

PROCEDURES FOR VICTIMS FILING AND RELEASING RESTITUTION LIENS

According to A.R.S. §13-806, a victim may file a Restitution Lien once the defendant has been sentenced and if the defendant has been ordered to pay restitution to the victim. According to A.R.S. §13-806 (A), there are **no** filing fees or charges for this type of lien.

Please keep in mind that establishing a Restitution Lien takes a considerable amount of time and effort. In addition, the Restitution Lien is only effective if the defendant owns any property (vehicles or homes) and if the defendant chooses to sell that property. It is not necessary to know if or what the defendant owns. The lien will need to be recorded with both the County and the State to become effective.

The other item to keep in mind is that once all restitution has been paid, it is the responsibility of those who placed a Restitution Lien on any vehicles or property to provide for the release of the lien or liens involved.

If you wish to pursue filing a Restitution Lien, you will find the procedures to file a restitution lien, below:

1. Complete **{SAMPLE A}, Notice of Restitution Lien**. All of the information is necessary. Since the defendant's personal information is not public, no one within the Court will be able to provide the information to you.
2. Take the **Notice of Restitution Lien** to the sentencing court for signature. You will need either the original and/or three (3) certified copies back. Some courts may keep the original for the court file. Please be aware that the lien holders (victim) name, address and phone of the identify info has to be put on this form sent to the defendant.
3. If you are given the original back, then it will need to be taken the County Clerk of the Court to be placed in the court file and you will need to request three (3) certified copies (for County Recorder, Motor Vehicle Dept and you). If mailing the original then use **{SAMPLE E}, Clerk of Court Cover Letter** and include a stamped, self-addressed envelope for the return of the certified copies.
4. Take a certified copy to the County Recorder's Office to be recorded. The Recorder's Office will either record the document while you wait or send you the recorded document later. If mailing the certified copy then use **{SAMPLE C}, County Recorder Cover Letter** and include a stamped, self-addressed envelope.
5. Mail a certified copy of the **{SAMPLE B}, Notice of Restitution Lien** to the Motor Vehicle Department (MVD) for holds on the defendant's vehicle registration(s).

Motor Vehicle Dept
Title Maintenance Section, Room 555M
1801 W Jefferson
Phoenix, AZ 85007

It is not necessary to know if the defendant has any registered vehicles in his/her name. The Motor Vehicle Department will not send anything back to verify that they recorded the lien. You will need to contact the MVD (602-255-6762), in approximately four to six weeks, to confirm that the lien(s) on the vehicle(s) were recorded.

6. Once the all documents have been recorded and the liens are in place, you will need to attempt to notify the defendant of the Restitution Lien by delivering or by sending (*certified mail is preferable*) a copy of the **{Sample D} Notice of Restitution Lien** to: Adult Probation if the defendant is on probation; to the Department of Corrections if the defendant is in custody; or to the defendant's address if he/she is neither on probation nor in DOC.

WHAT TO EXPECT

If a defendant sells a vehicle upon which a lien has been placed, the holder of the title of that vehicle will contact the Lien holder that appears on the **Notice of Restitution Lien**.

You may be contacted by either the seller, defendant, MVD, a 3rd party MVD or the buyer requesting to transfer the title out of the defendant's name. Payment should be made payable to and mailed to the County Clerk of the Court for distribution.

If a defendant attempts to sell property upon which a lien has been recorded, the title company will contact the Lien holder that appears on the **Notice of Restitution Lien**.

Many people have similar or same names. You may be contacted by numerous title companies to verify if someone is indeed "one and the same" as their client. It is up to you to match the information that the title company has with the information on your **Notice of Restitution Lien**. If the information does match, then the title company may require written payoff instructions. Payment should be made payable to and mailed to the County Clerk of the Court for distribution.

The **Notice of Restitution Lien** does not need to be renewed, nor can it be discharged in bankruptcy. The lien is in effect until the debt is paid in full.

RELEASING A RESTITUTION LIEN

When a defendant has paid the restitution in full, the Restitution Lien must be released.

To **Remove** a restitution Lien on a **Vehicle**:

1. Complete a **MVD Request for Release of Lien Letter** **{Sample F}** for an individual vehicle or for all vehicles in defendant's name.
3. Make a copy for your records and file the original Release of Lien Letter with MVD. To file the release send each original of the **{Sample F}**, **MVD Request for Release of Lien Letter** to:

Motor Vehicle Division
Title Maintenance Section, Room 555M
1801 West Jefferson
Phoenix, AZ 85007

To **Remove** a restitution Lien on **Real Property**:

1. Complete the **Release of Restitution Lien on Real Property** form **{Sample G}**.
2. Obtain two certified copies,
 - File the original with the County Clerk of the Court
 - Keep a certified copy for your records
 - File a certified copy of the **Release of Restitution Lien on Real Property** with the County Recorder's Office in the county where the lien was filed.