



CONSUMER NEWS

SAN DIEGO CITY ATTORNEY'S OFFICE

Motor Vehicle Recovery Fund

May 2009

The California Legislature has recognized that some vehicle dealers have failed to pay off the liens on vehicles they took as trade-ins, and others have failed to turn over fees they collected from purchasers for state fees and taxes to the government. To address this problem, the Legislature passed Senate Bill 729 in 2007, which created a recovery fund for consumers who have been and will be harmed by this conduct. That fund has been funded and is now available to make refunds to harmed parties.

ESTABLISHMENT OF FUND:

The new law requires dealers and lessor-retailers who are licensed by the DMV to pay \$1 per vehicle sold to the DMV for the establishment of a Consumer Motor Vehicle Recovery Fund. Dealers were required to begin making these payments after July 1, 2008.

The law also established a procedure for creating and staffing a nonprofit corporation to manage the fund and review claims from

consumers for payment. That corporation has been formed and is currently available to receive and evaluate claims.

ELIGIBLE CONSUMERS:

The following consumers are eligible to receive payments from the Consumer Motor Vehicle Recovery Fund:

1. A person who purchased or leased, or became obligated to purchase or lease, a motor vehicle to be used primarily for personal, family, or household purposes from a dealer or lessor-retailer who was licensed by the DMV at the time of the purchase; or
2. A person who consigned for sale a motor vehicle that was used primarily for personal, family, or household purposes to a dealer licensed by the DMV.

It is important to note that if you buy a vehicle from a private party or someone who is not a licensed California dealer, you are not eligible to make a claim for losses from this fund. You may still have other remedies such as damages in

a private lawsuit or restitution in a criminal case.

The San Diego City Attorney's Office prosecutes unlicensed vehicle dealers who sell vehicles in the City of San Diego and prosecutors seek restitution for victims of these dealers. If you have purchased a vehicle from an unlicensed vehicle dealer, you can file a complaint with the DMV Investigations Division on the DMV website: www.dmv.ca.gov. You can also reach the local office of the DMV Investigations at (619) 627-3951. Once the DMV completes an investigation, it will present the information to the City Attorney's Office for prosecution if appropriate.

ELIGIBLE CLAIMS:

The fund will reimburse an unsatisfied claim for economic loss not barred by the statute of limitations and happening after July 1, 2008, as a result of the failure of a licensed dealer or lessor-retailer to pay the following:

1. License and registration fees received from the consumer to pay to the DMV.

2. The amount of the lien held by a legal owner of a vehicle that was traded in by the consumer to the dealer where the dealer agreed to pay off that lien.

3. The amount the dealer agreed to pay a person who consigned a vehicle with the dealer which the dealer then sold.

The maximum payment for one claim from the Fund is \$35,000 per transaction, i.e. vehicle sale.

PROCEDURE TO FILE CLAIM:

If you are an eligible consumer with a claim that is covered by the law, you can file a written claim form with the Consumer Motor Vehicle Recovery Corporation.

The 4-page claim form is available from the California DMV at its website: www.dmv.ca.gov under "Publications." You will need to provide all information requested in writing and you will need to include copies of the relevant documents, such as:

- your agreement or contract with the dealer,
- the consignment agreement and document showing sale of the consigned vehicle,
- a bill from your lender indicating a lien was not paid on your trade-in vehicle.

The claimant must sign the form under penalty of perjury that the information provided is true and correct.

Completed claim forms must be mailed to:

Consumer Motor Vehicle Recovery Corporation
601 Van Ness Ave.
Suite E749
San Francisco, CA 94102

DEALER RESPONSIBILITY

Dealers are required to make contributions to the fund as provided in the new law. Failure to make these contributions can lead to a suspension or revocation of their licenses.

In addition, if a dealer takes money or enters into a contract with a consumer where the consumer must pay money for the specific purpose of paying off a lien on a trade-in or for DMV fees and the dealer fails to remit that money as agreed to, the matter may lead to the filing of criminal charges against the dealer for theft.

The Consumer Motor Vehicle Recovery Fund steps into the shoes of the consumer once it pays a claim and it can then pursue reimbursement from the dealer.

**San Diego
City Attorney's Office
Consumer and Environmental
Protection Unit
(619) 533-5600**

Newsletter written by Tricia Pummill. Source: Senate Bill 729, Vehicle Code §§ 11604, 11703, 11705, 12200-12217.

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The information provided in this newsletter is intended to convey general information and is not intended to be relied upon as legal advice.

To report violations of consumer protection laws, call the City Attorney's Hotline at **(619) 533-5600**.