

Stableman's Lien Foreclosure—Transfer of Ownership



American Paint Horse Association

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Explanation and terms

In order for the American Paint Horse Association to recognize a stableman's lien foreclosure and record the resulting new ownership, the APHA must receive several items, including a \$50 special handling fee.

1. A notarized affidavit from the stableman containing specific information including but not limited to the following:

- The initial date and period the horse was placed in the stableman's possession.
- The reason for the possession.
- The identity of the person placing the horse in the stableman's possession. This person must be the last recorded owner of the horse. If the person that placed the horse in the stableman's possession is not the record owner, the ownership must be brought up to date by furnishing the proper transfers reflecting each ownership change.
- The identity of the horse by registration name and number.
- The amount due the stableman and the length of time the bill has remained unpaid.
- That the stableman has maintained actual possession of the horse for the requisite time required by the laws of the state in which the foreclosure is conducted.
- That the stableman has complied with such law as it relates to the foreclosure, specifying the steps taken to obtain such foreclosures.
- Information should be included in the affidavit as to whether the stableman exposed the horse in question to a stallion or mare while in his possession, dates of the exposure and whether there is a resulting foal which is expected or has foaled and whether it is a part of the foreclosure.

Attach the following items to the affidavit:

- A copy of the written notice of the foreclosure sale.
 - A copy of the state statute by which the foreclosure was conducted.
 - A notarized bill of sale from the stableman, if the stableman is not the purchaser at the foreclosure sale.
2. Copies of attempts to collect the amount owed by the record owner, such as letters sent via certified mail with returned envelopes or signed return receipt card.
3. Written indemnity (which may be included in the affidavit on a separate notarized page) by the stableman. If the stableman is not the purchaser at the foreclosure sale, the written indemnity should come from the purchasing party who is requesting change of ownership. It should read as follows:

The undersigned agrees to indemnify and hold harmless the American Paint Horse Association from any and all liability, whenever or however arising, by

virtue of its recordation of the requested change of ownership, agreeing to defend the Association at the undersigned's expense, if it is sued in a court of law; and if judgment be taken against the Association, to pay said judgment when requested and obtain written release in form acceptable to the Association, which indemnity is performable in Fort Worth, Tarrant County, Texas, or wherever the Association is sued in court.

4. Clear photographs of the horse showing both sides, plus front and rear views for identification purposes.
5. A transfer fee payable to the Association in the amount of \$15 for each ownership change (and \$35 membership fee for the final owner, if applicable).
6. The original Certificate of Registration. If the stableman does not have the Certificate of Registration, he must include in the affidavit:
 - a. A statement listing the steps taken to obtain the original certificate and the results of this attempt to secure the certificate.
 - b. A \$20 duplicate certificate fee.
 - c. A Current Owner Affidavit for Duplicate Certificate.

If the Association determines that the stableman has made a reasonable effort to obtain the certificate, the Association will then attempt to obtain the original certificate. If the recorded owner does not comply, then the Registration Review Committee will review the documentation and determine whether a duplicate certificate and transfer can be processed.

Understanding the Stableman's (Agister's) Lien

Let's suppose that an imaginary person — we'll call him Joe Smith — brings a Paint mare to your farm to be bred. You (we'll call you the stableman) board, feed and breed the mare.

Joe Smith comes to collect his mare but doesn't have the money to pay the prearranged fees for stud service and mare care. You don't release the mare.

It soon becomes apparent that Joe might never have the funds to pay you for services rendered. What are your rights of possession and what hope do you have of transferring the ownership of this American Paint Horse Association-registered mare?

The conclusion to this simple scenario is not necessarily simple. Details are missing and broadly speaking, there are variations to this common story that make each situation unique. As is the case with many laws, lien laws (the legal right to take and hold, or to sell the property of another to satisfy any obligation or debt), vary from state to state. Stableman's lien laws, which are specific to horse ownership, are not different. Until recently, courts have held that under common law, people

who had rendered service to personal property could retain possession of that property until the bill was paid. Some courts still rule this way, while others are more protective of debtor's rights. In states without specific legislation regarding liens, it is never certain whether or not the court will uphold a common law lien based upon possession of the animal.

Many states have what are known as agister's laws. These laws state that people who keep, feed, board, stable and provide care for animals belonging to other people may hold animals until payment is made. These states typically have concurrent laws allowing the keepers of such animals to sell them at public auction if the bill remains unpaid after proper notice is given. These laws allow the stableman to apply proceeds of the sale to the outstanding bill and pay costs associated with sale of the animal. Money remaining after such a sale is to be returned to the owner. Sales based on these lien laws are usually complicated legal matters, and should be practiced with the assistance of legal counsel.

The existence of a state lien law is ordinarily of greater psychological than economic or legal value. Your knowledge of the state's lien law allows you to inform clients of your legal right to retain an animal when that client has not paid in full. Even if the pressure applied is only temporary, it can be used to encourage owners to provide some form of payment before the animal is released.

With more horses being sold on time-payment plans, more divorce disputes involving livestock interests, seller/buyer disputes and similar matters, stableman's lien foreclosures will become an ever-increasing occurrence.

Though the APHA is not a policing body and is not able to settle civil matters, a member can find protection through strict APHA transfer of ownership policies.

Definitions:

- Agister's Law: A law stating that people who keep, feed, board, stable and provide care for animals belonging to other people may hold animals until payment is rendered.
- Agister's Lien: A lien upon a horse or other animal provided by contract or law for the benefit of a person who has fed and/or cared for the animal.
- Common Law: Principles and rules that derive their authority solely from usage and customs based on judicial decisions.
- Lien: The legal right to take and hold or sell the property (collateral) of another to satisfy an obligation or debt.
- Stableman's Lien: Another term referring to Agister's Lien.

Stableman's Lien Foreclosure Affidavit



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This form must be notarized.

Instructions

To process the Stableman's Lien, be sure to include the following with this affidavit:

1. \$50 processing fee.
2. A copy of the written notice of foreclosure sale.
3. A copy of the state statute by which the foreclosure was conducted.
4. A notarized bill of sale or transfer report from the Stableman's Lien if the stableman is not the purchaser at the foreclosure of sale.
5. Copies of attempts to collect the amount owed.
6. Signed and notarized indemnity statement from the stableman.
7. The original Registration certificate. If the original certificate is not available, include the Affidavit for Duplicate Certificate by Current Owner and \$20 fee. Also include current right and left side view photos for identification purposes.

The horse listed below was placed in my care on _____ / _____ / _____ for the purpose of: _____

Registered Name of Horse: _____ APHA Reg. No.: _____

The person(s) placing the horse in my care was: _____

Owner's Address: _____

City: _____ State: _____ Zip: _____

Daytime Phone: _____ E-mail: _____

If the person who placed the horse in your possession is not the recorded owner, the ownership must be brought up-to-date by furnishing the proper transfers reflecting each ownership change.

The amount due is \$ _____

The bill has remained unpaid since _____ / _____ / _____.

I have maintained actual possession for the requisite time required by the laws of the state of _____.

I have maintained possession since _____ / _____ / _____.

I have complied with all state laws as they relate to stableman's lien foreclosure. A copy of the state statute is attached. The steps taken to obtain this foreclosure are: (use back if necessary)

1. _____

2. _____

3. _____

The required foreclosure sale was held _____ / _____ / _____.

Name of Person Purchasing Horse: _____

Buyer's Address: _____

City: _____ State: _____ Zip: _____

Daytime Phone: _____ E-mail: _____

Notary

- This form must be notarized and completed in its entirety.

Is the original registration certificate is enclosed? Yes No If no, I have included the Affidavit for a Duplicate Certificate by Current Owner, and I have listed the steps taken in an attempt to secure it. I agree to indemnify and hold harmless the American Paint Horse Association from any and all liability, whenever or however arising, by virtue of its recordation of the requested change of ownership, agreeing to defend the Association at the undersigned's expense, if it is sued in a court of law; and if judgment be taken against the Association, pay said judgment when requested and obtain written release in form acceptable to the Association, which indemnity is performable in Fort Worth, Tarrant County, Texas, or wherever the Association is sued in court.

Signature of Authorized Party: X

Before me this day, personally appeared the above affiant who by me being duly sworn upon oath says that the statements above are true and correct.

Notary Public: Subscribed and sworn to before me this _____ day of _____, _____

Notary Public in and for said State and for said County: _____

My commission expires: _____

State of: _____

County of: _____

Stamp or seal

