

8-1,157. Satisfaction of lien on vehicle; requirements for release; penalties; rules and regulations. (a) Upon the satisfaction of a lien or encumbrance on a vehicle, the lienholder shall:

(1) Within three business days after receipt of a payment of the type described by subsection (b) and a request for the release of the lien, fully execute a release of the lien or encumbrance on a form approved by and in the manner prescribed by the division and shall mail or deliver such release where directed by the person who requested the release; or

(2) within 10 business days after receipt of a payment of a type not described by subsection (b) and a request for the release of the lien, fully execute a release of the lien or encumbrance on a form approved by and in the manner prescribed by the division and shall mail or deliver such release where directed by the person who requested the release.

(b) If the payment in satisfaction of the lien or encumbrance is in cash or by intra-bank transfer of funds or wired funds, the payment shall be considered cleared immediately upon receipt by a lienholder, at which point the satisfaction of the lien or encumbrance shall be deemed to have occurred.

(c) For purposes of subsection (a), the release is deemed fully executed where the release is not by electronic means at that point in time when it is completed and placed in the United States mail, postage prepaid, or delivered to the person requesting the lien release as shown on the form so requesting it or if the release is accomplished electronically, the release is deemed fully executed when it is delivered electronically to the division, in the manner prescribed by the division.

(d) If a lienholder fails to comply with subsection (a), an aggrieved party may file a complaint against the lienholder with the division. For the purposes of this section, an aggrieved party shall be the division, the owner of the vehicle subjected to the lien or any person making a valid lien request on a form approved by the division and the lienholder has failed to comply with subsection (a).

(e) Notwithstanding any other provision of law, the director of vehicles, or other duly appointed hearing officer, on a complaint filed with the division may assess a civil administrative penalty on a lienholder who fails to comply with the applicable portions of subsection (a) or any rule and regulation adopted by the division pursuant to this section after a hearing pursuant to the Kansas administrative procedures act. A lienholder shall not be found liable for such noncompliance if the noncompliance occurred as a result of the action or inaction of the division or county treasurer. A lienholder who is found to be in violation of this section may, in the discretion of the director of vehicles or other duly appointed hearing officer, have a civil administrative penalty imposed as follows: (1) For the first violation not less than \$100, but not more than \$500; (2) except as provided in paragraph (3), for each subsequent violation within a twelve-month period, not less than \$500, but not more than \$2,000; or (3) if the lienholder has been cited and penalized five or more times in the preceding twelve-month period, for each subsequent violation not less than \$1,000, but not more than \$5,000.

(f) Whenever the division seeks to assess a civil administrative penalty itself or on complaint by a person pursuant to this section, the division shall cause to be served upon the lienholder, either by service in hand, or by certified mail, return receipt requested, written notice in the manner provided for instituting an action under the Kansas administrative procedures act of the intent to assess a civil administrative penalty, which shall include a concise statement of the alleged act or omission for which the civil administrative penalty is sought to be assessed, the law that has not been complied with as a result of the alleged act or omission, the amount that the division seeks to assess as a civil administrative penalty for each alleged act or omission, a statement of the lienholder's right to a hearing on the proposed assessment, the requirements the lienholder shall comply with to avoid being considered to have waived the right to a hearing, and the manner of payment thereof if the lienholder elects to pay the penalty and waive a hearing.

(g) Whenever the division seeks to have a civil administrative penalty assessed against a lienholder, the lienholder shall have the right to a hearing as provided by the Kansas administrative procedures act, which shall apply except as provided in this section.

(h) Each lienholder who fails to pay a civil administrative penalty after it becomes final, shall be liable to the division for up to three times the amount of the civil administrative penalty, together with costs, plus interest from the time the civil administrative penalty became final and attorneys' fees, including all costs and attorneys' fees incurred directly in the collection thereof. The rate of interest shall be the rate of 10% per annum.

(i) In addition to the civil administrative penalties provided by this section, a lienholder who fails to provide a lien release in compliance with the provisions of subsection (a), shall be liable to the holder of the title requesting the release for any loss caused to the holder by such lienholder's failure to comply.

(j) Civil administrative penalties shall be remitted in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, to the state treasurer. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the vehicle dealers and manufacturers fee fund.

(k) The secretary of revenue may adopt such rules and regulations deemed necessary to carry out the provisions of this section.

(l) This section shall be part of and supplemental to article 1 of chapter 8 of the Kansas Statutes Annotated.

History: L. 2006, ch. 64, § 1; Jan. 1, 2007.