical incapacity or because the recreational vehicle is not motorized and cannot be moved by the occupant's vehicle, he must be given 7 days, rather than 72 hours, to vacate (Section 799.56 (b)).
- c) In the case of "failure to pay," the notice provides a 3-day period (72 hours) to cure the default in rent. Section 799.55 states: "A defaulting occupant may correct his or her payment deficiency within the 72-hour period during normal business hours." If the occupant pays within this period, the eviction process is aborted. If he does not pay, you may proceed. If they fall under (b) above, then the 3-day period to pay still is enforced, but the occupant has 7-days to vacate.
- d) The person who serves the notice must complete a proof of service stating what notice was served and when, where, how, and on whom the notice was served. Proof of service forms are included on the 72-hour eviction forms.
- e) Notify your local law enforcement agency, by providing a copy of the notice to the appropriate agency (Section 799.56 (c)).

Step 2. After the 72-hour period has expired, you may remove the vehicle to the nearest secured storage area

You may use a commercial towing service (you will probably have to pay them in advance) or you may remove the vehicle yourself. If you move it yourself, pay special attention to Section 799.59 and have the move and your "carefulness" witnessed.

At this point, it would be advisable to take pictures of the vehicle before it is towed and again after it has been placed in the secured storage. A video of the entire move is an excellent procedure to follow for future reference. This will assist you in substantiating your actions under Section 799.59, which requires that you "*exercise reasonable and ordinary care in removing such vehicle to the storage area.*"

- a) If the occupant is not in the vehicle or area, you may just proceed with the process.
- b) If the occupant is on the premises or is in the vehicle, you should notify the police or sheriff and seek their assistance in removing everyone in the unit and restraining them while the unit is removed.

It is advisable to have a well-established plan with your local law enforcement and good communication. A letter from Sonoma County Sheriff's department is attached at the end of these instructions. The letter outlines the local jurisdiction's process for handling 72-hour Eviction Notices and is an excellent example to share with your local law enforcement agency if needed.

What if they owe you rent? What about the cost of the eviction?

Section 799.78 states: *"In any action arising out of the provisions of this chapter, the prevailing party shall be entitled to reasonable attorney's fees and costs. A party shall be deemed a prevailing party for the purposes of this section if the judgment is rendered in his or her favor or where the litigation is dismissed in his or her favor prior to or during the trial,..."* The Recreational Vehicle Park Occupancy Law also states that you have *"a lien upon the recreational vehicle and contents therein for the proper charges due from a defaulting occupant."* (Section 799.75)

Storage charges for the recreational vehicle or abandoned personal property can be recovered through the provisions of Civil Code Section 1861 which grants the lien.

In order to exercise this lien, you should contact your attorney, who will need to file the appropriate forms with the court. You may continue to hold the possessions until the court grants or denies the lien. You may find it necessary to prepay for the tow and storage during that time.

Note: It may be easier and faster to process a Department of Motor Vehicles (DMV) lien sale on vehicles when money is owed. Personal possessions (contents) still would have to be sold pursuant to a lien sale under 799.75.

Related products also available from CalOHA

- A Practical Guide to the Eviction Process for Recreational Vehicle Parks
- Eviction Signs (necessary for 72-hour evictions)
- Sample Registration Agreement and required wording
- Sample Park Rules
- DMV Lien Sale Handbook