

Consumer Protection- Motor Vehicle Dealer's Recovery Fund

New Legislation

Effective July 1, 2008, the Department of Motor Vehicles (DMV) will collect a fee of one dollar from dealers or lessor-retailers for each vehicle sold, up to a maximum of \$2500 a year per dealer licensee. Dealers or lessor-retailers are prohibited from charging the consumer for this fee. Dealers or lessor-retailers will be billed by DMV for these fees and DMV will deposit the collected fees in the new Consumer Motor Vehicle Recovery Corporation (CMVRC).

Consumer Motor Vehicle Recovery Corporation

The CMVRC's board of directors will have certain powers and duties, and will oversee the Consumer Recovery Fund (hereafter referred to as the "recovery fund"). The CMVRC will receive the fees collected by DMV from dealers and lessor-retailers. The CMVRC will notify DMV to cease collection of the one dollar fee when the recovery fund has reached five million dollars and again notify DMV to resume collection of the fee, when the recovery fund is less than two million dollars.

The CMVRC will use the recovery fund to provide payments to consumers who have suffered an economic loss (on or after July 1, 2008), as a result of a motor vehicle dealer or a lessor-retailer that has ceased selling and/or leasing motor vehicles or has filed bankruptcy and has failed to:

- Remit to DMV amounts paid by the consumer for license and registration fees.
- Pay the proceeds of consignment sales to consumer consignors.
- Discharge the obligations secured by liens on motor vehicles that are traded in, in connection with the purchase of another motor vehicle from the dealer or lessor-retailer.
- Pay the amounts that the dealer or lessor-retailer agreed with consumers to pay to the lessors of motor vehicles that the consumers transferred as a trade in to the dealer or lessor-retailer.

When the CMVRC has paid a claim arising out of a dealer's or lessor-retailer's conduct or omission it:

- May bring an action to recover the amount of payment plus interest at the rate of 10 percent per annum, from the dealer or lessor-retailer and shall be entitled to recover costs and reasonable attorney's fees.
- Will inform DMV of payment of a claim, and DMV may take disciplinary action to revoke or suspend the dealer or lessor-retailer's license, if the claim is not repaid with interest to the CMVRC.

Procedures

Effective July 1, 2008, DMV will begin tracking the one dollar fee. DMV will collect the fees due by sending an invoice (due and payable upon receipt) for the accrued fees to dealers and lessor-retailers.

The first billing is anticipated to commence in September 2008, and thereafter it is also anticipated that invoices will be sent bi-monthly to most dealers or lessor-retailers; however, dealers or lessor-retailers that sell fewer than 20 vehicles per month may be sent invoices semi-annually.

Background

Legislation was enacted to safeguard consumers who have suffered economic losses as the result of the conduct of some motor vehicle dealers or lessor-retailers.

Consumers who have incurred economic losses often do not have adequate recourse to pursue their claims against the dealer or lessor-retailer when the dealer or lessor-retailer has ceased selling or leasing motor vehicles to the general public or is insolvent and cannot satisfy the consumer's claim. The existing dealer bond is inadequate to address these consumer losses.

The resulting erosion of public confidence in the dealer industry has harmful economic consequences for reputable dealers and lessor-retailers. The intent and purpose of the legislation is to instill and maintain public confidence in the vehicle trade in and consignment sale processes, by establishing a recovery fund with adequate resources to compensate consumers who have suffered a monetary loss, as the result of any of the acts described on the previous page and who are unable to have those claims satisfied.

Resources

Vehicle Code §§11604, 11703, 11705, 4456.3, Chapter 11 §§12200–12217

Distribution

Notification that this memo is available online at dmv.ca.gov/pubs/olin/olin.htm was made via e-mail alert in May 2008 to the following:

- Dealers
- Lessor-Retailers
- Registration Services

Contact

Questions regarding this memo may be directed to the Occupational Licensing Collections Unit at (916) 229-3138.



MARY GARCIA, Chief
Occupational Licensing