



Foreclosing on a Possessory Lien on a Motor Vehicle

This document outlines the procedure for dealers to follow to conduct a sheriff's sale foreclosing on a possessory lien. This procedure is required to foreclose on a repair lien and obtain a Certificate of Title on the secured vehicle. The procedure is based on [Minn. Stat. Section 514.18](#) et seq.

Obtain a Possessory Lien. Minnesota Statutes grant a repair shop a lien and the right to hold a motor vehicle for charges incurred in its repair and storage. The lien also extends to reasonable charges for a vehicle rented as a replacement for a vehicle while it is being serviced or repaired. The possessory lien is based solely upon possession of a vehicle which a dealer repairs. It exists only so long as the dealer maintains possession of the vehicle. Once possession is relinquished, the lien is extinguished. There are no filing requirements nor other legal formalities necessary to establish the lien. (Minn. Stat. Section [514.18](#), [514.19](#)).

Hold the Vehicle. The statute requires the vehicle to be held for at least 90 days after the repair bill becomes due before it can be . (Minn. Stat. Section [514.20](#))

Contact your County Sheriff's Office, Civil Division. Contact the sheriff to select a time and date for the sale. Be sure to allow enough lead time to fulfill the notice requirements of the statute. In addition, it makes sense to discuss the sheriff's procedure for payment of fees and to confirm the date and time by letter.

Notify Lienholders listed on the Certificate of Title. If the vehicle has Minnesota registration, the law requires that all secured creditors listed on the title must be provided a written notice by registered mail. This notice must be provided at least 45 days before the sale. The notice must state the name, address and telephone number of the dealer, the amount of money owed and the rate which any storage charges are accruing. **NOTE:** The dealer's repair lien is superior to the lien of a listed creditor unless the secured creditor is not notified of the sale. (Minn. Stat. Section [514.20](#))

Provide the Customer Notice of the Sale. This is the most difficult step. According to the statute, if the customer lives ("can be found") in the dealer's county, a notice containing the information described below must be personally served. If the customer does not live in the dealer's county, then the notice must be given in two ways. It must be mailed and it must be published in a county newspaper once in each of three successive weeks. The last of the three notices must be published at least one week prior to the date of sale. (Minn. Stat. Section [514.21](#))

The notice, whether personally served or published, must contain the following information: the time and place of sale, the amount of the debt excluding expenses of advertising and sale, grounds for the lien and a general description of the vehicle.

Taking a practical view of the notice requirements, it is apparent the notice will have to be given in one of two ways depending on where the customer is.

If the repair order or a license plate check shows an address in the same county as the dealership, the statute requires the notice to be personally served on the customer. The sheriff can handle service of process and is the best person to personally serve the customer. For a flat fee plus mileage, a deputy will attempt to hand deliver the notice to the customer. When the dealer takes the notice document to the sheriff for service, there should be an original plus at least one copy. The sheriff will serve the copy and then return the original to the dealer along with an "Affidavit of Service of Process." This affidavit is very important and must be submitted to the Registrar in order to transfer title after the sheriff's sale. If the sheriff is unable to find the customer and successfully serve the papers, see below.

If the repair order or a license plate check shows that the customer lives in another county or another state, the notice must be given in two ways. It must be mailed to the customer and published in a county newspaper. This dual notice method should also be used if the sheriff returns the notice after being unable to find the customer for service. The law requires published notices to be placed in a county newspaper in the dealer's county. Contact your local newspaper in advance to make sure that it is authorized to publish legal notices. The dealer should specifically request an Affidavit of Publication from the newspaper. Similar to the affidavit from the sheriff for personal service, this affidavit is necessary if the notice is published in order to transfer title after the sale. Again, the notice must be published once in each of three successive weeks; the last newspaper notice must be published at least one week prior to the date of sale.

The Sale Itself. According to Minn. Stat. Section [514.21](#), the sale must be held between 9:00 a.m. and 5:00 p.m. and must be by auction. The sales are typically quite informal. Generally, the only people there are the deputy and the dealer lienholder and, in most cases, the dealer purchases the vehicle for the amount of the lien plus expenses. For its fee, the sheriff charges a flat fee and upon completion of the sale, the deputy will supply a written report of the results of the sale.

Disposition of the Sale Proceeds. From the proceeds of the sale, first pay off any expenses incurred (sheriff's fees, expenses of publication, etc.) and then the amount of the lien. If there are any funds left over, they must be paid over to the customer or other person entitled to them upon demand. (Minn. Stat. Section [514.20](#))

Obtain a New Certificate of Title. In order to transfer title to the purchaser at the sheriff's sale, three documents are necessary in addition to an application for certificate of title: the Notice of Sale, an Affidavit of Service of Process or an Affidavit of Publication, and the deputy's report of the results of the sale.