

State of New Mexico - Motor Vehicle Division
Vehicle Services Bureau

P.O. Box 1028, Santa Fe, New Mexico 87504-1028



SPECIAL TITLE PROCEDURES FOR TOWING LIEN PROCESS

Persons / Companies in the business of towing may claim a lien on a vehicle when the owner fails to pick up the vehicle and pay authorized towing and storage fees within a reasonable period of time. The lien process starts when the account becomes due and payable. This process applies to residents or businesses operating in New Mexico only.

LIEN CLAIMANT MUST SUBMIT THE FOLLOWING DOCUMENTS:

1. **A COPY OF THE DOCUMENT** indicating who authorized the tow and associated costs.
2. **TITLE VERIFICATION:** A title verification is a current computer print-out, form or letter from the licensing jurisdiction where the vehicle is registered showing the name and address on record of the registered owner and lienholder (if any). When the account becomes due and payable the lien claimant must request title verification from the appropriate state Motor Vehicle Department (MVD) where the vehicle is registered. *Use Form 10705, Vehicle or Hull Identification Number Verification Request. Addresses and applicable fees for each state's Motor Vehicle agency are on the reverse side.*
 - a. If the vehicle is registered in New Mexico, send your completed Form 10705, Vehicle or Hull Identification Number Verification Request, and \$1.00 to the Motor Vehicle Division in Santa Fe.
 - b. If the vehicle is registered and titled in another state, send your completed Form 10705, Vehicle or Hull Identification Number Verification Request and applicable fees to that state's Motor Vehicle Department. Title verification from out-of-state and New Mexico must be surrendered as supporting documents.

If the out-of-state MVD responds with a "No Record," the lien claimant must complete Form-10287, Affidavit of Title and Registration Search and submit it along with a \$1.00 fee to the Motor Vehicle Division, Vehicle Services Bureau in Santa Fe. **NOTE:** Both responses must be submitted as part of the lien process.

Upon receipt of the Title Verification lien claimant must contact the New Mexico State Police for a NCIC Clearance.

3. **N.C.I.C. CLEARANCE:** An NCIC Clearance (form 10468) is a statement from the State Police indicating that the vehicle is not listed as "Stolen" on their files and includes a statement verifying the serial number.

NOTE: *If NCIC clearance is on a police computer printout,* then lien claimant must submit Form 10861, Affidavit of V.I.N. or H.I.N. Inspection, which must be completed and signed by a New Mexico law enforcement officer, MVD employee or NM Agent Inspector (Form 11032 only).

4. **NOTICE OF LIEN:** The Notice of Lien is a letter that is sent to the registered owner, lienholder (if any), and any other interested party, advising them of the amount due for services. The notice must allow at least ten (10) days for payment of the accrued debt.

Lien claimant must complete Form 10058, Notice of Mechanic's or Landowner's Lien. This form is sent by certified or registered mail, return receipt requested to all parties involved. **NOTE:** Lien claimant must keep a copy of each notice that was mailed, the postal receipt for the certified or registered letter and the Return Receipt (green card).

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5. **ADVERTISEMENT OF PUBLIC SALE:** The lien claimant must advertise (Section 48-3-14, NMSA 1978) the vehicle for sale if no one pays off the debt and recovers the vehicle within those ten (10) days. Advertising must be done in one of the following ways:

- a. **POSTING OF HANDBILLS:** A handbill is a sign which is 8" x 11". Lien claimant must post six (6) handbills in six (6) conspicuous public locations in the county where the auction will be held; **or**
- b. **ADVERTISING IN A NEWSPAPER:** Advertisement must be done for two (2) consecutive weeks in a newspaper of general circulation in the county where the auction will be held.

NOTE: Handbills or advertisement must contain the following information: *full description of vehicle, why the vehicle is being sold at public auction, the amount due and the time, date, and location of sale* (refer to item #6 of these instructions for assistance determining auction date). The handbills or advertisement must indicate the date that posting or advertising took place.

Lien claimant must submit a sample of either the handbill or proof of advertisement as part of the documentation for title and registration.

6. **HOW TO DETERMINE THE DATE OF AUCTION:**

- a. **NEW MEXICO REGISTERED VEHICLES** - The date of auction may not be less than 44 days from the date indicated on the certified mail receipt; or 34 days from the date handbills were posted (example: $34 + 10 = 44$); or 34 days from the last date of publication.
- b. **VEHICLES REGISTERED IN ANOTHER STATE** - The date of auction may not be less than seventy (70) days from the date indicated on the certified mail receipt.
- c. **TITLE VERIFICATIONS WHICH COME BACK WITH A "NO RECORD" RESPONSE** - Immediately upon receipt of the "No Record" response the lien claimant must advertise the vehicle for sale at public auction in a newspaper of general circulation. The date of sale must be at least sixty (60) days from the date of the second newspaper publication.

After the required time has passed, lien claimant must sell the vehicle at public auction at the date, time, and public place designated in the advertisement.

7. **AFFIDAVIT OF RESALE:** The Affidavit of Resale is a summary of the entire process. This form also includes an Odometer Mileage Statement and Assignment or Bill of Sale. After the auction has been completed, the lien claimant must complete Form 10059, Affidavit of Resale in its entirety.

- a. If a person successfully bids for the vehicle, lien claimant checks off the appropriate space and enters the purchaser's name. **NOTE:** Purchaser must apply for a title in his/her name and pay excise tax on purchase price, title and registration fee. Odometer disclosure must be made on the Affidavit of Resale form.
- b. If no one bids for the vehicle or bids were unacceptable, lien claimant checks off appropriate space and applies for the title and pays registration and title fee. **NO TAX** is applicable. Lien claimant **CANNOT SELL** the vehicle until he/she acquires a title in his/her name.