

State Issue Brief

Lienholder Notification

Background

Auto lending continues to be a significant line of business for Michigan credit unions. While Michigan law is supposed to protect lenders when their collateral is abandoned or involved in a crime, some lenders have faced unreasonable storage fees and inspection barriers when attempting to collect their collateral from tow and storage companies. Credit unions throughout the state have reported an increase in delayed notices, which often result in excessive daily storage fees. In many cases, credit unions have been denied the ability to inspect their collateral prior to paying the storage fees. This has resulted in additional lienholder losses.

Process

Abandoned Vehicles

Under current law, if a vehicle is abandoned, law enforcement enters the vehicle into the Law Enforcement Information Network within 24 hours. After that entry has been made, within seven days, the Secretary of State notifies the owner and secured party that the vehicle is abandoned. The owner then has 20 days to either contest the reasonableness of fees or redeem the vehicle by paying the accrued tow and storage fees. If the owner does not request a hearing or redeem the vehicle within 20 days after the date of the notice, the secured party may obtain the release of the vehicle by paying a fee of \$40 and the accrued tow and storage fees to the custodian of the vehicle.

Vehicles Involved in a Crime

If the vehicle is believed to have been used in a crime, law enforcement authorities may place the vehicle in a storage facility. Fees can accrue for weeks or sometimes months, depending on how long the vehicle is held by law enforcement. If it has been between 20 and 30 days since the vehicle was released but not redeemed, the tow and storage facility is required to notify law enforcement to enter the vehicle as abandoned, and Michigan's abandoned vehicle process is then followed. Vehicles that are deemed abandoned or involved in a crime may be sold at auction not less than 20 days following the hearing or date of the notice. Auction proceeds are then distributed to pay the tow and storage fees, expenses incurred by the custodian of the vehicle, the \$40 abandoned vehicle fee and the secured party. Any remaining balance would then be paid by the owner of the vehicle.

Problem & Solution

Lenders are often not receiving notice required by law within the statutory timeframes. This, in turn, results in unreasonably high storage fees that accrue on a daily basis.

Where notice is delayed by law enforcement, the state or a tow and storage facility, the secured party has little recourse to contest these fees. As a secured party, credit unions should not be penalized due to the negligent or criminal actions of a vehicle owner. Many of the issues that credit unions encounter with these vehicles can be addressed by

improving the notification process. MCUL supports the measures proposed in HB 5181. This legislation introduced by Representative Diana Farrington (R-Utica) would allow the secured party to have the ability to redeem the abandoned vehicle or vehicle involved in a crime ten days after receiving notice from the Secretary of State, instead of forcing the secured party to wait 20 days under the current statutory language. It ensures that the secured party has the right to contest the reasonableness of the tow and storage fees. Additionally, it provides that the tow and storage operators must allow the secured party to inspect their collateral prior to paying the accrued tow and storage fees.

Status

MCUL supports HB 5181 as passed by the House Financial Services Committee. This bill would strengthen notification requirements to lienholders on abandoned vehicles or vehicles involved in a crime. Under HB 5181, lenders would receive notification in a timely fashion and be permitted to inspect the condition of the vehicle prior to paying any fees. HB 5181 was unanimously voted out of committee and is currently awaiting House consideration. Please encourage your state legislators to support HB 5181.

Key Message Points

- Lenders are often not receiving notices required by law within the statutory timeframes. This, in turn, results in unreasonably high storage fees that accrue on a daily basis.
- It allows the secured party to have the ability to redeem the abandoned vehicle or vehicle involved in a crime ten days after receiving notice from the Secretary of State, instead of forcing the secured party to wait 20 days under current statutory language.
- It ensures that the secured party has the right to contest the reasonableness of the tow and storage fees.
- It provides that the tow and storage operators must allow the secured party to inspect their collateral prior to paying the accrued tow and storage fees.