

By Jeff Moriarty

Historical research supports DMV's position in VIN 2024-10 that private parties may not legally conduct a lien sale.

In the late 1800's, the very first automobiles in California were stored exclusively in private buildings. These "horseless carriages" were mainly stored in barns where the horse carriages were stored. As individuals began to learn how to repair vehicles, the mechanic's industry began to take shape. The first mention of automobiles and vehicle liens was in the 1911 Civil Code. This was five years before tow trucks were invented in 1916. Early lien sales were conducted primarily in private buildings. As the towing/repair industry began to grow, vehicle lien sales shifted to business property.

When the first version of the Vehicle Code was codified in 1935, Private Building Rentals were recognized in CVC 441. The statute was recodified in 1959, and the statute currently exists in CVC 10654. Today, individuals have the right to rent private buildings, but they may not legally conduct a lien sale in such a private building.

What changed?

In 1949, CVC 425, **Labor and Material Liens on Vehicles**, was amended to include the rental of trailer parking space. Private Building Rentals, already in CVC 441, were purposefully excluded from the lien sale statute amendment.

1949 was when private building owners no longer had the legal right to conduct a vehicle lien sale.

Future legislative action after 1949 supported the fact that vehicle lien sales were to be conducted on business property, and not on private property.

The word "he" was amended to "the person" because "he" describes a natural person, and "the person" describes a business in the context of CCC 3068.

Self-service storage facility liens were enacted in 1981 when the word "trailer" was stricken from the rental section of CCC 3068. BPC 21701 specifically states that a Self-service storage facility is not in a private residence.

CCC 3072 (f) was added, and the statute states the lienholder must have a business office.

The average person reading the statutes for the first time interprets "Every person ..." to mean a natural born person. "Person" is a legal word that includes all activity in the Vehicle Code, both for businesses and natural persons. It is the context of the statute that tells us what "person" means. For example, drivers in a towing company are "persons," and they may obtain a driver's license. But a towing company, also a "person," may not obtain a driver's license.

For all of the lien sale statutes, the word "person" refers to a business entity.

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