

## QUIET TITLE STATUTE

### **K.S.A. 60-1002: Quieting or determining title or interest in property**

**(a) Right of action** An action may be brought by any person claiming title or interest in personal or real property, including oil and gas leases, mineral or royalty interests, against any person who claims an estate or interest therein adverse to him or her, for the purpose of determining such adverse claim.

**(b) Action to bar lien claim**, when a lien on property has ceased to exist, or when an action to enforce a lien is barred by a statute of limitation or otherwise, the owner of the property may maintain an action to quiet title.

### **RELATING TO PERSONAL PROPERTY, SUCH AS CARS, TRAVEL TRAILERS, MANUFACTURED HOMES (may also be known as mobile homes or trailers), ETC.**

When a person or business applies for a title with the Division of Motor Vehicles (DMV), there may be a problem that needs to be fixed.

- Often this is because the initial owner of the vehicle did not sign the title when handing it over to the new owner, and the new owner can't find the person to fix the problem.
- From time to time it is because a wrecked or abandoned vehicle is restored, and the owner can't be found.
- These are just a couple of possible reasons.
- To fix these snags, you would file a **QUIET TITLE ACTION /CASE**.

*If you need to transfer a vehicle belonging to a family member who is deceased, you can do so with these forms: <http://www.ksrevenue.org/pdf/tr83.pdf> or <http://www.ksrevenue.org/pdf/tr83b.pdf> if either is proper.*

### **Kansas is a "lien holding" state.**

- This means that the Kansas Department of Revenue holds the title on any vehicle that is bound by a lien.
- The title is not available to the owner until payment is made in full on the purchase price or other loan in which the vehicle is a collateral.
- If the seller cannot provide a title, it may be because there is still a lien on the vehicle.
- If you "buy" a vehicle with a "lien" on the title, your ownership is not clear until the lien has been paid. This may require you to pay off this lien to get title of the vehicle.
- Even if the seller tells you they have lost the title and will apply for a new one, you can see if the vehicle has a lien by looking at the annual registration form gotten when the property taxes and tag renewal are paid.
- If you buy a car and do not get title at the time of the sale, or if agreed within 60 days of the sale, the sale is void and untrue, per KSA 8-135. You can cancel the sale and get your money back, if you can find the seller.

## Facts about filing a Quiet Title Action

**\*\*\*ALL FORMS, INCLUDING THE NOTICE OF SUIT, MUST BE FILLED OUT COMPLETELY OR YOUR CASE COULD BE DISMISSED\*\*\***

- A Quiet Title Action can be used to clear up the ownership of any vehicle on which a Title is given by the State of Kansas.
  - This can include a car, motorcycle, travel trailer, or manufactured home. These things will be referred to together as 'vehicle' in this guide.
  
- **THE FIRST STEP**, before filing any court action, is to check to be certain that the vehicle hasn't been reported as STOLEN.
  - You can do this by checking on this free website, provided by the National Insurance Crime Bureau - <https://www.nicb.org/vincheck>
  - This doesn't guarantee that the car isn't stolen, but it a good start on that process. You get this information by entering the Vehicle Identification Number (VIN) for the vehicle.
  - If the vehicle is reported stolen, you won't be able to file a quiet title action and obtain ownership of the vehicle.
  - For more information on how to get the Vehicle Identification Number look here:
    - For vehicles built after 1968, the VIN might be found on the lower-left corner of the dashboard, in front of the steering wheel. You can read the number by looking through the windshield.
    - For vehicles built before 1968, you can get ideas on this website: <http://www.dmv.org/vehicle-history/find-vin.php>
  
- **If you don't have a current title on the vehicle, you should look up whether a Kansas title has been issued on this car.**
  - You get the form to obtain the title info here: <http://www.ksrevenue.org/pdf/trdl302.pdf>. You will use code 'F' for the reason you are getting this info.
  - There are charges related to getting this data.
  - You may wish to request a Vehicle Registration Report to know who is listed as on the title. That person should be listed as a defendant on the Quiet Title Petition.

### **Terminology:**

- Petitioner = Person who files the Petition
- Respondent = Person who did not file the Petition
- In addition, the Kansas Department of Revenue is **always** a Respondent
- Kansas Highway Patrol should be a defendant if the vehicle is not currently registered in Kansas, as they will be required to complete an inspection of the vehicle before it can be titled.

### **Case Caption:**

- The section above the title of every document is called the case caption. It identifies which county the case was filed in, the case number and the names of the people involved in the case.
- The person who originally filed the petition is listed on the top line and is called the "Petitioner". The person who did not file the petition is listed on the lower line and is called the "Respondent."
- These name designations remain the same for the entire case, including in all documents filed with the court after the case is finalized.

## **Instructions for filing a Quiet Title Action:**

1. Complete the Civil Information Sheet, Petition & Summons Form
  - The Civil Information Sheet will be left with the Clerk of the Court.
    - You need to include all information about yourself and about each defendant in your case.
    - This has already been done for the Kansas Department of Revenue.
    - The information is used for entry into the data base maintained by the Clerk of the Court.
2. You will need to include the Vehicle Identification Number & provide a description of the property (i.e. 1SAMPL31234567890, a 2002 Pontiac Sunfire) as well as the value in the Petition and other places on the forms.
  - You can decide the value of the vehicle based on what you believe the fair market value of the vehicle is, in its present state.
  - The amount you paid for it would be one basis of the value.
  - There are also sources on the internet for finding out opinions on the value of the vehicle.
3. After you have completed and printed the forms, sign the Petition for Quiet Title in front of a notary public.
  - By signing in this manner, you are confirming the truth of the claims in your petition.
  - You can find a notary public at most banks and many grocery stores. Some court clerk offices may also provide notary services.
  - You may have to pay a small fee to the notary public. You will be required to prove your identity to the notary public, through a government issued ID.
4. File with the Clerk of the District Court:
  - The Civil Information Sheet, Petition & Request & Service Instruction Form
  - *\*If you cannot locate the other party and are requesting service by Publication, you will also need to file the Affidavit & Order for Publication*
  - You must pay court costs of \$195.00 at the time of filing.
5. You are required to “serve” the Petition on each Defendant in this case.
  - Do not avoid Defendants because of service issues. This action is only good against Defendants listed in this action.
  - It is possible to serve Defendants in many ways. You may use any of the options listed below, depending on the data you have for each Defendant.

### **You must notify the Defendant(s) in one of the following ways:**

- a. **“Sheriff Service”**: You must fill out a Request for Service Form, requesting that the sheriff deliver the Petition to the Respondent. If they live in Kansas, you must pay a sheriff’s service fee of \$15. If they live in a State other than Kansas, it is your responsibility to find out the procedures required by the sheriff in that state and county and to pay any fees required.
- b. **“Certified Mail Service”**: This is useful if you have an address on a Defendant. You need to prepare a Summons for any Defendant that you do have an address for. The Summons form is included with the quiet title forms.
  - You will mail the Summons and Petition to each Defendant.

\*\*\* Address for service on the Kansas Department of Revenue and the Kansas Highway Patrol is:

Kansas Attorney General  
120 SW 10th Ave, 2<sup>nd</sup> Floor  
Topeka, KS 66612

(This is the proper process for serving any part of state government in Kansas.)

- You should not mail the copies of the forms until they are filed with the Court.
- You will need to get a copy of the Petition “file stamped” by the Clerk for each defendant. They may also “stamp” the signature of the Clerk on the Summons. Make sure that the case number is written on the copies.
- Take a copy of the Petition and an original Summons for each Defendant you are serving by Certified Mail to the Clerk’s office.
- IT IS THEN YOUR RESPONSIBILITY TO MAIL THESE DOCUMENTS.
  - You prepare the envelope with the “green tag” from the US Postal Service.
  - You pay a price for the delivery by certified mail, return receipt requested.
  - Show your address as the place to return the “green tag”.
  - Mail it at the US Post Office.
- Soon after, you may receive the green tag (return receipt) with the signature of the defendant.
  - Print a copy of the summons for the defendant. Put the case number on the copy of the summons.
  - Complete the button of the summons showing return of service of summons.
  - Tape the return receipt on a piece of paper, write on the case number.
  - If it is returned “undelivered” from the Post Office, you have not successfully served that defendant and you must try another method of service.
  - Sign the return section before a notary. File it with the Clerk of the Court, when you go back for the final hearing.
  - If you file it the same day as your hearing, keep a copy to show the Judge at the hearing.
- This form of service is only difficult when people to whom the notice is delivered by the US Postal Service will not go to the Post Office to retrieve the letter.
  - Simply mailing the notice is not good enough. The person must go to the Post Office to sign for the letter.
  - Sometimes, it is helpful to mail a copy of the notice in regular mail with a note that this is the content of the certified mail and asking that the person go to the post office and retrieve the certified letter.

c. **“Publication”**: This is of use when you don’t have an address for a Defendant and can’t find one. This cannot be used for the Kansas Department of Revenue or KHP.

- You must take action to try to find the address. At the very least, this entails an internet search of the name and a phone books search in the Defendant’s home area. Often, libraries have a collection of phone directories.
- If you are going to do service by publication, you must do the following:
  - Complete the Notice of Suit. You should write in the case number assigned to your case on the Notice of Suit.
    - This is the actual notice that is published in the paper.
    - You only need to print the publication notice at this point.
    - If you must notify more than one Defendant, you can do it in one Notice.
    - Count forward from the date the notice will be first published (learn

that from the newspaper publisher) at least 41 days.

- That allows for three publications, one week apart, plus 20 days to file an answer.
- You will not do anything with the publication notice until after you have filed the case with the Clerk of the District Court.
- Complete the Affidavit to Obtain Service by Publication and sign it before a notary.
- Publish the notice attached in the Legal Publication for the county in which the case is filed.
  - You can find the list of newspapers here: <https://www.kansaslegalservices.org/node/975/legal-publication-list-kansas> .
  - The notice must be published three separate times, one week apart each time. Publication costs will depend on what the local legal publication paper charges.
  - Check with the Clerk to confirm the newspaper listed is the paper that is designated to print the legal publications in your county.
  - You will need to make your own arrangements to be billed by the newspaper publisher or pay in advance.
  - This may not be the paper that prints the daily newspaper in your area.
- If you are seeking publication notice on someone for whom you have an address, but failed with certified mail delivery, you need to mail them a copy of the publication notice.
  - After the notice is published for the first time, you will receive a copy of the notice that was published in the paper. You should send a copy of that notice, regular mail, to any address you have for the Defendant.

**MAKE SURE TO TAKE A COPY OF YOUR RETURN OF SERVICE OR PROOF OF PUBLICATION WITH YOU TO COURT**

## **TO FINALIZE YOUR CASE:**

- Once you have provided notice to all parties and the time for them to respond to your notice (the answer period) has run out, the Department of Revenue is generally ready to sign off on an Agreed Journal Entry of Judgment to resolve the case.
- You will need a final order to complete this case. This is the order that must be presented to the Judge for signature. It must contain the proper language in order for you to get a Kansas title.
- The Kansas Department of Revenue will assist you with completing the appropriate final order. You should contact the Legal Services Department at 785-296-6856, during normal business hours. Provide the county and case number and ask for assistance with the final order.
- Once you have the final order signed by the Kansas Department of Revenue (and the Kansas Highway patrol if needed, you can take the final order to the Court. You may be able to have the Judge sign it immediately, as an agreed order. You may be required to leave the order for the Judge to sign later, depending on Court process and the Judge's schedule. Whichever option is available to you, you will need to get some file stamped copies of the order from the Clerk of the Court.
  - Take 3 copies and the original of the final order with you to Court.
  - The copies will be file stamped by the Clerk (but if you take copies with you, you don't have to pay the Court Clerk for copies).
- Take a copy of the Journal Entry with the vehicle to the Kansas Highway Patrol office in your area. They will affix a VIN. They will give you some paperwork. Take the copy of the Journal Entry and the KHP paperwork assigning a VIN to the County vehicle (TAG) office to register the vehicle, get license tags, etc. Be sure to take your proof of insurance information with you.