

Motor Vehicle Liens

A Quick Reference Guide for North Carolina Magistrates

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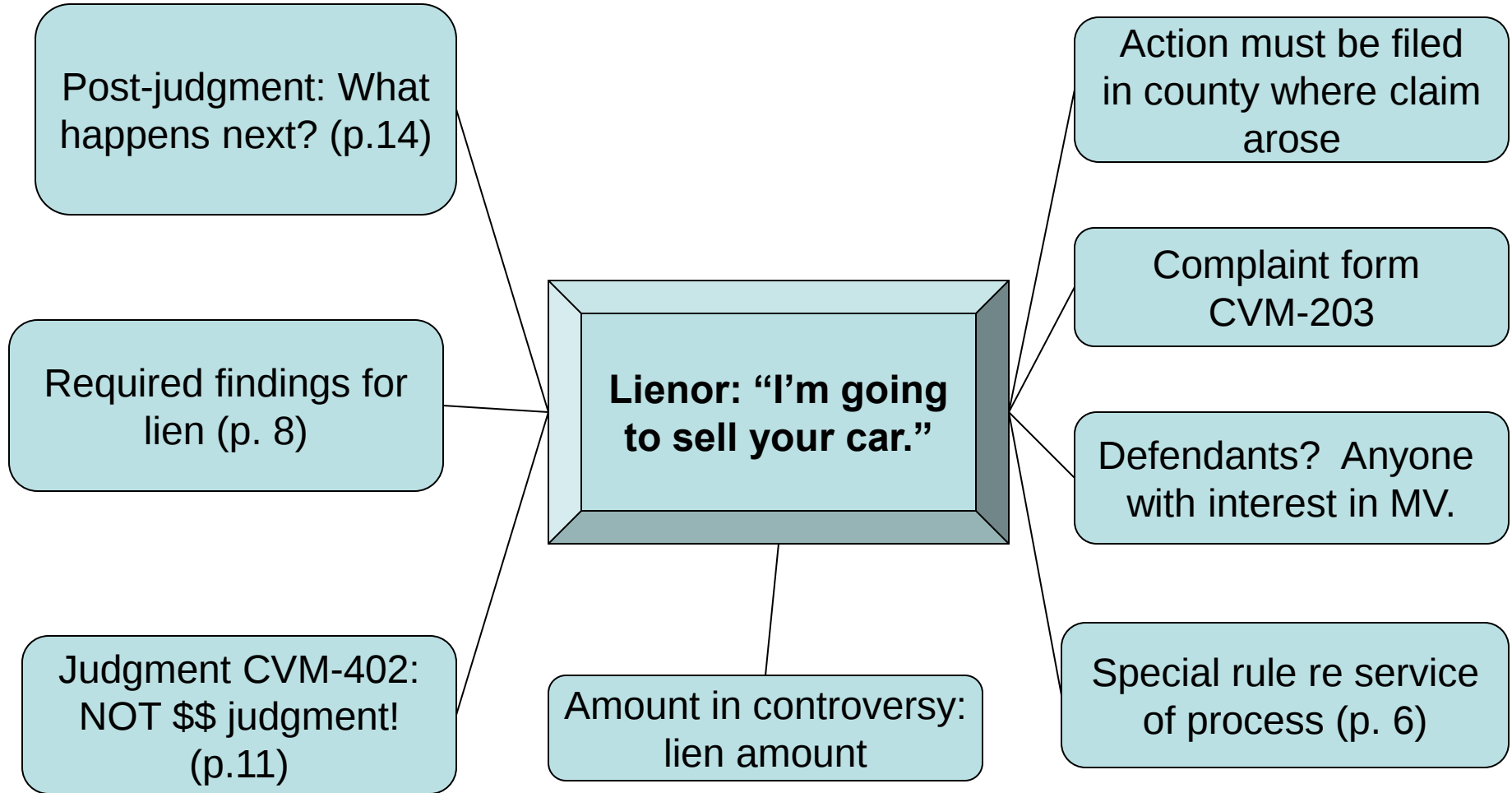
Who is suing, and what does he want?

1. Action by lienor to establish lien.
2. Action by owner to recover MV and establish lien, if any.
3. Action by lienor to recover MV and establish lien.

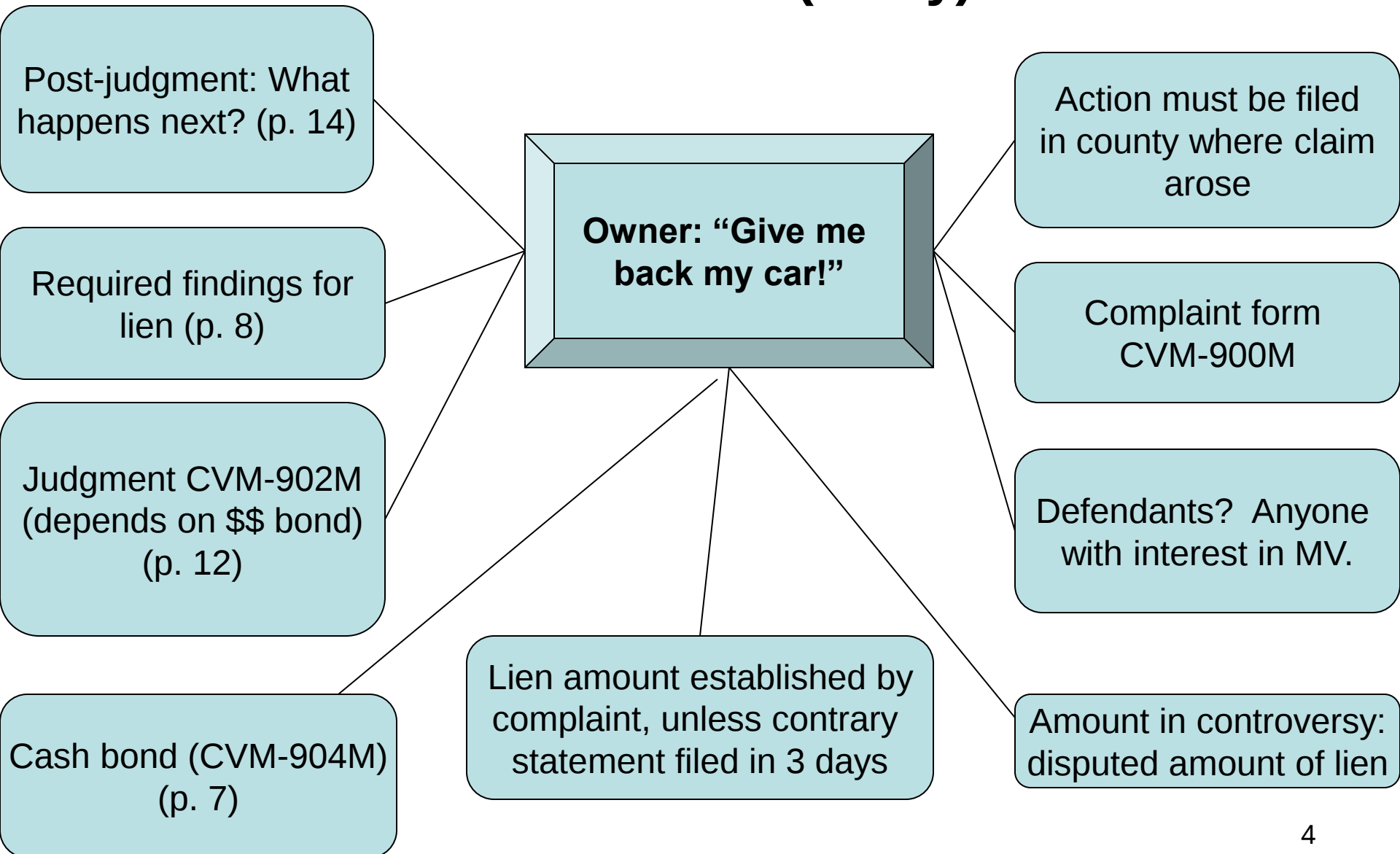
For each action, consider:

- Service of process
(page 6)
- Cash bonds (page 7)
- Required findings (page 8)
- Special rules for storage fees (page 10)
- Judgment (pages 11-13)
- What happens next
(page 14)

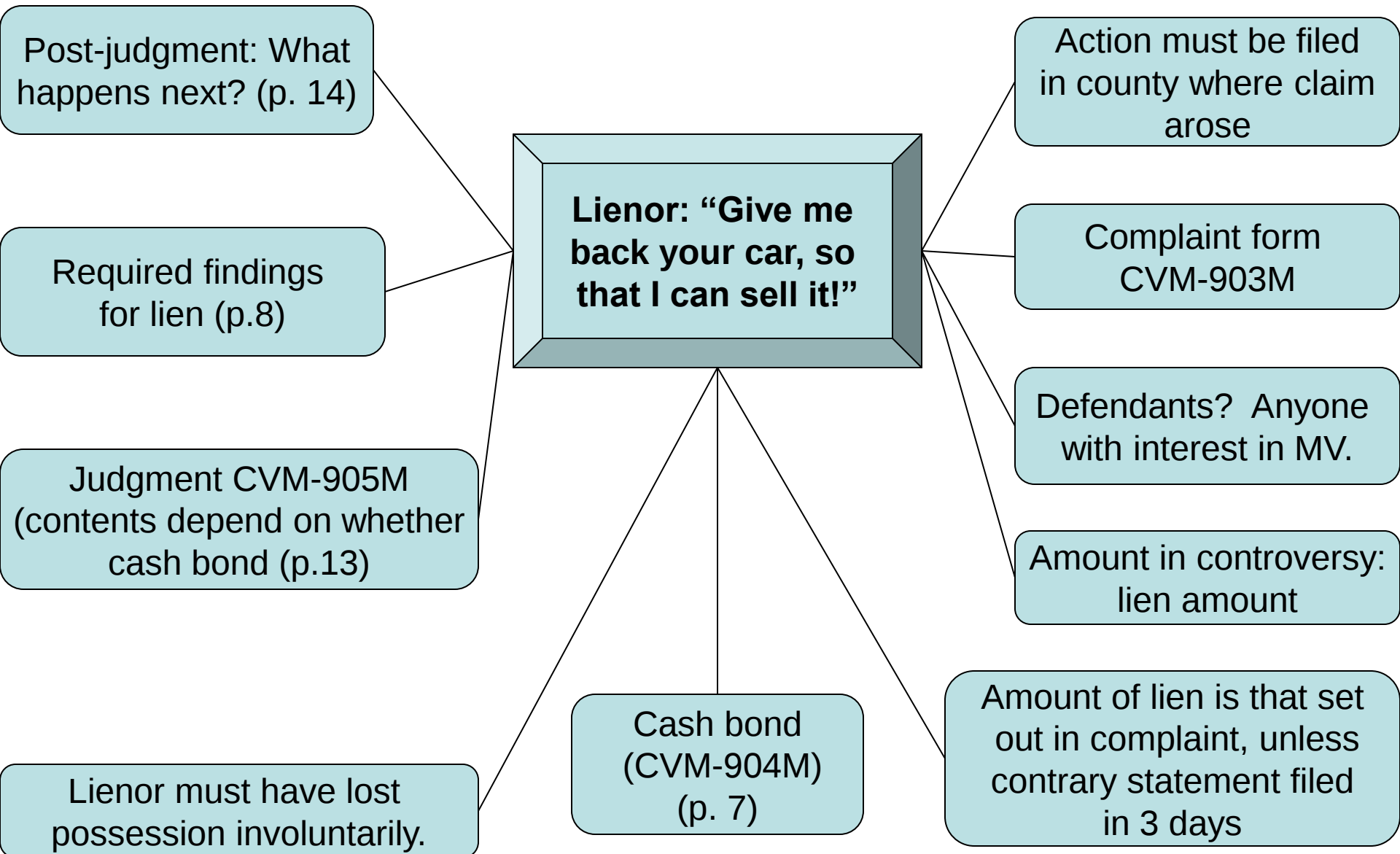
1. Action by lienor to establish lien:



2. Action by owner to recover MV and establish amount of lien (if any):



3. Action by lienor for MV and to establish lien:



Special rule for service of process

If service by usual methods is not possible, lienor may use service by publication.

Must be:

- published once/week for 3 weeks in a row
- in a qualified newspaper commonly sold in county where action pending
- with published notice containing specific contents

Service by publication may be proven by affidavit.

Cash bonds to recover motor vehicle

- Amount determined by complaint, or by contrary statement if filed w/in 3 days of service.
- Owner pays clerk full amount claimed in cash.
- Clerk issues CVM-901M, ordering release of motor vehicle.
- Bond eventually distributed based on judgment.

To establish lien, must show:

5. Charges are reasonable, or if not, amount of reasonable charges.

4. Charges have not been paid.

3. Has possession of motor vehicle.

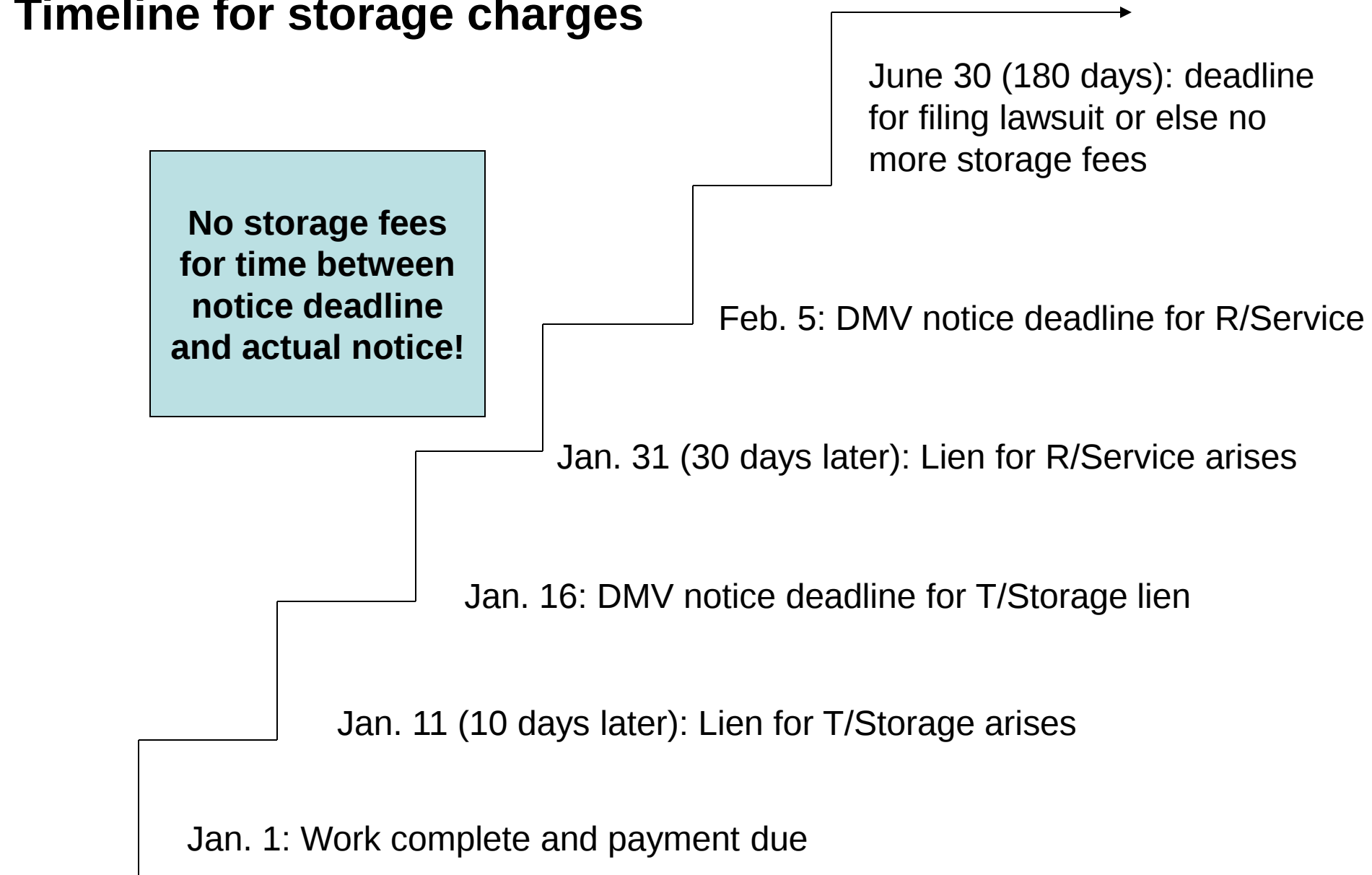
2. Had contract with owner or legal possessor.

1. Repairs, services, tows, or stores MV in OCB .

Two less common kinds of liens:

- A person in the business of parking or garaging cars for the public has a lien arising when the vehicle has been unclaimed for 10 days; and
- A landowner has a lien arising when a MV has remained abandoned on his land for 30 days.
NOTE: this lien is not available to a landlord in connection to property belonging to a tenant.

Timeline for storage charges



Judgment in action by lienor to establish lien (CVM-402)

- Authorizes lien and establishes its amount.
NOT a money judgment.
- Lien is for reasonable value of services provided.
- Note special rule for storage charges (see page 10).

Judgment When Owner Seeks Possession of MV: CVM-902M

No Cash Bond

No Lien: Owner gets possession, no lien for lienor

Lien: Lienor gets possession, and can assert lien for amt determined by magistrate

Owner fails to appear: Case dismissed. Lienor keeps possession and asserts lien as law allows

Cash Bond

No Lien: Owner gets possession, and judgment orders clerk to disburse \$ to owner

Lien: Owner gets possession; judgment orders clerk to disburse \$ to lienor in amount ordered by magistrate. (owner gets anything left over).

Owner fails to appear: Case dismissed. Magistrate directs clerk to disburse \$ to lienor. (Owner already has vehicle.)

Judgment When Lienor Wants MV Back and to Assert Lien: CVM-905M

No Cash Bond

Lien: Lienor gets possession, and can assert lien for amt determined by magistrate

No Lien: Owner keeps possession, no lien for lienor.

Cash Bond

Lien: Judgment orders clerk to disburse \$ to lienor in amount ordered by magistrate. (Owner gets anything left over.)

No Lien: Action is dismissed, and judgment orders clerk to disburse \$ to owner (who also keeps vehicle).

What happens next:

1. Lienor sends copy of judgment to DMV.
2. DMV authorizes sale.
3. Sale may be private or public, but must follow rules of statute.
4. Proceeds are distributed in this order: (1) expenses of sale, (2) lienor, (3) other lienors, and (4) owner of vehicle.

