

Sections 184, 201 and 202 of the Lien Law specify the procedure for foreclosing garageperson's liens for businesses engaged in repairing, towing or storing vehicles, including boats. The Lien Law requires the garageperson to: notify the owner and any known lienholder of the vehicle; advertise the sale of the vehicle; and sell the vehicle at public auction. Unless otherwise noted, any reference to "vehicle" or "motor vehicle" in these instructions means a motor vehicle or boat.

Please carefully read the following information relating to the documentation required by DMV.

## **1. VERIFICATION OF PRIOR OWNER AND LIENHOLDER**

The garageperson must contact the state where the vehicle was last registered and/or titled to verify prior owner and any lienholder information. When a vehicle is sold, the purchaser **must be given one of the following** as verification of prior owner and lienholder:

- **TITLE ABSTRACT** – form MV-904N (for a vehicle registered or titled in New York). A Vehicle Title Abstract for the current owner/lienholder can be obtained by completing form MV-15 (Request for Driver and/or Vehicle Record Information). There is a \$10 fee for **each** request.
- **NY STATE DIAL-IN** – Computer Display Printout (for a vehicle registered in New York). A computer display printout can be produced by any person having direct access to the DMV computer via the NYS DMV Dial-In System. The printout includes current owner and lienholder information, or states that the vehicle is a "NO HIT" on DMV's vehicle file. The printout must be attached to a statement from the garageperson (or authorized representative) on letterhead which says: "I affirm the attached printout is the owner/lienholder information obtained from the NYS DMV Dial-In System". The statement must include the garageperson's original or facsimile signature (or the signature of the authorized representative).
- **CERTIFICATION OF NO RECORD FOUND** – form DS-243. This form is provided by the NYS DMV Certified Document Center when a form MV-15 is received, but no record of the vehicle is found in DMV files (NO HIT).
- **OUT-OF-STATE OWNER/LIENHOLDER VERIFICATION** – If the vehicle owner is from another state, an original statement on the out-of-state DMV letterhead is required. The statement must specify the year, make and identification number of the vehicle, the current owner's name and address, and any known lienholders (if there are no lienholders, the statement must specify that). We cannot accept computer printouts attached to an out-of-state DMV letterhead, or copies of applications for registration or title.

**NOTE:** Vehicles with no verification of prior owner (NO HIT) will be subject to an investigation by DMV's Division of Field Investigation, and a bond may have to be posted before approval can be given for issuance of a title.

## 2. NOTICE OF LIEN AND SALE (FORM MV-901A)

Lien Law Section 201 requires that the garageperson notify the owner (the person whose name is on the title record) and any known lienholder of any intention to sell the vehicle to recover the costs of repairs, towing and/or storage. The garageperson must use form MV-901A (Notice of Lien and Sale) or a computer-printed form that EXACTLY duplicates the MV-901A. Every item on the form must be completed. **A copy of this notice must be given to the purchaser.**

**NOTE:** A “known lienholder” is any person or entity: who has given the garageperson notice of their interest in the vehicle, or who has perfected a security interest with the Department of Motor Vehicles; who is listed as a lienholder on the certificate of title for the vehicle; or who has perfected a security interest in a non-titled vehicle in accordance with the Uniform Commercial Code.

## 3. SERVICE IN ACCORDANCE WITH LIEN LAW SECTION 201

The garageperson must serve the Notice of Lien and Sale (MV-901A) to the owner and any other interested parties in accordance with Lien Law Section 201. The **original proof of service (or a legible copy) must be given to the purchaser.** If a copy is provided, it must be certified on the copy to be a “true copy of the original”. The certification must also have an original or facsimile signature of the garageperson or an authorized representative.

## 4. ORIGINAL NEWSPAPER CLIPPING

The garageperson must advertise the sale of the vehicle once a week for two consecutive weeks, at least 7 days apart, in a newspaper circulated in the city or town where the sale is to be held. The ad must contain the year, make and identification number of the vehicle, the owner’s name, and the date, time and place of sale.

**NOTE:** The first publication must be 10 days or more **after** the date the Notice of Lien and Sale (form MV-901A) is served. The vehicle cannot be sold until 15 days after the date of the first publication. The sale must be held in the city or town where the lien originated. **An original clipping from the newspaper must be given to the purchaser.**

## 5. AFFIDAVIT OF PUBLICATION

This must be a signed statement from the newspaper affirming that the advertisement appeared in the paper. It must state that the sale was advertised once a week for two consecutive weeks, and must specify the dates of publication. **The affidavit (or a legible copy) must be given to the purchaser.** If a copy is provided, it must be certified on the copy to be a “true copy of the original”. The certification must have an original or facsimile signature of the garageperson or an authorized representative.

## 6. GARAGEPERSON’S AFFIRMATION AND BILL OF SALE (FORM MV- 901B)

Form MV-901B (Garageperson’s Affirmation and Bill of Sale) is a sworn statement from the garageperson concerning the sale of the vehicle to obtain compensation for unpaid repairs, towing and/or storage charges. Form MV-901B, or a computer-printed form that EXACTLY duplicates the MV-901B, must be used. Everything on the form **must** be completed. The form must contain original signatures of the garageperson and the purchaser. **The original affirmation and bill of sale must be given to the purchaser.**

## 7. PROOF OF BUSINESS AND CLAIM

The garageperson must provide proof that the garageperson is legitimately engaged in the business for which the type of charges are being claimed, and must provide proof of the claim. The following is acceptable proof:

- **REPAIRS:** If the vehicle (not a boat) was brought in for repairs or for an estimate, a copy of form MV-61P (Official Business Certificate) is required, showing the garageperson was a registered repair shop at the time the vehicle was brought in for repairs. A copy of the authorized work order itemizing the cost of parts and labor, or a copy of the estimate, is also required. **Copies of these items must be given to the purchaser.**

**NOTE:** If the repair shop was not registered with the Department of Motor Vehicles at the time of repair, the lien will be considered INVALID, and any application for title will be denied.

- **STORAGE:** If only storage is being claimed by a **business in New York City** (Bronx, Queens, Brooklyn, Manhattan or Staten Island), **a copy of the Consumer Affairs Business License must be given to the purchaser** (showing the business is licensed as a parking or storage facility). The license must have been valid at the time the vehicle was brought in for storage.

For any **business outside New York City**, a copy of a parking or storage business license, or an original pre-printed letterhead or an original billing statement with the name and address of the storage or parking facility, is acceptable as proof of business. **A copy must be given to the purchaser.**

**NOTE:** Parties not normally in the business of storing vehicles may have a valid lien for storage. However, this type of lien will not routinely be accepted. **A copy of the storage agreement, and/or other documentation proving their claim, must be given to the purchaser.** The documentation will be subject to an investigation by DMV's Division of Field Investigation.

- **TOWING:** **A copy of the authorized tow order** from the owner or a police official is required as proof of the claim, and **must be given to the purchaser.**

If towing is being claimed by a **business in New York City** (Bronx, Queens, Brooklyn, Manhattan or Staten Island), **a copy of a Consumer Affairs License** (showing the business is licensed as a towing company) **must be given to the purchaser.** The license must have been valid at the time the vehicle was towed. For a **business outside New York City**, **a copy of a tow license**, or an original pre-printed letterhead or an original billing statement with the name and address of the tow company, is acceptable as proof of business, and **must be given to the purchaser.**

If a vehicle is towed at the request of law enforcement, Section 184(2) of the Lien Law requires the towing company to notify the vehicle **owner** by certified mail, return receipt requested, **within 5 working days** from the initial towing, that the garage is in possession of the vehicle. A person who mails this notice within the five-day period is entitled to a lien for storage from the date of initial towing; a person who fails to mail the notice within the five-day period is only entitled to a lien for storage from the date the notice was mailed. Notification **must** be made even if a lien for storage is **not** being claimed. Section 184(5) of the Lien Law requires the towing company to notify by certified mail, return receipt requested, every person who has perfected a security interest in the vehicle, or who is listed as a **lienholder** on the vehicle's certificate of title, **within 20 days** of the first day of storage. A person who fails to mail such notice within the twenty-day period is only entitled to a lien for storage from the date the notice was mailed. A failure to mail the notice in a timely fashion does not affect a lien for towing.

**Notices to owners and lien holders shall include:** the name of the person who towed and is storing the motor vehicle; the dollar amount being claimed for towing and storage; the address and times at which the vehicle may be recovered; and a statement that the person mailing the notice claims a lien on the vehicle and that the vehicle will be released to the owner or lawfully designated representative upon full payment of all charges accrued to the date that the vehicle is released. **Copies of the notice(s) and receipts for certified mail return receipt requested must be given to the purchaser.**

**NOTE:** A storage license is NOT required for any lien for towing in which additional charges for storage are being claimed.

#### **8. VERIFICATION OF THE VEHICLE (OR HULL) IDENTIFICATION NUMBER**

Verification of the identification number on the dashboard of the vehicle (or transom of the boat) is required. The **following** is acceptable verification, and **must be given to the purchaser:**

- legible tracing of the identification number;
- photograph of the identification number;
- signed statement from a police official or from the NYS Dept. of Parks, Recreation and Historic Preservation, on the appropriate agency letterhead, verifying the identification number.

#### **9. STATEMENT OF ACQUISITION**

A **detailed statement** on letterhead and signed by the garageperson regarding the garageperson's acquisition of the vehicle, **must be given to the purchaser.** The statement must fully explain how and when the vehicle came into the garageperson's possession.

### **INSTRUCTIONS AND REQUIREMENTS FOR OBTAINING A CERTIFICATE OF TITLE**

Any purchaser (*including a NYS registered dealer*) of a vehicle auctioned by a garageperson in accordance with NYS Lien Law must obtain a Certificate of Title in the purchaser's own name before registering or reselling the vehicle.

To obtain a Certificate of Title, the purchaser must send the following paperwork and fee to the Department of Motor Vehicles, Title Bureau, 6 Empire State Plaza, Albany, NY 12228:

1. Verification of Prior Owner and Lienholder
2. Copy of Notice of Lien and Sale (form MV-901A) **AND** proof of service in accordance with Lien Law Section 201.
3. If the vehicle was towed at the request of law enforcement, copies of notices sent to the owner and persons having a perfected security interest in the vehicle or recorded as a lien holder on the Certificate of Title **AND** the receipts for certified mail return receipt requested.
4. Original Newspaper Clipping
5. Affidavit of Publication
6. Garageperson's Affirmation and Bill of Sale (form MV-901B)
7. Verification of the Vehicle (or Hull) Identification Number
8. Proof of Business and Claim
9. Statement of Acquisition
10. A completed Application for Title (form MV-82TON or MV-82B)
11. Form FS-6T (Sales Tax Clearance Receipt) or form MV-50 (Certificate of Sale NY Dealer Sales) showing payment of sales tax or exemption from payment of sales tax. The FS-6T can be obtained from any DMV office.
12. A \$50 title application fee. Payment can be made by check or money order, payable to the Commissioner of Motor Vehicles.