

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** 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 lien 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 call for 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.

Notes on Filing a Quiet Title Action

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's 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.

Parties:

- The person filing the case is the Plaintiff. This is the person who wants, ultimately, to have their name on the title to the car.
- The Defendants are the person who is listed on the title and the person who you bought the car from.
- In addition, the Kansas Department of Revenue is **always** a Defendant.
- 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.

You should complete a Petition for your case.

- Read the sample carefully. Fill in the blanks and remove the words in () that help explain what you are to put in each blank.
- You will need to include the Vehicle Identification Number in the Petition and other places on the forms.
- You will also need to provide a description of the property, for example: a 2002 Pontiac Sunfire, with the Vehicle Identification Number: 1SAMPL31234567890

You are asked to state the value of the vehicle.

- You can decide this 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.
- Court filing costs will be around \$196. Also, you will pay the costs of service, which are set out here. More instructions about how to do the notice to other parties (service of process) is below
- Service by the Sheriff is about \$15 per party served.
- Or you may pay for certified mail with return receipt to the Defendants you know an address for. This costs less, but you take the responsibility to get the return receipts filed with the court to prove service on each party served.
- You may need to pay for publication costs to give notice to any Defendants you do not have an address for.
- You 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: <http://kansaslegalservices.org/node/975>.
- The notice must be filed three separate times, one week apart each time.
- The notice must name the person to be served.
- The notice must notify the person that they have been sued in a named court.
- The notice must notify the person they have a certain amount of time to answer, which must be at least forty-one days from the day the publication first runs.
- The notice must notify the person that if they do not answer or otherwise defend, what judgment will be

taken.

- The notice is not required to describe the property at issue, but it is generally a good idea to do so, e.g. "2002 Pontiac Sunfire, VIN 1SAMPL31234567890"

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 all options, depending on the data you have for each Defendant.

Consider the type of service you will use on each Defendant. The options include: For prior car owner:

○ Service by the County Sheriff. This is useful where you have an address. You should take a copy of your Petition to the Clerk of the Court, along with the Summons for defendants to be served by the Sheriff.

○ After this is file stamped by the Clerk, you should ask if they will get it to the Sheriff.

○ For Prior car owner and KDOR and KHP

- Service by Certified Mail. 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 attached. 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, 2ndFloor, Topeka, KS 66612. This is the proper process for serving any part of state government.

You should not mail them until they are filed with the Court.

Take a copy of the Petition and an original Summons for each Defendant you are serving by Certified Mail to the Clerk's office. You will need to get the Petition "file stamped" by the Clerk. They may also "stamp" the signature

of the Clerk on the Summons. You should write the Case Number assigned to your case on the Petition and Summons.

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.
- Keep a copy to show the Judge at the hearing, since there is not enough time for the filing to be dealt with before your hearing, if you file it the same day.

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.

For former car owner:

Service by 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 Ks Department of Revenue or KHP. You must take action to try to find the address. At the 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 complete the Affidavit to Obtain Service by Publication and sign it before a notary.
- You must also 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 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: <http://kansaslegalservices.org/node/975>.
- 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.

You will need to put a date in the document titled Notice of Suit before you file it.

- 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. 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.

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.

You need to complete a civil information sheet for your case.

- This 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.

After you have completed and printed the proper forms (Petition, Civil Information Sheet and whatever is needed for the type of publication you choose), you should wait to sign them before 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.
- 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.

You will take these papers (Petition, Notice of Suit, Affidavit of Publication and Return of publication) to the Clerk of the District Court in the County Courthouse.

You can set a date to finalize your case at least 41 days after you file it.

- You will need to see if an answer has been filed to the suit.
- You will do this with the Clerk of the District 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 [insurance](#) information with you.