

How To Protect Your Business From Liens on Trade-Ins

Source: Jack Selzer & Lance Formwalt of Seigfreid, Bingham, Levy, Selzer & Gee, P.C.

You can limit your potential exposure to this type of situation by taking the following steps:

- Ask the customer if he has any liens on the trade-in (including any blanket liens given to a bank).
- Conduct an online UCC search against the customer to determine if any liens exist.
- If it is determined that the trade-in has one or more liens against it, the trade-in should not be accepted unless the bank or other creditor gives its written consent to the transfer of the trade-in free and clear of the lien. If asked, the bank will normally consent because the customer is getting replacement collateral with equity available to the bank that is equal to the value of the trade-in.

At a minimum, you should always ask a customer if a trade-in is subject to any liens. However, it is strongly recommended that you also do a UCC search since UCC searches can now be done quickly online and for a reasonable cost.

For a UCC search in **Nebraska**, go to www.sos.state.ne.us and click on Business & Licensing. Once there, click on UCC Services and then Request Subscription Information. Complete the information they request and they will mail you a form to be completed. Complete the form and return it to the Nebraska Secretary of State so that you can be a subscriber to their service. There is a \$50 annual fee plus a transaction fee of \$3.50 per debtor searched whenever you perform a search. If you want copies of the UCC documents it will cost 50 cents per page to print.

In **Iowa**, go to www.sos.state.ia.us and click on Business Center. From there, click on UCC RA9 Search. You can search by person or business. UCC liens can be printed and services are free.