

Chapter 570

LIENS

MECHANIC'S LIEN

Act 179 of 1891

570.1-570.30 Repealed. 1980, Act 497, Eff. Mar. 1, 1982.

PUBLIC BUILDINGS AND PUBLIC WORKS; BOND OF CONTRACTOR

Act 187 of 1905

AN ACT to insure the payment of subcontractors and wages earned and all materials or labor and certain supplies furnished and used in connection with and consumed in constructing, repairing or ornamenting public buildings and public works.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 167, Eff. Sept. 5, 1927

The People of the State of Michigan enact:

570.101 Building, repairing, or ornamenting public works; bond of contractor required; exceptions.

Sec. 1.

When public buildings or other public works are about to be built, repaired, or ornamented under contract at the expense of the state, or of any county, city, village, township, or school district thereof, it shall be the duty of the board of officers or agents, contracting on behalf of the state, county, city, village, township, or school district, to require sufficient security by bond for the payment by the contractor of all subcontractors and for the payment for all labor performed and materials and certain supplies furnished and used in the erection, repairing, or ornamenting of the public buildings or works. However, if the contractor is a common carrier as defined in section 3 of Act No. 300 of the Public Acts of 1909, as amended, being section 462.3 of the Michigan Compiled Laws, or the designated operator of a state subsidized railroad, the contractor may provide an irrevocable letter of credit from a state or national bank or a state or federally chartered savings and loan association instead of the bond.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14827 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13132 ;-- CL 1948, 570.101 ;-- Am. 1982, Act 10, Imd. Eff. Feb. 17, 1982

Former Law: See Act 94 of 1883, being How., §§ 841 1a to 841 1c, which was amended by Act 45 of 1885, being CL 1897, §§ 10743 to 10745.

570.102 Notice by subcontractor, materialman or laborer.

Sec. 2.

In the case of a subcontractor, he shall within 60 days after furnishing the last material or supplies or performing the last work covered by his subcontract, serve a written notice in duplicate upon the board of officers or agents contracting on behalf of the state, county, city, village, township or school district as aforesaid, that he is a subcontractor for the doing of some part of such work, which he shall specify in his notice and that he relies upon the security of the bond by this act required to be given by the principal contractor, and the said board of officers or

agents shall within 10 days thereafter furnish a copy of such notice to the sureties for the principal contractor: Provided, however, That if such notice is not furnished by the said board of officers or agents within the said 10 days such failure shall in no wise release or impair the obligation of said sureties, and whenever this shall have been done, the said subcontractor shall be entitled, subject to the rights of the persons with whom he has contracted for labor, materials or supplies to the benefit of the security given by the principal contractor, and to be subrogated to the liens of the persons who have performed labor or furnished materials or supplies for such building, repairs or ornamentation, whom he shall have actually paid, but the subcontractor and the persons who shall have performed labor or furnished materials or supplies to him shall not in the aggregate be entitled to receive larger sums that may be required from the principal contractor under his contract with the subcontractor, nor shall this act be construed to change in any way the contract which may have been made between the principal contractor and the subcontractor, except when such contract shall attempt to relieve the principal contractor as against the demands of those performing labor or furnishing materials or supplies to the subcontractor. All others, excepting those furnishing labor, relying upon the security given by the principal contractor, shall within 60 days after furnishing the last material or supplies, serve a written notice in duplicate upon the board of officers or agents contracting on behalf of the state, county, city, village, township, or school district as aforesaid, that such contractor or subcontractor is indebted to them in a specified amount or for the furnishing of certain specified materials or supplies on account of such contract, and the said board of officers or agents shall within 10 days thereafter furnish a copy of such notice to the sureties for the principal contractor: Provided, however, That if such notice is not furnished by the said board of officers or agents within the said 10 days such failure shall in no wise release or impair the obligations of said sureties.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14828 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- Am. 1927, Act 167, Eff. Sept. 5, 1927 ;-- CL 1929, 13133 ;-- CL 1948, 570.102

570.103 Bond of contractor on public works; execution, sureties, conditions.

Sec. 3.

Such bond shall be executed by such contractor to the people of the state of Michigan in such amount and with such sureties as shall be approved by the board of officers or agents acting on behalf of the state, county, city, village, township, or school district as aforesaid, and shall be conditioned for the payment by such contractor to any subcontractor or by any such contractor or subcontractor as the same may become due and payable of all indebtedness which may arise from said contractor to a subcontractor or party performing labor or furnishing materials or supplies or any subcontractor to any person, firm or corporation on account of any labor performed or materials or supplies furnished in the erection, repairing or ornamentation of such building, improvement or works: Provided, however, That the principal contractor shall not be required to make payment to a subcontractor of sums due from the subcontractor to parties performing labor or furnishing materials or supplies, except upon the receipt or the written orders of such parties to pay the sums due them to subcontractors. Such bond shall be deposited with and held by such board of officers or agents for the use of any party interested therein.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14829 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13134 ;-- CL 1948, 570.103

570.104 Bond of contractor on public works; prosecution, recovery.

Sec. 4.

Such bond may be prosecuted and a recovery had at any time within 1 year after the completion and acceptance of the project, by any person, firm or corporation to whom any money shall be due and payable on account of having performed any labor or furnished any materials or supplies in the erection, repairing or ornamentation of any such building or works, in the name of the people of this state for the use and benefit of such person, firm or corporation: Provided, however, That in the case of a suit for the benefit of the subcontractor, he shall be required to allege and prove that he has paid to all parties entitled thereto the full sums due to them for labor, materials or supplies contracted for by him: And provided further, That in no case brought under the provisions of this act shall

the people of this state be liable for costs.

History: 1905, Act 187, Eff. Sept. 16, 1905 ;-- CL 1915, 14830 ;-- Am. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13135 ;-- CL 1948, 570.104

570.105 Bond of contractor on public works; definitions.

Sec. 5.

The words "materials" and "supplies" as used herein shall include coal, wood, form lumber, gasoline, kerosene and lubricating and fuel oils necessarily used in connection with or consumed in constructing, repairing and ornamenting public buildings and public works, and the term "labor" as used herein shall include the hauling other than by steam or electric railway to or away from the public buildings or other public works being built, repaired or ornamented, any refuse, materials or dirt accumulated or used in connection with or consumed in the construction, repairing or ornamentation of such public buildings or other public works.

History: Add. 1925, Act 384, Eff. Aug. 27, 1925 ;-- CL 1929, 13136 ;-- CL 1948, 570.105

BUILDING CONTRACT FUND

Act 259 of 1931

AN ACT to protect the people of the state from imposition and fraud in the building construction industry and to provide penalties for the violation of this act.

History: 1931, Act 259, Eff. Sept. 18, 1931

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

The People of the State of Michigan enact:

570.151 Building contract fund; status as a trust fund.

Sec. 1.

In the building construction industry, the building contract fund paid by any person to a contractor, or by such person or contractor to a subcontractor, shall be considered by this act to be a trust fund, for the benefit of the person making the payment, contractors, laborers, subcontractors or materialmen, and the contractor or subcontractor shall be considered the trustee of all funds so paid to him for building construction purposes.

History: 1931, Act 259, Eff. Sept. 18, 1931 ;-- CL 1948, 570.151 ;-- Am. 1966, Act 104, Eff. Oct. 1, 1966

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

570.152 Building contract fund; fraudulent detention or use by contractor or subcontractor, penalty.

Sec. 2.

Any contractor or subcontractor engaged in the building construction business, who, with intent to defraud, shall retain or use the proceeds or any part therefor, of any payment made to him, for any other purpose than to first pay laborers, subcontractors and materialmen, engaged by him to perform labor or furnish material for the specific improvement, shall be guilty of a felony in appropriating such funds to his own use while any amount for which he may be liable or become liable under the terms of his contract for such labor or material remains unpaid, and may be prosecuted upon the complaint of any persons so defrauded, and, upon conviction, shall be punished by a fine of not less than 100 dollars or more than 5,000 dollars and/or not less than 6 months nor more than 3 years imprisonment in a state prison at the discretion of the court.

History: 1931, Act 259, Eff. Sept. 18, 1931 ;-- CL 1948, 570.152

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

570.153 Building contract fund; evidence of fraudulent detention or use.

Sec. 3.

The appropriation by a contractor, or any subcontractor, of any moneys paid to him for building operations before the payment by him of all moneys due or so to become due laborers, subcontractors, materialmen or others entitled to payment, shall be evidence of intent to defraud.

History: 1931, Act 259, Eff. Sept. 18, 1931 ;-- CL 1948, 570.153

Compiler's Notes: For transfer of powers and duties of certain occupational functions, boards, and commissions from the Department of Licensing and Regulation to the Department of Commerce, see E.R.O. No. 1991-9, compiled at MCL 338.3501 of the Michigan Compiled Laws.

Revised Statutes of 1846

R.S. of 1846

Chapter 126

CHAPTER 126. OF THE LIEN OF MECHANICS AND OTHERS.
OF CERTAIN LIENS ON PERSONAL PROPERTY.

570.185 Lien of mechanic, artisan or tradesman for manufacturing of goods or keeping of animals.

Sec. 35.

Whenever any person shall deliver to any mechanic, artisan, or tradesman, any materials or articles for the purpose of constructing in whole or in part, or completing any furniture, jewelry, implement, utensil, clothing, or other article of value, or shall deliver to any person any horse, mule, neat cattle, sheep, or swine to be kept or cared for, such mechanic, artisan, tradesman, or other person shall have a lien thereon for the just value of the labor and skill applied thereto by him, and for any materials which he may have furnished in the construction or completion thereof, and for the keeping and care of such animals, and may retain possession of the same until such charges are paid.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5102 ;-- CL 1871, 6823 ;-- Am. 1873, Act 83, Eff. July 31, 1873 ;-- How. 8399 ;-- CL 1897,

570.186 Lien of mechanic for repair or alteration of goods.

Sec. 36.

When any person shall deliver to any mechanic, artizan or tradesman, any watch, clock, article of furniture or jewelry, implement, clothing or other article of value, to be altered, fitted or repaired, such mechanic, artizan or tradesman shall have a lien thereon for the just value of the labor and skill applied thereto by him, and may retain possession of the same until such charges are paid.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5103 ;-- CL 1871, 6824 ;-- How. 8400 ;-- CL 1897, 10747 ;-- CL 1915, 14832 ;-- CL 1929, 13187 ;-- CL 1948, 570.186

Compiler's Notes: In this section, "artizan" evidently should read "artisan".

570.187 Lien of mechanic; enforcement; sale; form of notice, proceeds.

Sec. 37.

In either of the cases mentioned in the 2 preceding sections, if the owner of the property, materials, or stock so delivered, or the person entitled thereto shall not, when such article shall have been constructed, completed, altered, fitted, or repaired, or the time having expired for the keeping such stock, and the same being ready to be delivered to such owner or other persons, and the charges thereon shall be due and payable, pay to such mechanic, artisan, tradesman, or other person the amount of such charges, the person having such lien may enforce the same as hereinafter provided: Provided, however, Any mechanic, artisan or tradesman who shall make, clean, alter or repair any article of personal property at the request of the owner or legal possessor of property shall have a lien on such property so made, cleaned, altered or repaired for his just and reasonable charges for work done, and material furnished, and may hold and retain possession of the same until such just and reasonable charges shall be paid, and in default of payment may foreclose said lien, as hereinafter provided. When any property upon which a mechanic, artisan, tradesman, or other person shall have a lien for unpaid charges under this act shall remain in possession of a mechanic, artisan, tradesman or other person without payment and without proceeding at law in reference thereto, for a period of 9 months, such mechanic, artisan, tradesman, or other person may sell such property at public sale upon like notice and proceeding as in the case of a constable sale on execution. Thirty days before the date of said sale, such mechanic, artisan, tradesman or other person shall give notice of the time and place of said sale and the amount claimed, by depositing the same in the postoffice with postage prepaid and registered and addressed to the last known address of the said owner or person who delivered said property to such mechanic, artisan, tradesman, or other person and which notice may be in substance as follows:

....., Michigan.

....., 19

John Smith,

..... Michigan.

You are hereby notified that I hold the property hereinafter described and claim a lien upon the same for work (and materials) and expenses in connection therewith, amounting to dollars, and that I shall offer said property for sale at my place of business (in the township of), at number street, in the city of, county of, State of Michigan, on the day of, at o'clock in the noon, to satisfy the amount of my said claim and expenses.

Said property is described substantially as follows:

Signed,

.....

If such owner or other person in his behalf shall not pay the amount of such claim and charges before the advertised day of sale, said property shall thereupon be sold pursuant to said notice of sale, to the highest bidder, and said mechanic, artisan, tradesman or other person may become the purchaser. The proceeds of such sale shall be applied to the payment of said lien, costs and expenses, and the balance, if any, shall be paid to the city or township clerk of

the city or township where such sale takes place, for the benefit of such owner, and notice of such deposit shall be sent to him by registered mail.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5104 ;-- CL 1871, 6825 ;-- Am. 1873, Act 83, Eff. July 31, 1873 ;-- How. 8401 ;-- CL 1897, 10748 ;-- CL 1915, 14833 ;-- Am. 1917, Act 331, Eff. Aug. 10, 1917 ;-- CL 1929, 13188 ;-- CL 1948, 570.187

570.188 Suit for recovery of charges; commencement; jurisdiction.

Sec. 38.

The person having such lien may commence a suit for the recovery of such charges in a court of competent jurisdiction against the person liable for the payment thereof.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5105 ;-- CL 1871, 6826 ;-- How. 8402 ;-- CL 1897, 10749 ;-- CL 1915, 14834 ;-- CL 1929, 13189 ;-- CL 1948, 570.188 ;-- Am. 1991, Act 159, Imd. Eff. Dec. 9, 1991

570.189 Suit for recovery of charges; proceedings in case summons is personally served.

Sec. 39.

If such summons be returned personally served upon the defendant, the same proceedings shall thereupon be had, in all respects, as in other suits commenced by summons, in which there is a personal service of process, and judgment shall be rendered in such suit in like manner.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5106 ;-- CL 1871, 6827 ;-- How. 8403 ;-- CL 1897, 10750 ;-- CL 1915, 14835 ;-- CL 1929, 13190 ;-- CL 1948, 570.189

570.190 Suit for recovery of charges; proceedings in case defendant cannot be found.

Sec. 40.

If the officer return upon such summons, that the defendant cannot be found within his county, the same proceedings shall be thereupon had, in all respects, as near as may be, as in suits commenced by attachment, in which there is not a personal service of a copy of the attachment upon the defendant, and judgment shall be rendered in such suit in like manner.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5107 ;-- CL 1871, 6828 ;-- How. 8404 ;-- CL 1897, 10751 ;-- CL 1915, 14836 ;-- CL 1929, 13191 ;-- CL 1948, 570.190

570.191 Suit for recovery of charges; judgment and execution.

Sec. 41.

If the plaintiff recover judgment in such suit, execution shall issue thereon in the same manner and with the like effect, as upon judgments rendered in suits commenced by attachment, and the property upon which the plaintiff holds such lien, or so much thereof as shall be sufficient to satisfy such execution, may be sold thereon in the same

manner as if it had been seized and held upon an attachment in such suit.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5108 ;-- CL 1871, 6829 ;-- How. 8405 ;-- CL 1897, 10752 ;-- CL 1915, 14837 ;-- CL 1929, 13192 ;-- CL 1948, 570.191

570.192 Application of chapter.

Sec. 42.

The provisions of this chapter concerning liens upon personal property, and enforcing the same, shall apply to all cases of personal property on which the bailee or keeper thereof has by law a lien for any keeping, feed, care or labor by him bestowed upon such property.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5109 ;-- CL 1871, 6830 ;-- How. 8406 ;-- CL 1897, 10753 ;-- CL 1915, 14838 ;-- CL 1929, 13193 ;-- CL 1948, 570.192

570.193 Additional lien for expense of keeping animals.

Sec. 43.

If the property upon which any such lien shall be enforced as provided in this chapter, consists of horses, cattle, sheep, swine, or other beasts, and any expenses shall have been incurred by the person having such lien after the same accrued, in keeping and taking care of such property, the amount of such expenses shall be an additional lien upon the property, and shall be computed and ascertained upon the trial, or assessment of damages, and included in the judgment.

History: R.S. 1846, Ch. 126 ;-- CL 1857, 5110 ;-- CL 1871, 6831 ;-- How. 8407 ;-- CL 1897, 10754 ;-- CL 1915, 14839 ;-- CL 1929, 13194 ;-- CL 1948, 570.193

570.194 Labor lien on property of iron or copper mining corporation; precedence, enforcement.

Sec. 44.

Every person who shall furnish or perform any labor for any corporation, organized for the purpose of mining, smelting or manufacturing iron, copper, silver, or other ores or minerals, in the upper peninsula of this state, and every bona fide holder of any draft or order for the payment of money due for any such labor, issued or drawn by any officer, clerk or agent of any such corporation, shall have a lien for the amount due thereon or therefor, upon all the real and personal property of such corporation, lying and being in the said upper peninsula, which said lien shall take precedence of all other debts, judgments or decrees, liens or mortgages, against such corporation, except liens accruing to this state for taxes, fines or penalties; and every such lien may be proceeded on, enforced and collected out of such real and personal property, or either of the same, in the same manner and under the same regulations, limitations and conditions, as near as may be, as are herein provided for the enforcement and collection of other liens on real or personal property, as the case may be: Provided, That in the enforcement of any lien provided for in this section, it shall not be necessary to file, prove or produce any written contract relative to the labor on which such lien is based.

History: Add. 1867, Act 201, Eff. June 27, 1867 ;-- CL 1871, 6832 ;-- How. 8408 ;-- CL 1897, 10755 ;-- CL 1915, 14840 ;-- CL 1929, 13195 ;-- CL 1948, 570.194

LIEN FOR LABOR ON PROPERTY OF COAL, SHALE, OR CLAY MINING CORPORATIONS

Act 254 of 1909

AN ACT establishing a lien for labor and services upon the property of any corporation organized for the purpose of mining coal, shale or clay.

History: 1909, Act 254, Eff. Sept. 1, 1909

The People of the State of Michigan enact:

570.201 Labor lien on property of coal, shale or clay mining corporation; precedence, enforcement.

Sec. 1.

Every person who shall furnish or perform any labor for any corporation, organized for the purpose of mining coal, shale or clay, and every bona fide holder of any draft or order for the payment of money due for any such labor issued or drawn by an officer, clerk or agent of any such corporation, shall have a lien for the amount due thereon or therefor upon all the real and personal property of such corporation. Said lien shall take precedence of all other debts, judgments or decrees, liens or mortgages against such corporation, except liens accruing to this state for taxes, fines or penalties, and every such lien may be proceeded on, enforced and collected out of such real and personal property, or either of the same, in the same manner and under the same regulations, limitations and conditions as near as may be as are provided for by the law for the enforcement and collection of other liens on real or personal property as the case may be: Provided, That in the enforcement of any lien provided for in this act, it shall not be necessary to file, prove, or produce any written contract relative to the labor on which such lien is based.

History: 1909, Act 254, Eff. Sept. 1, 1909 ;-- CL 1915, 14841 ;-- CL 1929, 13196 ;-- CL 1948, 570.201

LIEN FOR CLEANING, DYEING, PRESSING, ALTERING, OR STORING GOODS

Act 43 of 1943

570.211-570.217 Repealed. 1989, Act 257, Imd. Eff. Dec. 26, 1989.

LIEN FOR LABOR AND MATERIALS FOR OIL OR GAS WELLS, PIPE LINES, OR EQUIPMENT

Act 146 of 1937

AN ACT to establish, protect and enforce by lien the rights of laborers, contractors, sub-contractors and material men and other persons furnishing labor, tools, or materials, or other things of value, for the drilling, boring, torpedoing, acidizing, completing, operating or repairing of any oil or gas well, or the constructing or repairing of any oil or gas pipe line, oil or gas derrick, or oil tank.

History: 1937, Act 146, Imd. Eff. July 2, 1937

The People of the State of Michigan enact:

570.251 Lien for labor or material for oil or gas well or pipe line; extent; waiver by agreement; delivery of materials; additional liens, recording.

Sec. 1.

Any person, firm or corporation, who shall by any contract or contracts, express or implied or partly expressed and partly implied with the owner, part owner or lessee of any leasehold, for oil and gas purposes or of any gas pipe line or oil pipe line, or with one whom such owner, part owner or lessee has authorized or knowingly permitted to contract in his or their behalf for the drilling, boring, torpedoing, acidizing, completing, operating or repairing of any oil or gas well or for the constructing or repairing of any oil or gas derrick, oil tank, gas pipe line or oil pipe line, perform any labor or furnish any materials, machinery, tools, equipment, fuel, explosives, acid, or oil or gas well supplies or other things of value used in the drilling, torpedoing, acidizing, completing, operating or repairing of any oil or gas well, or who shall furnish any oil or gas well supplies, or other things of value or perform any labor in constructing or putting together any of the apparatus, fixtures or machinery used in the drilling, boring, torpedoing, acidizing, operating, completing or repairing of any oil or gas well, or who shall furnish any material, equipment, machinery, supplies or other things of value or perform any labor for constructing, operating or repairing any oil pipe line or gas pipe line, oil or gas derrick or oil tank, shall have a lien upon such leasehold, oil and gas produced from said leasehold, oil well, gas well, lease for oil and gas purposes, oil or gas derrick, oil tank, oil pipe line, gas pipe line, buildings, fixtures, appurtenances, and upon the material, tools, machinery and supplies or other things of value so furnished, and upon the oil and gas fixtures, machinery and appliances used in operations for oil and gas purposes upon the leasehold or premises for which said material and supplies were furnished or labor performed, for the amount due to him, it or them for such materials, machinery, tools, equipment, fuel, explosives, acid, or oil or gas well supplies, services or labor or other things of value and shall be entitled to interest at the legal rate from the date the same is due. These liens shall extend to a life estate, an estate for years, or any other estate or any right of redemption or other interest which such owner, part owner, or lessee may have in such leasehold at the time of making such contract or may subsequently acquire therein, and to an estate in fee when the owner or part owner thereof drills or develops said land for oil or gas purposes. Such liens shall follow the property and each and every part thereof and be enforceable against the said property wherever the same may be found and shall attach as of the date on which the first of such materials are furnished or labor performed under the contract. The taking of any note or additional security by any party entitled to such lien for the amount so due or any part thereof shall not be a waiver of any right of lien which such party may have by virtue of this act unless made a waiver by express agreement of the parties. Materials or other items for which such lien is given which are furnished by the same contractor to the same owner or to the successors or assigns of such owner for operations on same premises or leasehold, which are delivered on separate orders given at various times shall, for the purpose of this act be considered as having been furnished under a single contract: Provided, That not more than 3 months shall have elapsed between the date of delivery of any such item and the date of the last preceding delivery of materials therefor. There may be additional and successive contracts upon which additional liens may be recorded as herein provided. In no event shall it be necessary to fix or stipulate in any contract a time for the completion or a time for payment in order to obtain a lien under this act.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.251 ;-- Am. 1958, Act 67, Eff. Sept. 13, 1958

570.252 Lien for labor or material for oil or gas well or pipe line; contractors or sub-contractors.

Sec. 2.

Any person, firm or corporation who shall furnish any such material, machinery or supplies, as described in section 1 of this act, to a contractor or a sub-contractor, or any person who shall perform such labor for a contractor or a sub-contractor, or who as an artisan or day laborer in the employ of such contractor or sub-contractor, shall perform any such labor, shall have a lien the same as provided in section 1 of this act, from the same time and in the same manner and to the same extent as the original contractor for the amount due for such material, machinery, tools, supplies or labor, as provided in section 1 of this act, and such lien shall be enforced in the same manner and within the same time as provided for the enforcement of the lien of such original contractor.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.252

570.253 Owner or lessee may retain money to pay demands; statement of contractor; protection of owners.

Sec. 3.

The owner, part owner, or lessee may at any time retain from any monies due to the original contractor, an amount sufficient to pay all demands owing or unpaid to any sub-contractor, material man, or laborer who has filed and certified the notice in the manner and form as provided in section 2 of this act. The original contractor shall, whenever any payment of money shall come due from the owner, part owner, or lessee or whenever he desires to draw any money from the owner, part owner, or lessee on such contract, make out and give to the owner, part owner, or lessee, or his agent, a statement under oath, of the number and name of every sub-contractor or laborer in his employ, and of every person furnishing the materials, giving the amount if anything, which is due or to become due to them or any of them for work done or materials furnished, and the owner, part owner or lessee or his agent may retain out of any money then due or to become due to the contractor, an amount sufficient to pay all demands that are due or to become due to such sub-contractors, laborers, and material men, as shown by the contractor's statement, and pay the same to them according to their respective rights, and all payments so made shall, as between such owner, part owner, or lessee, and such contractor, be considered the same as if paid to such original contractor. Until the statement provided for in this section is made, in manner and form as herein provided, the contractor shall have no right of action or lien against the owner, part owner, or lessee on account of such contract, and any payments made by the owner, part owner, or lessee, before such statement is made, or without retaining sufficient money, if that amount be due or is to become due, to pay the sub-contractors, laborers, or material men, as shown by the statement, shall be considered illegal and made in violation of the rights of the persons intended to be benefited by this act, and the rights of such sub-contractors, laborers and material men to a lien shall not be affected thereby. If neither such owner, part owner, lessee, or his agent can be found within the county, then it shall not be necessary for the contractor to make and deliver such statement as a prerequisite to the institution of proceedings under this act, or other suit or proceeding. In order that the owner, part owner, or lessee may be protected, he may at any time during the progress of the work demand in writing of the contractor, the statement herein provided for, which shall be made by the contractor and given to the owner, part owner, or lessee, or his agent, and if such contractor fail to furnish such statement within 5 days after demand made, he shall be liable to such owner, part owner, or lessee, each time he so refuses or neglects to comply with such demand, in the sum of 100 dollars, and also for all actual damages occasioned by such neglect or refusal, to be recovered in an action on the case or in any other appropriate proceeding.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.253

570.254 Statement of lien; contents; verification; recording with register of deeds; index; effect; fee.

Sec. 4.

(1) A person, or the person's agent or attorney, whether contractor, subcontractor, or materialman, or laborer, who wishes to claim the benefit of this act, shall make and record in the office of the register of deeds, in the county or counties in which the leasehold, oil or gas well, pipeline, oil or gas derrick, oil tanks, materials, machinery, or other property to be charged with the lien is located, a true statement or account of the demand due to the person, over and above all legal setoffs, setting forth the time when the materials were furnished or labor performed, and for whom, and containing a sufficiently correct description of the premises, leasehold, or property to be charged with the lien to identify them, and the name of the owner, part owner, or lessee of the premises, if known.

(2) A verified statement under this section must be recorded any time after the contract is made and within 6 months after the date on which the last of the materials is furnished or the last of the labor is performed by the person claiming the lien.

(3) A verified statement under this section may be amended at any time before a final judgment is entered in an action to enforce the lien.

(4) A register of deeds shall record and index a verified statement of lien under this section in the same manner as provided by law for the recording of real estate mortgages. A recording under this subsection has the same effect as to notice as against subsequent purchasers or encumbrancers as the recording of a mortgage.

(5) A register of deeds is entitled to receive as a fee for the recording and indexing of a verified statement of lien

under this section, and any subsequent paper affecting the lien, the same fees as are provided for recording a real estate mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.254 ;-- Am. 1958, Act 67, Eff. Sept. 13, 1958 ;-- Am. 2016, Act 225, Eff. Oct. 1, 2016

570.255 Statement of lien; service of copy on owner or lessee, proof, posting.

Sec. 5.

Every person recording such statement or account as provided in the preceding section, except those persons contracting or dealing directly with the owner, part owner or lessee of such premises, shall serve a copy of such statement within 30 days after the recording thereof, upon the owner, part owner, lessee, contractor or sub-contractor or his authorized agent, and upon any persons acquiring any interest in the property after the date of the furnishing of the first materials or the date when the first labor was performed, which said interest shall appear of record in the register of deeds' office for the county in which the lien claim is recorded, or sent to such owner, part owner, lessee, contractor, sub-contractor or other person having any interest in said property, by registered mail addressed to him at his last known address, within 30 days next after the date of recording such statement, a copy of such statement, and the affidavit of the person so serving or mailing such copy as to the time and manner of service, shall be sufficient proof of the service thereof: Provided, That if the name or address of such owner, part owner, lessee, contractor, sub-contractor or other person having any interest in said property be unknown, in lieu of such service it shall be sufficient if a copy of such statement be posted in a conspicuous place on the premises charged with such lien within said 30 day period.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.255 ;-- Am. 1958, Act 67, Eff. Sept. 13, 1958

570.256 Liens; duration, priority over other interests, subrogation.

Sec. 6.

The several liens herein provided for shall continue for 1 year after such statement or account is recorded in the office of the register of deeds and no longer unless proceedings are begun to enforce same as hereinafter provided, and such liens shall take priority as follows:

First: As between persons claiming liens under this statute, the several liens upon the same property attaching by reason of work, labor or materials furnished in carrying forward or completing the same oil or gas wells, oil or gas derrick, oil tanks, oil or gas pipe line, machinery, fixtures or appurtenances, shall be of equal rank and share pro rata in the proceeds of any sale of such property under any judgment or decree entered in a suit brought to enforce the same.

Second: They shall take priority to all garnishments for the contract debt made prior or subsequent to the commencement of the furnishing of the materials or performance of the labor without regard to the date of filing the claims for lien.

Third: They shall be preferred to all other titles, liens, or encumbrances which may attach to or upon such oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures or appurtenances or upon the leasehold upon which they are situated, which shall either be given or recorded subsequent to the commencement of the furnishing of the materials or performance of the labor.

Fourth: The liens for such labor or materials furnished, including those for additions, repairs and betterments, shall attach to the leasehold estates, oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures, appurtenances or improvements for which they are furnished or done, subject to any prior recorded title, claim, lien, encumbrance, or mortgage to or upon the leasehold estate upon which such oil or gas wells, oil or gas derricks, oil tanks, oil or gas pipe lines, machinery, fixtures, appurtenances or improvements belong or are put. Any person holding a lien for such labor or materials furnished upon any leasehold estate subject to any prior recorded lien, encumbrance or mortgage may pay off any such prior lien, encumbrance or mortgage, and shall thereupon be subrogated to all of the rights of the prior holder of such lien, encumbrance or mortgage.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.256 ;-- Am. 1958, Act 67, Eff. Sept. 13, 1958

570.257 Proceedings to enforce lien; lis pendens, parties, cross bills, practice and procedure, sale, confirmation, costs.

Sec. 7.

Proceedings to enforce such lien shall be by bill in chancery, under oath, and notice of lis pendens recorded in the office of the register of deeds, shall have the effect to continue such lien pending such proceedings. And in such proceedings, the complainant shall make all persons having rights in said leasehold estate affected or to be affected by such liens so recorded in the office of the register of deeds, and all persons holding like liens so recorded, parties to such action. And all persons holding like liens or any other persons having rights in said leasehold estate, may make themselves parties thereto on motion to the court and notice to complainant and may file their intervening or cross bills or answers claiming the benefit of cross bills and notices of lis pendens therein. The practice and procedure in such suit shall be the same as in other cases in chancery and the court shall thereupon settle and determine the rights and liabilities of all of the parties in the matter, and make such decree as may be required to determine and enforce the rights and liabilities of the various parties. Upon final decree the court may order a sale of the leasehold estate, oil or gas well, oil or gas derrick, oil tank, oil or gas pipe lines, machinery, fixtures or appurtenances, together or separately, by a circuit court commissioner or receiver, or may order the property into the hands of a receiver to be leased or rented from time to time under the direction of the court until the liens shall be discharged, or make such other order or disposition of the premises as justice may require. If upon coming in and confirmation of the final report any portion of the liens shall still be unpaid, the court may enter personal decree for the same against the party or parties who may be personally liable therefor, and the execution shall issue for the same as upon other personal decrees rendered. The costs in all cases shall be subject to the discretion of the court and shall be paid out of the proceeds of the sale or by any parties to the suit as justice and equity may require.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.257 ;-- Am. 1958, Act 67, Eff. Sept. 13, 1958

570.258 Lien not to preclude any other lawful remedy.

Sec. 8.

The provisions of this act shall not preclude anyone entitled to a lien hereunder from pursuing any other remedy given by law for the collection of the indebtedness for which a lien is hereby given.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.258

570.259 Lienholder to execute discharge upon payment of debt; recording with register of deeds, fee; discharge by ex parte proceedings.

Sec. 9.

Upon the full payment of any indebtedness for which a claim for lien has been recorded under the provisions of this act, the party claiming such lien shall upon request of any person interested in the property affected by such lien, execute, acknowledge and cause to be recorded with the register of deeds of the county wherein such lien claim shall have been recorded, a full release and satisfaction of such lien. Such release or satisfaction shall be recorded and processed by the register of deeds in the same manner as provided by law for discharging a real estate mortgage. The fee of the register of deeds for recording such release shall be the same as is provided by law for recording a discharge of real estate mortgage: Provided also, That if no proceedings to enforce any lien or liens provided for in this act shall be made within the 1 year or said lien or liens have been paid, said lien or liens may be

discharged of record by ex parte proceedings in the same manner as provided by law for the discharge of mortgages by ex parte proceedings.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.259 ;-- Am. 1958, Act 67, Eff. Sept. 13, 1958

570.260 Assignment or waiver of lien.

Sec. 10.

All liens or claims for liens which may arise or accrue under the terms of this act shall be assignable, and proceedings to enforce such liens, or claims for liens may be maintained by and in the name of the assignees, who shall have as full and ample power to enforce the same as if such proceedings were taken under the provisions of this act by and in the name of the lien claimants themselves.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.260

570.261 Notice by publication.

Sec. 11.

When any defendant resides out of the state, or is absent from the state, or concealed therein, or cannot be found by reason of his continued absence from his place of residence, or when it cannot be ascertained in what state or country the defendant resides, the complainant may cause notice to be given by publication in like manner, and upon same conditions as in ordinary suits in chancery.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.261

570.262 Liberal construction.

Sec. 12.

This act is hereby declared to be a remedial statute and is to be construed liberally to secure the beneficial results, intents and purposes thereof, and a substantial compliance with its several provisions shall be sufficient for the validity of the lien or liens hereinbefore provided for, and to give jurisdiction to the court to enforce the same.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.262

570.263 Oil or gas wells and pipe lines; definitions.

Sec. 13.

For the purpose of this act the terms "owner, part owner or lessee" shall be construed to include all the interests, legal or equitable, which any person, firm, corporation, association, syndicate, trustee, co-partnership or joint adventurer may have in the leasehold, oil or gas runs, oil well, gas well, oil pipe line, gas pipe line, oil or gas derrick, oil tank, machinery, materials, tools, supplies, buildings and appurtenances upon which the improvements contemplated by this act are made.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.263

570.266 Declaration of emergency.

Sec. 16.

An emergency is hereby declared by reason whereof it is necessary for the immediate preservation of the public peace, safety, convenience and welfare that this act take immediate effect.

History: 1937, Act 146, Imd. Eff. July 2, 1937 ;-- CL 1948, 570.266

GARAGE KEEPER'S LIEN ACT

Act 312 of 1915

AN ACT to establish, protect and enforce by lien the rights of garage keepers who furnish labor or material for storing, repairing, maintaining, keeping or otherwise supplying automobiles or other vehicles.

History: 1915, Act 312, Eff. Aug. 24, 1915 ;-- Am. 1964, Act 168, Eff. Aug. 28, 1964

Popular Name: Garage Keeper's Lien Act

The People of the State of Michigan enact:

570.301 Short title.

Sec. 1.

This act shall be known and may be cited as the "garage keeper's lien act".

History: 1915, Act 312, Eff. Aug. 24, 1915 ;-- CL 1915, 4833 ;-- CL 1929, 4793 ;-- Am. 1939, Act 274, Eff. Sept. 29, 1939 ;-- Am. 1941, Act 204, Eff. Jan. 10, 1942 ;-- CL 1948, 570.301 ;-- Am. 1949, Act 161, Eff. Sept. 23, 1949 ;-- Am. 1951, Act 41, Eff. Sept. 28, 1951 ;-- Am. 1964, Act 168, Eff. Aug. 28, 1964 ;-- Am. 1965, Act 357, Imd. Eff. July 23, 1965 ;-- Am. 1986, Act 126, Eff. July 1, 1986 ;-- Am. 1990, Act 58, Eff. July 1, 1990 ;-- Am. 1998, Act 236, Imd. Eff. July 3, 1998

Popular Name: Garage Keeper's Lien Act

570.301a, 570.301b Repealed. 1998, Act 236, Imd. Eff. July 3, 1998.

Compiler's Notes: The repealed sections pertained to lien on aircraft.

Popular Name: Garage Keeper's Lien Act

570.302 Definitions.

Sec. 2.

As used in this act:

- (a) "Bureau" means the bureau of automotive regulation.
- (b) "Department" means the department of state.
- (c) "Garage keeper" means a person or the person's heir, personal representative, successor, assignee, or authorized agent who for hire or reward, publicly offers to maintain or repair a vehicle or an accessory used in the operation of a vehicle or to furnish accessories and supplies for a vehicle or an accessory used in the operation of a vehicle.
- (d) "Last known address" means the address provided by the owner in the most recent contract for storage, labor, material, or supplies entered into between the garage keeper and the owner, or in a subsequent written notice of change of address to the garage keeper or as shown by the records of the department.
- (e) "Lienholder" means any person or legal entity that is noted on the motor vehicle certificate of title as a lienholder, or, if the motor vehicle certificate of title contains the term lessee, the person or legal entity that is noted on the motor vehicle certificate of title as the lessor or as shown by the records of the department.
- (f) "Market value" means the trade-in value as determined by the issue of the national auto dealers association official used car guide in effect at the time the garage keeper performs the first labor or first furnishes supplies for which the garage keeper claims a lien under this act.
- (g) "Owner" means that term as defined in section 37 of the Michigan vehicle code, 1949 PA 300, MCL 257.37, or as shown by the records of the department.
- (h) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

History: 1915, Act 312, Eff. Aug. 24, 1915 ;-- CL 1915, 4834 ;-- Am. 1927, Act 380, Eff. Sept. 5, 1927 ;-- CL 1929, 4794 ;-- CL 1948, 570.302 ;-- Am. 1964, Act 168, Eff. Aug. 28, 1964 ;-- Am. 1990, Act 58, Eff. July 1, 1990 ;-- Am. 1998, Act 236, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act

570.302a Repealed. 1998, Act 236, Imd. Eff. July 3, 1998.

Compiler's Notes: The repealed section pertained to unregistered vehicle.

Popular Name: Garage Keeper's Lien Act

570.303 Garage keeper; attachment of lien upon vehicle; manner; amount.

Sec. 3.

(1) Except as otherwise provided in this act, a garage keeper who, in pursuance of a contract that is expressed, implied, written, or unwritten, furnishes labor, material, storage, diagnosis, an estimate of repairs, or supplies for a vehicle, shall have a lien upon the vehicle for the charges due for the storage, maintenance, keeping, diagnosis, estimate of repairs, and repair of the vehicle and for gasoline, electric current, or other accessories and supplies furnished, expenses bestowed, or labor performed on the vehicle at the request or with the consent of the owner of the vehicle. If a vehicle remains in the possession of a garage keeper after the completion of repairs or after a diagnosis and subsequent storage of the vehicle when repairs are not authorized, a garage keeper's lien attaches to the vehicle in the manner and amount provided in this section.

(2) The lien attaches to the vehicle on the day the garage keeper performs the last labor or furnishes the last supplies for which a lien is claimed against the vehicle. The garage keeper may keep a vehicle for not more than 225 days after performing the last labor or furnishing the last supplies for which a lien is claimed against the vehicle.

(3) The portion of a lien that is for labor and material furnished in making repairs upon a vehicle has priority over all other liens upon the vehicle. The lien has no effect against the holder of a security interest, conditional sales agreement, or other lien that attached before the attachment of the garage keeper's lien upon the payment by a prior lienholder to the garage keeper of the amount of the lien calculated under subsection (4) and section 4.

(4) Except as provided in section 4, the maximum amount of a lien that a prior lienholder shall pay a garage keeper under this section is calculated as follows:

(a) If a repaired vehicle has a market value of more than \$5,000.00, then the amount of the lien shall be not more than 20% of the market value of the repaired vehicle or \$5,000.00, whichever is less.

(b) If a repaired vehicle has a market value of \$5,000.00 or less, then the amount of the lien shall be not more

than \$1,000.00.

History: 1915, Act 312, Eff. Aug. 24, 1915 ;-- CL 1915, 4835 ;-- CL 1929, 4795 ;-- Am. 1931, Act 103, Imd. Eff. May 18, 1931 ;-- CL 1948, 570.303 ;-- Am. 1964, Act 168, Eff. Aug. 28, 1964 ;-- Am. 1965, Act 357, Imd. Eff. July 23, 1965 ;-- Am. 1998, Act 236, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act

570.304 Garage keeper's lien; amounts not included; storage charge.

Sec. 4.

(1) A garage keeper's lien under section 3 shall not include an amount for labor and materials for any of the following if the materials used were custom materials that are not normally available from the manufacturer or, in the case of a vehicle manufactured in a foreign country, a distributor of the vehicle or that are not normally installed on the vehicle by the original manufacturer:

- (a) The repair or replacement of all or a part of the interior or exterior of the repaired vehicle.
- (b) The installation, repair, or replacement of electronic and related parts.
- (c) The installation, repair, or replacement of any other materials or parts that are not essential to the normal operation of the repaired vehicle.

(2) Unless otherwise agreed to in writing, a garage keeper's lien under section 3 may include an amount of not more than \$10.00 per day for the storage of the vehicle, for the storage of an accessory used in the operation of a vehicle, or for the storage of accessories and supplies furnished for the vehicle or an accessory used in the operation of the vehicle. Unless otherwise agreed to in writing, the charge shall be for not more than 120 days' storage. However, a lienholder who pays a garage keeper's lien under section 5(8) is not liable for and is not required to pay for any storage charges that accrued prior to 45 days after the garage keeper's notification to the lienholder under section 5. Charges described in this subsection may be in addition to the maximum allowance under section 3(4).

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act

570.305 Garage keeper's lien; enforcement; sale of vehicle at public sale.

Sec. 5.

(1) A lien under section 3 shall be enforced only as provided in this section.

(2) If charges described in section 3 are not paid, the garage keeper may sell the vehicle at a public sale described in this section.

(3) To enforce a lien under section 3, a garage keeper or authorized agent shall, not more than 105 days after the date the lien attached as provided in section 3, apply to the department, in a format prescribed by the department, for a certificate of foreclosure of garage keeper's lien and bill of sale accompanied by a fee of \$10.00 paid to the department. The department shall, not more than 30 days after the postmark date of a complete application received by mail or the date a complete application is hand-delivered by the garage keeper or authorized agent to the department, provide to the garage keeper or authorized agent the names and addresses of all owners of record and of all lienholders of the vehicle as shown by the records of the department.

(4) After complying with the requirements of subsection (3), the garage keeper shall notify the owner or owners, all lienholders, and the department of state, bureau of automotive regulation, Lansing, Michigan, of the proposed sale of the vehicle in order to satisfy the lien of the garage keeper by a notice sent by certified mail return receipt requested to the last known address of the owner or owners, the lienholders and the bureau. The garage keeper shall send all the notices required by this subsection not more than 30 days after the date placed on the certificate of foreclosure of garage keeper's lien and bill of sale by the department. The notice shall include all of the following:

- (a) An itemized statement of the garage keeper's lien showing the amount due at the time of the notice and the date on which the amount became due.
- (b) A demand for payment in the amount necessary to satisfy the lien authorized under section 3(1). The demand for payment must give the owner or owners not less than 30 calendar days after the postmark date of the notice to

satisfy the garage keeper's lien.

(c) A statement that all lienholders are being notified of the delinquency, that a lienholder has the right to satisfy the garage keeper's lien plus any storage charges provided for under section 4 and obtain possession of the vehicle as provided in section 5(8), and that a lienholder is required to notify the garage keeper before the proceeds are distributed under section 6 if the lienholder desires to claim any of the proceeds from the sale of the vehicle under section 6(1)(a).

(d) A statement of daily storage fees, if any.

(e) A statement of the date, time, manner, and place that the vehicle will be sold.

(5) Except as otherwise provided in this subsection, the sale shall be held not less than 75 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department. The bureau may object to a sale only if it has reason to believe that the garage keeper has failed to substantially comply with this act, the rules promulgated under this act, the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, in the repair transaction involving the vehicle that is the subject of the lien. If the bureau objects to the sale within the 75-day period, all of the following conditions shall apply:

(a) The bureau shall complete an investigation of its objection within 150 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department.

(b) Upon completion of the investigation or the expiration of the 150-calendar-day period, whichever occurs first, the bureau shall do 1 of the following:

(i) Remove the objection to the sale.

(ii) Complete service upon the garage keeper of a written notice of alleged violation that alleges a specific violation of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under that act, and extends the bureau's objection to the sale indefinitely until resolution under this section.

(c) The garage keeper may, within 10 days after the personal service or postmarked date of the notice of alleged violation, notify the bureau, in writing, that the garage keeper wants to contest the notice of alleged violation. If the garage keeper contests the notice, the bureau shall conduct an immediate review of its reasons for the objection. After this review, the bureau shall do 1 of the following:

(i) Remove the objection to the sale.

(ii) If the objection is sustained, the bureau shall, in writing, offer the garage keeper an opportunity to have the bureau's objection resolved under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as a contested case proceeding under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340. If a contested case proceeding is pursued under this section, the bureau may include in that proceeding's complaint any other outstanding alleged repair act or rule violation against the garage keeper that may be pursued through a contested case proceeding. If the garage keeper fails to respond to the offer for a contested case proceeding within 10 days of receiving the offer from the bureau, the bureau's objection to the lien shall be deemed permanent.

(d) Storage charges provided for under this act shall not accrue during the period that the bureau objects to the sale.

(e) The 225-day period provided for in section 3(2) shall be extended by the number of days that the bureau objects to the sale.

(6) A sale of the vehicle shall be held at the facility of the garage keeper or at the nearest suitable place.

(7) Before a sale of a vehicle pursuant to this section, the owner or owners may pay the amount necessary to satisfy the lien, in addition to the reasonable expenses or fees incurred by the garage keeper under this act, and redeem the vehicle. Upon receipt of this payment, the garage keeper shall return the vehicle to the owner or owners in the same condition, or substantially the same condition, as the vehicle was in when the lien attached under section 3(1).

(8) Not less than 30 calendar days after the garage keeper's notice is mailed to the owner or owners, and prior to the sale, a lienholder may pay the garage keeper the amount of the garage keeper's lien as calculated under sections 3(4) and 4, or another amount to which the lienholder and garage keeper agree. Upon receipt of this payment, the garage keeper shall return the vehicle to the lienholder in the same condition, or substantially the same condition, as the vehicle was in when repairs were completed and it was stored by the garage keeper or, if no repairs were authorized by the owner, in the same condition or substantially the same condition, as the vehicle was in when it was received by the garage keeper. If the garage keeper performed diagnostic tests on the vehicle for which a lien is claimed, the garage keeper shall include a written explanation of the results of the diagnostic tests performed when the garage keeper returns the vehicle to the lienholder. The amount of a payment made under this section shall be added to the amount of the prior lienholder's lien.

(9) The amount payable to the garage keeper shall not exceed the market value of the vehicle.

(10) Upon the public sale of a vehicle under this act, the garage keeper shall complete the certificate described in subsection (3) as indicated on its face and give the completed certificate to the purchaser of the vehicle. In addition to other information that may be required by the secretary of state, the purchaser shall submit this certificate to the

department when making an original application for a certificate of title or a vehicle registration for the vehicle in the name of the purchaser.

(11) The garage keeper may bid for and purchase the vehicle at the sale. If the garage keeper directly or indirectly purchases the vehicle at the sale, the lien granted under this act is extinguished in full.

(12) A person who in good faith buys a vehicle at a sale conducted pursuant to this act takes the vehicle free of a security interest created by the seller even though the security interest is perfected and even though the buyer knows of its existence.

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act

570.306 Proceeds of sale; distribution; order of priority; return of remaining proceeds to vehicle owner; disposition of unclaimed money.

Sec. 6.

(1) After the amount of the lien under section 3 is paid to the garage keeper and the costs of the sale are deducted, any remaining money shall be paid to the following persons in this descending order of priority:

(a) A prior lienholder who gives notice to the garage keeper of his or her claim of lien before the distribution of the money realized from a sale under this act is complete.

(b) The reasonable charges of the garage keeper.

(c) The owner or owners of the vehicle as described in subsection (2).

(2) Proceeds of the sale remaining after the distribution is made under subsection (1) shall be returned to the owner of the vehicle by mailing the proceeds to the owner's last known address by certified mail. If the garage keeper cannot locate the owner within 14 calendar days after the date of the sale, the remaining money shall be transmitted to the department. If the owner does not claim the remaining money within 2 years after the date of the sale, it shall escheat to the state.

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act

570.307 Failure to comply with act; action by owner or lienholder.

Sec. 7.

An owner or lienholder who suffers damages because of a garage keeper's failure to comply with this act may bring an action in a court of competent jurisdiction for the actual amount of the damages or \$250.00, whichever is greater.

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998

Popular Name: Garage Keeper's Lien Act

570.308 Applicability of act to warehouse receipt, bill of lading, or other document of title.

Sec. 8.

This act does not apply to a vehicle for which the garage keeper issues a warehouse receipt, bill of lading, or other document of title.

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998

Popular Name: Garage Keeper's Lien Act

570.309 Other ordinance or state law; effect.

Sec. 9.

(1) In a municipality where there is in force a law or ordinance concerning the regulation and licensing of garages, a garage keeper is not entitled to avail himself or herself of the provisions of this act unless during the entire period of time covered by the garage keeper's claim for a lien under this act, the garage keeper was duly licensed and had fully complied with all laws and ordinances relative to the licensing of garages.

(2) A garage keeper who is regulated by the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, is not entitled to avail himself or herself of the provisions of this act unless he or she has been in compliance with the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, as to the vehicle in question during the entire period covered by his or her claim for a lien.

(3) A garage keeper who successfully collects on a lien on a vehicle under this act shall not bring an action for or attempt to assert any other statutory or common law lien on that vehicle.

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998

Popular Name: Garage Keeper's Lien Act

570.310 False statement; violation as misdemeanor; penalty.

Sec. 10.

A person, agent, or employee of a garage keeper who knowingly makes a false statement on an application for a garage keeper's lien, the documents filed by the applicant with the department in support of the application for a garage keeper's lien, or a certification required under this act is guilty of a misdemeanor punishable by a fine of not more than \$1,000.00 or imprisonment for not more than 90 days, or both, for the first conviction under this section, and a fine of not more than \$5,000.00 or imprisonment for not more than 1 year, or both, for any subsequent conviction under this section.

History: Add. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act

PRESSING, THRESHING, OR HULLING LIEN

Act 116 of 1911

AN ACT to establish a lien upon hay, grain, seed and other products for pressing, threshing or hulling the same, to provide the manner of enforcing such lien, and prescribing a penalty for the selling, secreting or otherwise disposing of property subject to such lien.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- Am. 1913, Act 92, Eff. Aug. 14, 1913

The People of the State of Michigan enact:

570.331 Lien for threshing, pressing or hulling.

Sec. 1.

Any owner, part owner or lessee of a hay press, threshing machine, huller or other similar machine who shall press, thresh, or hull any hay, grain, corn, beans, peas or other vegetable products for another, shall, upon the filing of the statement herein provided, have a lien for the value of such services, or in case there is an agreed price, then for such agreed price upon the hay, grain or other products so pressed, threshed or hulled; said lien to commence from the time of filing notice and making demand as hereinafter provided. Such lien shall not attach in any case where the hay, grain or other products which may have been pressed, threshed, hulled or husked, shall have passed into the hands of an innocent purchaser or dealer in the usual course of trade.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- Am. 1913, Act 92, Eff. Aug. 14, 1913 ;-- CL 1915, 14872 ;-- CL 1929, 5008 ;-- CL 1948, 570.331

570.332 Lien for threshing, pressing or hulling; statement of lien, contents, filing; waiver.

Sec. 2.

Any person or persons entitled to a lien under this act shall, within 20 days after the pressing, threshing or hulling is completed, file in the office of the register of deeds of the county in which the hay, grain, seed or other products were grown, or pressing, threshing or hulling was done, a statement in writing verified by oath, stating the name of the person claiming the lien, the amount, quantity and kind of hay or grain, seed or other products pressed, threshed or hulled, the amount due claimant for said services as near as may be, over and above all legal set-offs, the name of the person for whom the pressing, threshing or hulling was done, and a description of the land upon which the hay, grain, seed or other products were grown or pressing, threshing, or hulling done; such description shall be deemed sufficient if it properly identifies the premises by the name of the owner or occupant, or other description which accurately and clearly identifies the location of the property upon which such lien is claimed: Provided, That such lien shall be deemed to have been waived by the person entitled thereto, unless such statement shall be filed within the period of 20 days as aforesaid.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- Am. 1913, Act 92, Eff. Aug. 14, 1913 ;-- CL 1915, 14873 ;-- CL 1929, 5009 ;-- Am. 1939, Act 93, Eff. Sept. 29, 1939 ;-- CL 1948, 570.332

570.333 Lien for threshing, pressing or hulling; duty of register of deeds, fees.

Sec. 3.

The register of deeds, upon presentation of such statement and notice of lien, shall file the same in his office in the same manner as provided by law for the filing of chattel mortgages; and he shall be entitled to charge and receive from the person filing such statement and notice the same fee as provided by law for filing chattel mortgages.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14874 ;-- CL 1929, 5010 ;-- Am. 1939, Act 93, Eff. Sept. 29, 1939 ;-- CL 1948, 570.333 ;-- Am. 1958, Act 72, Eff. Sept. 13, 1958

570.334 Lien for threshing, pressing or hulling; certified copy as evidence, effect.

Sec. 4.

A copy of any such statement and notice of lien as aforesaid, certified by the register of deeds, shall be received in evidence in any proceeding taken to enforce the lien herein provided for, but only of the fact that such statement and notice of lien was received and filed according to the endorsement of the register of deeds thereon, and of no

other fact.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14875 ;-- CL 1929, 5011 ;-- Am. 1939, Act 93, Eff. Sept. 29, 1939 ;-- CL 1948, 570.334

570.335 Suit for recovery of charges; commencement; jurisdiction.

Sec. 5.

The person having such lien may commence a suit for the recovery of such charges in a court of competent jurisdiction against the person liable for the payment thereof.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14876 ;-- CL 1929, 5012 ;-- CL 1948, 570.335 ;-- Am. 1991, Act 159, Imd. Eff. Dec. 9, 1991

570.336 Suit for recovery of charges; proceedings in case of personal service.

Sec. 6.

If such summons be returned personally served upon the defendant, the same proceedings shall be had, in all respects, as in other suits commenced by summons, in which there is a personal service of process, and judgment shall be rendered in such suit in like manner.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14877 ;-- CL 1929, 5013 ;-- CL 1948, 570.336

570.337 Suit for recovery of charges; proceedings in case of no personal service.

Sec. 7.

If the officer return upon such summons, that the defendant cannot be found within his county, the same proceedings shall be thereupon had, in all respects, as near as may be, as in suits commenced by attachment, in which there is not a personal service of a copy of the attachment upon the defendant, and judgment shall be rendered in such suit in like manner.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14878 ;-- CL 1929, 5014 ;-- CL 1948, 570.337

570.338 Judgment; execution.

Sec. 8.

If the plaintiff recover judgment in such suit, execution shall issue thereon in the same manner and with the like effect, as upon judgments rendered in suits commenced by attachment, and the property upon which the plaintiff holds such lien, or so much thereof as shall be sufficient to satisfy such execution, may be sold thereon in the same manner as if it had been seized and held upon an attachment in such suit: Provided, That the provisions of this act shall apply only to the parties to the contract.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14879 ;-- CL 1929, 5015 ;-- CL 1948, 570.338

570.339 Violation of act; misdemeanor, penalty.

Sec. 9.

Any person who shall thereafter upon demand, refuse to pay the amount due for such threshing or hulling, and who shall sell, secrete, or dispose of the property covered by or subject to such lien, without the written consent of the owner or owners of said lien, shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine not exceeding 100 dollars or imprisonment in the county jail not exceeding 90 days, or both such fine and imprisonment in the discretion of the court.

History: 1911, Act 116, Eff. Aug. 1, 1911 ;-- CL 1915, 14880 ;-- CL 1929, 5016 ;-- CL 1948, 570.339

HORSESHOER'S LIEN

Act 160 of 1897

570.351-570.363 Repealed. 2006, Act 219, Imd. Eff. June 26, 2006.

MICHIGAN MARINA AND BOATYARD STORAGE LIEN ACT

Act 362 of 1998

AN ACT to provide for certain liens on certain marine property repair, service, or storage in marinas, boatyards, and marine repair facilities; to provide for the sale of certain property subject to a lien; to provide for the liability of certain persons; to provide for powers and duties of certain state departments; and to provide for the enforcement of this act.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998

The People of the State of Michigan enact:

570.371 Short title.

Sec. 1.

This act shall be known and may be cited as the "Michigan marina and boatyard storage lien act".

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998

570.372 Definitions.

Sec. 2.

As used in this act:

- (a) "Boat" and "vessel" mean boat and vessel as those words are defined in sections 80101 and 80104 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 and 324.80104.
- (b) "Default" means the failure to pay obligations incurred for labor, repairs, maintenance services, materials, supplies, or the storage of a boat, boat motor, boat cradle, or boat trailer.
- (c) "Facility" means a marina, boatyard, boat or yacht club, or marine repair facility that provides, as part of its commercial operation, for the storage or repair of boats, boat motors, boat cradles, or boat trailers.
- (d) "Fair market value" means the value of the property as determined by the current issue of a nationally recognized used vessel guide at the time of the notice to the property owner and any lienholder under section 5(5)(a).
- (e) "Lienholder" or "lienholder of record" means a person to whom either of the following applies:
 - (i) The person has filed a lien notation on the title of a boat or boat trailer.
 - (ii) The person claims an interest in a boat motor or boat cradle under a financing statement or other marine documentation filed with the secretary of state or under another public filing, other than a filing with a register of deeds in this state.
- (f) "Person" means an individual, association, partnership, limited liability company, corporation, boat or yacht club, governmental entity, or other legal entity.
- (g) "Property" means a boat, boat motor, boat cradle, or boat trailer in storage at a facility for or following service, repair, or storage.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998 ;-- Am. 2016, Act 286, Eff. Dec. 26, 2016

570.373 Possessory lien on stored property.

Sec. 3.

(1) A facility owner has a possessory lien on property stored at that facility for storage, rent, labor, repairs, maintenance services, materials, supplies, and other charges and for expenses reasonably incurred in the sale of that property under this act. Except as provided in subsection (8), a lien on property under this section takes priority over any prior lien on the property unless the prior lienholder pays to the facility owner the amount of the lien attributable to storage, labor, materials, supplies, or other charges reasonably incurred in the sale of the property under this act or the following applicable amount, except as otherwise provided in this section, whichever is less:

- (a) For a vessel that is not more than 27 feet long, \$5,000.00 or 20% of the fair market value, whichever is less.
- (b) For a vessel that is more than 27 feet but not more than 40 feet long, \$30,000.00.
- (c) For a vessel that is more than 40 feet but not more than 60 feet long, \$75,000.00.
- (d) For a vessel that is more than 60 feet long, \$90,000.00.

(2) The amount calculated under subsection (1) must be increased by a like amount if the expenditure for labor and materials was for both primary power engines of a vessel equipped with 2 engines. However, this subsection does not apply to auxiliary propulsion or trolling engines.

(3) The amount calculated under subsection (1) must be reduced by 1/2 if more than half of the expenditure for labor and materials was attributable only to the repair or replacement of 1 of the following:

- (a) Navigational electronics.
- (b) Auxiliary power generators.

(4) The amount calculated under subsection (1) must be reduced by 3/4 if more than half of the expenditure for labor and materials was attributable only to 1 of the following:

- (a) The repair or replacement of a cabin interior.
- (b) Painting.
- (c) Cosmetic work.
- (d) Any combination of subdivisions (a) to (c).

(5) A payment made by a prior lienholder to a facility owner under this section must be added to the amount of the lien of the prior lienholder who made the payment and must be subtracted from the amount of the facility owner's lien.

(6) The facility owner's lien under this act is the only lien that a facility owner has on property, unless the facility owner is also the prior lienholder.

(7) This act does not create a lien on a documented vessel subject to a preferred ship mortgage or other preferred maritime lien under 46 USC 31301 to 31343. A facility owner is required to obtain an abstract of title from the United States Coast Guard for a vessel that is documented under 46 USC 12101 to 12152.

(8) The lien created for storage under this act without a written repair, service, or storage agreement that includes a notice of lien does not take priority over the lien of a prior lienholder for repairs, service, or storage incurred before 30 days after the notice of lien required by section 4(1)(b) is delivered to the prior lienholder. After that 30-day period, the lien includes all repair, service, or storage charges incurred, including, but not limited to, those incurred during the 30-day period.

(9) A prior lienholder shall arrange to remove the property from the facility on the termination of the facility's lien under this act unless the lienholder and the facility owner enter into a new storage agreement.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998 ;-- Am. 2016, Act 286, Eff. Dec. 26, 2016

570.374 Notice of lien.

Sec. 4.

(1) A facility owner shall notify a property owner and all prior lienholders of a lien created under this act before enforcing the lien. A property owner is notified if either of the following has occurred:

(a) The property owner has signed a written repair, service, or storage agreement that includes a notice of the lien created under this act.

(b) The facility owner has mailed written notification of the lien created under this act to the property owner and all prior lienholders or has otherwise satisfied the requirements of section 5(5)(a).

(2) A facility owner who does not have a written storage or service agreement that includes a notice of a lien created under this act on property originally left at the facility only for repairs, labor, maintenance services, or materials installation on a repair order shall not do either of the following:

(a) File a lien for service or storage fees on the property before 30 days after the notice of intent to commence service or storage fees was filed with the prior lienholder.

(b) Initiate an enforcement of lien action under section 5 until 30 days after the written notice of a lien required by subsection (1)(b) is delivered to the property owner and all prior lienholders.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998 ;-- Am. 2016, Act 286, Eff. Dec. 26, 2016

570.375 Enforcement of lien.

Sec. 5.

(1) A facility owner shall enforce a lien created under this act only if the facility owner has notified the property owner and all prior lienholders of the lien as required by section 4.

(2) If a property owner is in default for a period of more than 180 days, the facility owner may enforce the lien by selling the repaired or stored property at a commercially reasonable public sale. As used in this section, "commercially reasonable" means that term as defined in the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.9994. The proceeds of the sale under this section must be applied in the following order:

(a) To the reasonable expenses of the sale incurred by the facility owner including, to the extent not prohibited by law, reasonable attorney fees and legal expenses.

(b) To satisfy the lien created under this act to the extent that it has priority over all other liens.

(c) To satisfy all other liens on the property held by all lienholders of record to be paid in the order of priority.

(d) To the extent that the proceeds of sale exceed the sum of the items described in subdivisions (a) to (c), the facility owner shall pay the surplus to the property owner.

(3) If, after satisfying the reasonable expenses of the sale and the lien under subsection (2), there is a dispute concerning the priority of record lienholders under subsection (2), the facility owner may hold the proceeds of the sale until the dispute is settled by the written agreement of the parties or until an order or final judgment is issued by a court of competent jurisdiction relative to the dispute. The facility owner may pay the proceeds of sale to a court with subject matter jurisdiction. After a facility owner pays the proceeds to a court as described in this subsection, the facility owner is relieved of all further obligation concerning the proceeds.

(4) If proceeds of the sale under this section are not sufficient to satisfy the property owner's outstanding

obligations to the facility owner or any lienholder of record, the property owner remains liable to the facility owner or lienholder for the deficiency.

(5) Before conducting a sale under this section, and within a reasonable time after default has continued for more than 180 days, the facility owner shall do both of the following:

(a) Mail a notice of default to the property owner and the secretary of state by certified mail or by another commercially available delivery service that provides proof of delivery, and, if the property is registered in another state or with a federal agency, mail a notice by certified mail to the other state or federal agency responsible for registration or documentation of the property. If the property is a vessel or trailer, the secretary of state shall provide the facility owner with the name and address of the registered owner of the vessel or trailer and a list of all lienholders. If the owner of property cannot be determined because of the condition of identification numbers or because a check of the records of the secretary of state or, if applicable, an agency of another state or federal agency does not reveal ownership, the facility owner may send notice of default by certified mail or by another commercially available delivery service that provides proof of delivery to the person that delivered the property to the facility, if known, at the person's last known address and shall publish in the print or electronic version of a newspaper of general circulation a notice that contains a description of the property and the information required to be provided in a notice of default. The facility owner shall provide a copy of the notice of default to each lienholder of record provided by the secretary of state. The notice of default must include all of the following:

(i) A statement that the property is subject to a lien held by the facility owner.

(ii) A statement of the facility owner's claim indicating the charges due on the date of the notice, the amount of any additional charges that will become due before the date of sale, and the date the additional charges will become due.

(iii) A demand for payment of the charges due within a specified time not less than 30 days after the date the notice is delivered to the property owner and all lienholders of record.

(iv) A statement that the property will be sold if the claim is not paid within the time stated in the notice. The statement must include the time and location of the sale.

(v) The name, street address, and telephone number of the facility owner, or the facility owner's designated agent, whom the property owner may contact to respond to the notice.

(b) After the expiration of the 30-day period set forth in subdivision (a)(iii), publish an advertisement of the sale once a week for 2 consecutive weeks in the print or electronic version of a newspaper of general circulation in the area where the sale is to be held. The advertisement must include a general description of the property, the name of the property owner, and the time and location of the sale. The date of the sale must be not less than 15 days after the date the first advertisement of the sale is published.

(6) At any time before the sale of property under this act, any lienholder may cure the default by paying the amount of the claim to the facility owner, which amount must be added to the lien of the lienholder.

(7) A sale under this act must be held at the facility or at another reasonable location.

(8) A person who purchases property sold at a commercially reasonable sale under this act takes the property free and clear of the rights of the property owner and all lienholders of record.

(9) A facility owner who complies with this act is liable as follows:

(a) The facility owner's liability to a lienholder of record is limited to the net proceeds received from the sale of the property.

(b) The facility owner's liability to the property owner is limited to the net proceeds received from the sale of the property after payment in full of all lienholders of record.

(10) A property owner or lienholder who suffers damages because of a facility owner's failure to comply with this act may bring an action in a court of competent jurisdiction for his or her actual damages or \$250.00, whichever is greater.

(11) A facility owner is limited to 1 lien under state law against a property for the storage, labor, repairs, maintenance services, materials, or supplies for the property. A facility owner who asserts a lien against a property under another statute or the common law shall not also assert a lien under this act for the same storage, labor, repairs, maintenance services, materials, or supplies, or other charges or expenses related to the property.

(12) A facility owner may deny a property owner who has been notified under subsection (5) access to the storage facility, except that the property owner is entitled to access to the facility during normal business hours for the purpose of satisfying the lien or viewing and verifying the condition of the property.

(13) Except as otherwise provided in this act, all notices required by this act must be mailed by registered or certified mail, return receipt requested. Notices to a facility owner must be mailed to the owner's business address or to the address of the owner's designated representative. Notices to a property owner must be mailed to the property owner's last known address as listed on the title, registration, or other marine documentation or as provided in the most recent agreement concerning storage, labor, repairs, maintenance services, materials, or supplies entered into between the facility owner and the property owner. Notices to a lienholder of record must be sent to the address of the lienholder as provided by the secretary of state under subsection (5). Notices are considered delivered on the date the recipient of the notice signs the return receipt or, if the notice is undeliverable, the date the post office last attempts to deliver the notice.

(14) The facility owner may bid all or a portion of his or her claim at the auction sale of the property.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998 ;-- Am. 2016, Act 286, Eff. Dec. 26, 2016

570.376 New title or registration; issuance by secretary of state.

Sec. 6.

The secretary of state shall issue a new title or registration to the purchaser of a vessel or trailer at a sale conducted under section 5. If the vessel or trailer was registered in another state, the secretary of state shall notify the other state that a new title or registration has been issued.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998 ;-- Am. 2016, Act 286, Eff. Dec. 26, 2016

570.377 Sale of documented vessel; satisfaction of requirements.

Sec. 7.

If a documented vessel is sold pursuant to this act, the facility owner shall satisfy the United States coast guard requirements for passage of title by operation of state law under 46 C.F.R. 67.91 that include providing all of the following:

- (a) A copy of this act.
- (b) An affidavit from the facility owner setting forth the grounds for selling the property and the steps taken to comply with this act.
- (c) Evidence of substantial compliance with this act.
- (d) A bill of sale in recordable form from the facility owner as agent for the property owner.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998

570.378 Termination of lien.

Sec. 8.

A lien under this act shall terminate and a facility owner shall immediately cease enforcement of actions brought under this act if either of the following occurs:

(a) The property owner pays the facility owner the full amount necessary to satisfy the lien or other amount that is accepted by a facility owner as payment in full. At any time before the conclusion of a sale conducted under this act, the property owner may redeem the property by paying the full amount necessary to satisfy the lien or other amount that is accepted by a facility owner as payment in full.

(b) A person other than the facility owner who has a lien on the property pays the facility owner the full amount necessary to satisfy the facility owner's lien or other amount that is accepted by a facility owner as payment in full. Upon payment by a lienholder of record, the facility owner shall hold the property for the benefit of and at the direction of that lienholder and shall not deliver possession of the property to the property owner. Unless the facility owner and the lienholder enter into a new storage agreement, the lienholder shall arrange removal of the property from the facility.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998

570.379 Inconsistent act provisions.

Sec. 9.

If a provision of this act is inconsistent with a provision of 1915 PA 312, MCL 570.301 to 570.309, then the provision of this act shall govern.

History: 1998, Act 362, Imd. Eff. Oct. 20, 1998

LIEN ON WATERCRAFT

Act 59 of 1864 (Ex. Sess.)

AN ACT to repeal chapter 122 of the Revised Statutes of 1846, and the amendments thereto, and provide for the collection of demands against water-craft.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864

The People of the State of Michigan enact:

570.401 Repeal; saving clause.

Sec. 1.

That chapter 122 of the Revised Statutes of 1846, and an act entitled "An act to amend an act to regulate proceedings in the collection of demands against ships, boats and vessels," approved April first, 1850, and an act entitled "An act to amend chapter 122 of the Revised Statutes," approved February 17, 1857, the aforesaid laws constituting chapter 149 of the Compiled Laws, be and the same are hereby repealed: Provided, That this act shall not affect any case or proceeding under the aforesaid laws commenced before the passage of this act, but every such case or proceeding may be continued to its final consummation in like manner as if this act had not been passed: And further provided, That this act shall not affect any lien which may have accrued under the aforesaid laws, and is existing at the time of the passage hereof; but every such lien shall be enforced according to the provisions of this act.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6647 ;-- How. 8235 ;-- CL 1897, 10788 ;-- CL 1915, 14891 ;-- CL 1929, 13137 ;-- CL 1948, 570.401

570.402 Liens upon certain watercraft for certain debts.

Sec. 2.

Every watercraft of above 5 tons burthen, used, or intended to be used, in navigating the waters of this state, shall be subject to a lien thereon—

First. For all debts contracted by the owner or part owner, master, clerk, agent or steward of such craft, on account of supplies and provisions furnished for the use of said watercraft; on account of work done, or services rendered, on board of such craft, by seamen, or any employee, other than the master thereof; on account of work done, or services rendered, by any person, in or about the loading or unloading of said watercraft; on account of work done, or materials furnished by mechanics, tradesmen or others, in or about the building, repairing, fitting, furnishing or equipping such craft: Provided, That when labor shall be performed, or materials furnished as

aforesaid, by a sub-contractor, or workman, other than an original contractor, and the same is not paid for, said person or persons may give the owner, or his agent, or the master or clerk of said craft, timely notice of his or their said claim, and from thenceforth said person or persons shall have a lien upon said craft, pro rata, for his or their said claims, to the amount that may be due by said owner, to said original contractor, for work or labor then done on said water-craft.

Second. For all sums due for wharfage, anchorage, or dock hire, including the use of dry docks; the lying immediately in front of, or attached to any wharf, dock, or pier, within this state, so as to prevent the use of any portion of such wharf, dock or pier, by other watercraft, with or without the discharge of freight or passengers across such wharf, dock or pier, after a notice to leave, shall be an evidence of an agreement to pay for such use whatever the same may be worth.

Third. For sums due for bottomry, salvage, towage, lighterage, insurance, labor at pumping out or raising such watercraft, and for general average, whether in whole or in part, within this state.

Fourth. For all damages arising from the non-performance of any contract of affreightment, or of any contract touching the transportation of persons or property, entered into by the master, owner, agent or consignee of such water-craft, where any such contract is to be, or shall have been performed, in whole or in part, within this state.

Fifth. For all damages arising from injuries done to persons or property, by such water-craft, where the same shall have occurred through the negligence or misconduct, of the owner, part owner, master, agent or other employee of said water-craft, or through the failure, on the part of such water-craft, to observe any law of the United States relative to the equipment or management of such craft, including injuries to any person, not of the ship's company, from accidents on board said water-craft, occurring as aforesaid.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- Am. 1867, Act 82, Eff. June 27, 1867 ;-- CL 1871, 6648 ;-- How. 8236 ;-- CL 1897, 10789 ;-- CL 1915, 14892 ;-- CL 1929, 13138 ;-- CL 1948, 570.402

570.403 Complaint; filing, jurisdiction of courts in certain counties.

Sec. 3.

Any person claiming to have any such lien as is specified in the preceding sections may file a complaint, giving security for costs as hereinafter provided with the clerk of the circuit court of any county, setting forth, in separately numbered articles, the facts upon which such claim is based, and the amount due over and above all payments and discounts, as near as may be, which shall be verified by affidavit, in the same manner as bills in chancery: Provided, That in Wayne county such complaint shall be filed with the clerk of the recorder's court of Detroit, or the clerk of the circuit court of said Wayne county, and that said courts, and the circuit courts of the counties of Macomb, St. Clair, Monroe, Sanilac and Huron, shall exercise concurrent jurisdiction over all water-craft within the limits of either of said counties, and that process issued, as provided in the next section, from the courts of either of said counties, may be served in the waters of either of said counties by the sheriff of either; and that the circuit courts of the counties of Saginaw and Bay shall exercise concurrent jurisdiction over all water-craft within the limits of either county, and that process issued from either of said last named courts may be served in the waters of either county, by the sheriff of either. The circuit court of the counties of Kent and Ottawa shall in like manner exercise concurrent jurisdiction over all water-craft within the limits of either county, and the circuit courts of the counties of Muskegon and Nawaygo shall exercise concurrent jurisdiction over all water-craft within the limits of either county, and process issued from either of said courts exercising such concurrent jurisdiction may be served in the waters of either county by the sheriff of either.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6649 ;-- How. 8237 ;-- CL 1897, 10790 ;-- CL 1915, 14893 ;-- CL 1929, 13139 ;-- CL 1948, 570.403

570.404 Warrant, summons; issuance, contents, return date.

Sec. 4.

Upon filing such complaint, the clerk shall enter the same in a separate calendar to be kept for that purpose, and shall issue a warrant to the sheriff of the county, under the seal of the court, and returnable in not less than 14 nor

more than 30 days from its date, containing a brief statement of the claim filed, commanding him to seize and safely keep such water-craft, her tackle, apparel and furniture, to answer all such liens as shall be established against it according to law, and to make return of his proceedings under such warrant within 10 days after seizure; and the clerk shall also issue a summons to the owner or master of such craft, containing a similar statement, and returnable as aforesaid at the same time as the warrant, which said warrant and summons shall be served at least 14 days before the return day thereof.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6650 ;-- How. 8238 ;-- CL 1897, 10791 ;-- CL 1915, 14894 ;-- CL 1929, 13140 ;-- CL 1948, 570.404

570.405 Warrant; execution by sheriff.

Sec. 5.

The sheriff to whom such warrant shall be directed and delivered shall forthwith execute the same, and shall keep the water-craft, and other property seized by him to be disposed of as hereinafter provided.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6651 ;-- How. 8239 ;-- CL 1897, 10792 ;-- CL 1915, 14895 ;-- CL 1929, 13141 ;-- CL 1948, 570.405

570.406 Warrant; return.

Sec. 6.

Such sheriff shall also, within 10 days after such seizure, make a return to the court who issued the warrant, stating therein, particularly, his doings in the premises, and shall make out, subscribe and annex thereto a just and true inventory of all the property so seized.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6652 ;-- How. 8240 ;-- CL 1897, 10793 ;-- CL 1915, 14896 ;-- CL 1929, 13142 ;-- CL 1948, 570.406

570.407 Warrant; number against same craft, limitation.

Sec. 7.

Whenever any such warrant shall be issued, no other warrant shall issue against the said water-craft unless the first warrant be suspended.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6653 ;-- How. 8241 ;-- CL 1897, 10794 ;-- CL 1915, 14897 ;-- CL 1929, 13143 ;-- CL 1948, 570.407

570.408 Notice on return of warrant; publication.

Sec. 8.

Upon return being made to such warrant, unless the vessel has been bonded, as hereinafter provided, the clerk shall immediately cause the notice hereinafter specified, to be published in some daily or weekly newspaper printed

in the county in which the warrant shall have been issued, and if there be none printed in such county, then in some other newspaper; said newspaper in which said notice is to be printed, in all cases, to be designated by a general order to be made by the court, specifying the number of insertions, and the time thereof, to be not less than 14 days.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6654 ;-- How. 8242 ;-- CL 1897, 10795 ;-- CL 1915, 14898 ;-- CL 1929, 13144 ;-- CL 1948, 570.408

570.409 Warrant; contents.

Sec. 9.

Such notice shall contain the names of the complainant, of the water-craft, the port to which she belongs, if known, and a brief statement of the alleged claim, with amounts, and a citation to all persons to intervene for their interest, on a day certain, or that said claim will be heard ex parte.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6655 ;-- How. 8243 ;-- CL 1897, 10796 ;-- CL 1915, 14899 ;-- CL 1929, 13145 ;-- CL 1948, 570.409

570.410 Intervening complaints; rights, summons.

Sec. 10.

Any person having any interest in, or claim against the water-craft seized may intervene to protect such interest or collect such claim by filing a complaint as hereinbefore provided, entitled an intervening complaint and the complainant or any other person interested may defend any complaint by filing an answer as hereinafter provided, and giving security to the satisfaction of the court to pay any costs arising from such defense; and upon filing any such intervening complaint a summons as hereinbefore provided shall issue; and if the same shall be returned not served, notice by publication shall be given as aforesaid; and several intervening complaints may be united with each other or the original in 1 notice, providing that due filing of 1 intervening complaint shall be deemed the commencement of a separate suit, except that but 1 entry fee need be paid.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- CL 1871, 6656 ;-- How. 8244 ;-- CL 1897, 10797 ;-- CL 1915, 14900 ;-- CL 1929, 13146 ;-- CL 1948, 570.410

570.411 Intervening complaints; time for filing.

Sec. 11.

Intervening complaints may be filed at any time before the sale of the water-craft, as hereinafter provided; and after sale under judgment or decree, any intervening complainant may file his complaint against any surplus proceeds remaining in court after payment of claims filed before sale, and the costs thereon; and the same proceedings shall thereupon be had as in the case of claims filed before sale.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6657 ;-- How. 8245 ;-- CL 1897, 10798 ;-- CL 1915, 14901 ;-- CL 1929, 13147 ;-- CL 1948, 570.411

570.412 Liens not filed before sale; cessation.

Sec. 12.

All liens upon any water-craft, which shall not be filed hereunder, before sale under decree or judgment, as hereinafter provided, shall cease.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6658 ;-- How. 8246 ;-- CL 1897, 10799 ;-- CL 1915, 14902 ;-- CL 1929, 13148 ;-- CL 1948, 570.412

570.413 Writ of restitution; application, issuance.

Sec. 13.

The master or any person interested in such water-craft, so seized as aforesaid may at any time before judgment or decree of sale shall be made as hereinafter provided, apply to the clerk issuing the warrant for a writ of restitution. Said writ shall command the sheriff or other person holding the same to restore such water-craft to the person in whose possession the same was found when seized or his authorized agent and may be served by any person.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- CL 1871, 6659 ;-- How. 8247 ;-- CL 1897, 10800 ;-- CL 1915, 14903 ;-- CL 1929, 13149 ;-- CL 1948, 570.413

570.414 Bond on restitution; conditions, sureties.

Sec. 14.

Such person shall execute and file with the clerk a bond to the parties having previously filed complaints, in a penalty at least double the aggregate of the sums alleged to be due in all such complaints previously filed: Provided, That upon good cause shown by affidavit, the court, or the judge thereof, may, by special order, upon application and like notice as below specified, fix the amount of the penalty at a less sum, and in no case less than 100 dollars, with such surety or sureties as shall be approved by the clerk, as hereinafter provided, conditioned, after a recital of the names of the complainants, and the amount of their claims, that the obligors will pay all moneys adjudged or decreed to be due upon such claims, by the court entertaining the same, or the appellate court, with all costs, and that the judgment or decree of either court may be entered against them for the payment of such moneys, with interest and costs, and that execution may issue against them therefor, in the forms now in use in the circuit courts of this state in personal actions.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6660 ;-- How. 8248 ;-- CL 1897, 10801 ;-- CL 1915, 14904 ;-- CL 1929, 13150 ;-- CL 1948, 570.414

570.415 Bond on restitution; notice of application; sureties, justification and examination.

Sec. 15.

Upon application to the clerk to bond, as aforesaid, notice thereof shall be given to the attorney of the complainants, of at least 3 hours if the attorney reside in the same city or village with the clerk, and if not, the notice shall be of 24 hours, exclusive of Sundays and holidays, in addition to the ordinary time of travel between the residence of the clerk and such attorney; and the surety or sureties offered shall justify their responsibility to the satisfaction of the clerk; and such attorney may examine the surety or sureties, under oath, touching their property and liabilities; and it shall be the duty of the clerk, if requested by such attorney, to reduce such examination to writing, and cause the same to be subscribed by the persons examined, and filed.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6661 ;-- How. 8249 ;-- CL 1897, 10802 ;-- CL 1915, 14905 ;-- CL 1929, 13151 ;-- CL 1948, 570.415

570.416 Motion for additional security.

Sec. 16.

If such complainant shall at any time become satisfied that his security has become imperiled, he may by motion founded upon affidavit filed, and upon notice served with copy of papers, move the court or judge thereof to direct the giving of additional security, which motion shall be summarily heard and determined, and such order made therein as justice shall require.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6662 ;-- How. 8250 ;-- CL 1897, 10803 ;-- CL 1915, 14906 ;-- CL 1929, 13152 ;-- CL 1948, 570.416

570.417 Order of appraisalment; issuance of writ of restitution; court order for sale to prevent loss.

Sec. 17.

If any party in interest so elect, in place of bonding as aforesaid, he may apply to the court or judge thereof upon like notice as aforesaid, for an order of appraisalment of such water-craft so seized, by 3 competent persons to be appointed by the court or judge thereof, and named in the order; and upon such party depositing with the clerk the amount of such appraisalment in money, or executing and filing with him a bond for said amount, executed as heretofore provided in sections 13 and 14, it shall be the duty of the clerk to issue a writ of restitution as provided in the next section; and if the claimant of such water-craft shall decline any such application, or the property seized shall be liable to decay, depreciation, or injury from delay, the court in its discretion, may order the same or part thereof to be sold, and the proceeds thereof to be brought into court to abide the event of the suit.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6663 ;-- How. 8251 ;-- CL 1897, 10804 ;-- CL 1915, 14907 ;-- CL 1929, 13153 ;-- CL 1948, 570.417

570.418 Writ of restitution; issuance by clerk upon receipt of security, discharge from lien.

Sec. 18.

Upon receiving a bond or deposit as aforesaid, it shall be the duty of the clerk to issue a writ of restitution, directing the person who seized the water-craft to deliver the same to the person from whose possession the same was taken and seized; and the said water-craft shall thenceforth be discharged from all the liens secured by such bond or deposit, unless the court or judge thereof, upon motion as aforesaid, shall order the same again into custody by special writ, on account of the insolvency of the surety or sureties.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6664 ;-- How. 8252 ;-- CL 1897, 10805 ;-- CL 1915, 14908 ;-- CL 1929, 13154 ;-- CL 1948, 570.418

570.419 Entry of appearance; notice, default.

Sec. 19.

Within 14 days after the return day of the summons, if personally served, or if not served then within the time prescribed in the published notice, the owner or any person interested adversely to the claims mentioned in the notice, may enter an appearance by attorney, in the book of common rules, with an order that a copy of the complaint be served upon him, and serve notice of such appearance and order upon the attorney filing the complaint, who shall serve a copy thereof as required, within 10 days thereafter, or the default of the complainant (or intervenor) may be duly entered in said book, made absolute, and judgment of discontinuance entered as in personal actions.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6665 ;-- How. 8253 ;-- CL 1897, 10806 ;-- CL 1915, 14909 ;-- CL 1929, 13155 ;-- CL 1948, 570.419

570.420 Answer or demurrer; time for filing, effect of answer.

Sec. 20.

Within 10 days after service of a copy of complaint unless on cause shown, further time shall be allowed by the circuit judge, or circuit court commissioner of the proper county, the party defending shall demur or file his answer upon oath or affirmation or his default may be entered and judgment rendered against him as upon similar actions. The answer shall be full and distinct to each article and allegation of the complaint, but such answer shall not have the effect of a sworn answer in chancery as evidence, nor shall it be necessary to answer any allegation or interrogatory (as provided in the next section) involving a liability to prosecution or punishment, or for a penalty or forfeiture.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- CL 1871, 6666 ;-- How. 8254 ;-- CL 1897, 10807 ;-- CL 1915, 14910 ;-- CL 1929, 13156 ;-- CL 1948, 570.420

570.421 Interrogation; appended to pleadings, filing; answer.

Sec. 21.

Any party complaining or defending may append to the complaint or answer, as the case may be, any pertinent interrogatories, or upon such motion or notice the court may permit such interrogatories to be filed at any other time; and the personal answer to all such interrogatories shall be filed upon oath within the same time that pleadings are required to be filed, or as required by special order; and such answers so far as responsive, may be read as evidence by either party on the trial or hearing; and if either party shall refuse to answer to such interrogatories, the court shall make such order as to right shall appertain.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6667 ;-- How. 8255 ;-- CL 1897, 10808 ;-- CL 1915, 14911 ;-- CL 1929, 13157 ;-- CL 1948, 570.421

570.422 Pleadings subsequent to answer; amended complaint.

Sec. 22.

There shall be no pleadings subsequent to the answer, but within 10 days after filing and service of answer, or demurrer, the complainant or intervenor, may file and serve an amended complaint, to which answer or demurrer shall be filed, as hereinbefore provided in case of original complaints.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6668 ;-- How. 8256 ;-- CL 1897, 10809 ;-- CL 1915, 14912 ;-- CL 1929, 13158 ;-- CL 1948, 570.422

570.423 Exceptions to answer.

Sec. 23.

Complainant, or intervenor, may except to the answer, and either party may except to answer to interrogatories, for irrelevancy, or want of fullness, distinctness, and such exceptions may be noticed for hearing in term, or at chambers.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6669 ;-- How. 8257 ;-- CL 1897, 10810 ;-- CL 1915, 14913 ;-- CL 1929, 13159 ;-- CL 1948, 570.423

570.424 Trial or hearing; notice.

Sec. 24.

Notice of trial or hearing may be for any day in term, and shall be of 10 days, exclusive of both day of service and the day for which the notice is given; and it shall be the duty of the clerk to prepare a separate docket of all such cases noticed, of which a note of issue has been filed within the time required for notices of trial.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6670 ;-- How. 8258 ;-- CL 1897, 10811 ;-- CL 1915, 14914 ;-- CL 1929, 13160 ;-- CL 1948, 570.424

570.425 Trial or hearing; jury trial, demand.

Sec. 25.

The trial or hearing shall be by the court without a jury, unless a jury be demanded by either party, by filing the demand 5 days before the time for which notice shall have been given, and serving a notice of such demand upon the adverse party.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6671 ;-- How. 8259 ;-- CL 1897, 10812 ;-- CL 1915, 14915 ;-- CL 1929, 13161 ;-- CL 1948, 570.425

570.426 Evidence; taking by attorney or commissioner, report to court.

Sec. 26.

The court may, by special order, refer any matter arising in the progress of the cause, to any attorney or circuit court commissioner, to take evidence, and report the same to the court, with his opinion thereon, with all convenient speed, but said opinion shall not be binding on the court.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6672 ;-- How. 8260 ;-- CL 1897, 10813 ;-- CL 1915, 14916 ;-- CL 1929, 13162 ;-- CL 1948, 570.426

570.427 Admiralty principles; applicability.

Sec. 27.

All cases of general average, salvage and collision, and all cases relating to sailors' wages, or to the employment of seamen, arising under this act, shall be determined, upon the trial or hearing, and upon appeal, according to the principles established in courts of admiralty and maritime jurisdiction in such cases.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1867, Act 82, Eff. June 27, 1867 ;-- CL 1871, 6673 ;-- How. 8261 ;-- CL 1897, 10814 ;-- CL 1915, 14917 ;-- CL 1929, 13163 ;-- CL 1948, 570.427

570.428 Judgment for complainant; in personna.

Sec. 28.

If, upon the trial or hearing, judgment or decree shall pass for complainant, and the water-craft has been discharged from custody, as herein provided, said judgment or decree shall be rendered and entered against the principal and sureties in the bond: Provided, That in no case shall the judgment exceed the penalty of the bond, and the subsequent proceedings shall be the same as now provided by law in personal actions in the circuit courts: Provided further, That if the release has been upon deposit, the judgment shall be in form against the party making the deposit, with a clause that it be satisfied out of said deposit, and said party shall not be personally liable upon said judgment.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6674 ;-- How. 8262 ;-- CL 1897, 10815 ;-- CL 1915, 14918 ;-- CL 1929, 13164 ;-- CL 1948, 570.428

570.429 Judgment for complainant; in rem.

Sec. 29.

In case the water-craft has not been discharged from custody, the judgment or decree shall be in form against the water-craft, with an additional order that the same, with the appurtenances, be sold at public vendue by the sheriff, after notice of the time and place of said sale, published as herein required in cases of seizure, at least 10 days before such sale. Provided, That, in case of complaint filed prior to sale, but not in judgment at the time thereof, the judgment or decree shall be the same in form with a clause for payment out of the proceeds of sale; and in case of claims filed against surplus proceeds, the judgment, if in favor of claimant, shall in substance, affirm the claim to be sustained and direct payment thereof from the surplus proceeds.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1867, Act 82, Eff. June 27, 1867 ;-- CL 1871, 6675 ;-- How. 8263 ;-- CL 1897, 10816 ;-- CL 1915, 14919 ;-- CL 1929, 13165 ;-- CL 1948, 570.429

570.430 Sale of craft; writ.

Sec. 30.

The clerk shall thereupon issue a writ of sale commanding the sheriff to sell such water-craft as directed in the judgment or decree, and to return said writ within 24 hours after sale, with his doings in the premises, and with proof by affidavit of the requisite notice, with a copy of such notice.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6676 ;-- How. 8264 ;-- CL 1897, 10817 ;-- CL 1915, 14920 ;-- CL 1929, 13166 ;-- CL 1948, 570.430

570.431 Sale of craft; duty of sheriff.

Sec. 31.

It shall be the duty of the sheriff, upon receiving the amount of the bid from the purchaser, or in case the purchaser is the complainant or an intervenor, upon receiving so much of the bid as the court or judge thereof shall direct by special order, reference being had to the relative amount of the buyer's claim, to deliver such water-craft and appurtenances to the purchaser and also a bill of sale thereof, and to deliver to the clerk the amount by him, the sheriff, so received.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6676 ;-- How. 8265 ;-- CL 1897, 10818 ;-- CL 1915, 14921 ;-- CL 1929, 13167 ;-- CL 1948, 570.431

570.432 Sale of craft; bill of sale, contents, use as evidence, effect on title.

Sec. 32.

A copy of the last enrollment, if any, of such watercraft, shall be recited in the bill of sale, if such copy can be obtained; and a copy of the judgment or decree, with the order of sale, shall also be recited in such bill of sale; and such recital, together with a copy of such decree and order, certified by the clerk, under the seal of the court, shall be full and complete evidence of the regularity of the decree and sale in all courts and places, and shall supersede the necessity of any other proof thereof to validate said bill of sale; and all bills of sale containing such recital and supported by such proof shall be as effectual to pass the title of such water-craft therein mentioned, free and clear of all liens existing before such sale under this act or any previous law of this state, and all liens asserted or which might have been asserted in the proceedings prior to sale to the purchaser, as fully as if made by the owners immediately before the sale, and shall also vest in such purchaser an indefeasible title as against all chattel mortgages or other incumbrances created by the owner as well as against the owner himself, and such liens as aforesaid.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6677 ;-- How. 8266 ;-- CL 1897, 10819 ;-- CL 1915, 14922 ;-- CL 1929, 13168 ;-- CL 1948, 570.432

570.433 Sale of craft; distribution of proceeds.

Sec. 33.

The sum delivered by the sheriff, to the clerk as aforesaid, shall be distributed by the court, or by the circuit judge at chambers, upon motion of any party in interest of record, prior to the sale, and due notice to the other parties, and after the following manner:

First. The costs accruing upon all complaints filed before sale, and on which judgment or decree are, or may be within 20 days thereafter, rendered in favor of the complainant.

Second. Salvage.

Third. Seaman's wages.

Fourth. All other claims filed prior to sale, and on which decree, or judgment, may have been, or may, within 20 days thereafter be rendered, in favor of complainant.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- Am. 1867, Act 82, Eff. June 27, 1867 ;-- CL 1871, 6678 ;-- How. 8267 ;-- CL 1897, 10820 ;-- CL 1915, 14923 ;-- CL 1929, 13169 ;-- CL 1948, 570.433

570.434 Sale of craft; distribution of surplus.

Sec. 34.

Any portion of the sum so paid by the sheriff to the clerk, or of a deposit remaining after such distribution as aforesaid shall be denominated surplus proceeds, and when any claim or complaint shall be filed against the same, as provided in section 11 of this act, distribution shall be directed by the court, after decrees or judgment, upon motion and notice as provided in the last section, and after the following order:

First. All costs upon claims passing into decree which were filed after sale:

Second. All other liens enforceable under this act against the water-craft prior to sale in the order in which they were filed:

Third. All claims upon mortgages of such water-craft or other incumbrances created by the owner in proportion to the interest they cover and priority:

Fourth. The owner.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- CL 1871, 6679 ;-- How. 8268 ;-- CL 1897, 10821 ;-- CL 1915, 14924 ;-- CL 1929, 13170 ;-- CL 1948, 570.434

570.435 Sale of craft; payment of claims based on subsequent decree or appeal.

Sec. 35.

In case the sum for which the water-craft is sold, is sufficient to pay all the claims filed before sale, with costs thereon, the court may, from time to time, order such claim and costs thereon to be paid, in whole or in part, as decrees may from time to time be rendered; and in case of appeal from any decree, as hereinafter provided, the court may order distribution of such portion of the sum brought on the sale as may seem just and proper.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6680 ;-- How. 8269 ;-- CL 1897, 10822 ;-- CL 1915, 14925 ;-- CL 1929, 13171 ;-- CL 1948, 570.435

570.436 Appeal to supreme court; claim, bond.

Sec. 36.

Any party complaining or defending, who may think himself aggrieved by the final decree or judgment of the court, may appeal therefrom to the supreme court; a claim of appeal shall be filed with the clerk within 10 days after the making of the decree or judgment appealed from, and the appellant shall within 5 days thereafter, file a bond to the adverse party with the clerk, with surety or sureties to be approved as hereinbefore provided in case of bonding the water-craft, and to be in case of an appeal by a defendant, in a penalty double the amount of the decree or judgment conditioned to abide the order of the appellate court, and further conditioned that judgment may be entered against them in accordance with such order; in case of appeal by complainant the penalty shall be 200 dollars, and the condition as above provided.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6681 ;-- How. 8270 ;-- CL 1897, 10823 ;-- CL 1915, 14926 ;-- CL 1929, 13172 ;-- CL 1948, 570.436

570.437 Appeal to supreme court; transcript of record.

Sec. 37.

Upon such appeal being perfected, it shall be the duty of the clerk to prepare a transcript of the pleadings, and the judgment or decree of the court below, and send up the same with any original depositions taken in the case, within 20 days thereafter.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6682 ;-- How. 8271 ;-- CL 1897, 10824 ;-- CL 1915, 14927 ;-- CL 1929, 13173 ;-- CL 1948, 570.437

570.438 Appeal to supreme court; hearing de novo.

Sec. 38.

The hearing in the supreme court shall be de novo upon such transcript and depositions, and further testimony taken as provided in the next section.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6683 ;-- How. 8272 ;-- CL 1897, 10825 ;-- CL 1915, 14928 ;-- CL 1929, 13174 ;-- CL 1948, 570.438

570.439 Appeal to supreme court; jurisdiction, acquisition, taking of testimony.

Sec. 39.

The causes shall be considered as in the supreme court, from the perfecting of the appeal; and at any time within 60 days thereafter, unless the time shall be extended by order of any justice of the court, either party may take testimony by deposition or commission, in the mode now provided by law in any case, without regard to the place of residence of the witness.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6684 ;-- How. 8273 ;-- CL 1897, 10826 ;-- CL 1915, 14929 ;-- CL 1929, 13175 ;-- CL 1948, 570.439

570.440 Appeal to supreme court; order.

Sec. 40.

The supreme court shall hear and determine such appeal, and shall have power to reverse, affirm or modify the judgment or decree of the court below, and to make such other order as shall be just.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6685 ;-- How. 8274 ;-- CL 1897, 10827 ;-- CL 1915, 14930 ;-- CL 1929, 13176 ;-- CL 1948, 570.440

570.441 Appeal to supreme court; judgment on order.

Sec. 41.

Upon filing a certified copy of the order of the supreme court in the court below, judgment shall be entered in accordance therewith, against such parties as the court shall direct, and against all principals and sureties in any bond or bonds filed by such parties.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6686 ;-- How. 8275 ;-- CL 1897, 10828 ;-- CL 1915, 14931 ;-- CL 1929, 13177 ;-- CL 1948, 570.441

570.442 Fees; clerk, sheriff, attorney.

Sec. 42.

The fees of the clerk and sheriff, shall be the same as now provided by law, in personal actions, in the circuit court, as near as may be, and the court shall have power, by general order, to make all needed modifications. The court shall also have power, in any particular case, to make a further allowance to the sheriff, or his deputies, when the circumstances of the case shall require. The sheriff shall receive, for the custody of any craft, under 75 tons, 1 dollar per day; if over 75 tons, 1 dollar and 50 cents per day. The fees of attorneys, to be taxed in favor of the prevailing party, shall be the same as provided in personal actions, by the rules of the circuit court.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1867, Act 82, Eff. June 27, 1867 ;-- CL 1871, 6687 ;-- How. 8276 ;-- CL 1897, 10829 ;-- CL 1915, 14932 ;-- CL 1929, 13178 ;-- CL 1948, 570.442

570.443 Rules of practice.

Sec. 43.

The supreme court may make any rules deemed necessary for the regulation of proceedings under this act, not conflicting with any of its provisions.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6688 ;-- How. 8277 ;-- CL 1897, 10830 ;-- CL 1915, 14933 ;-- CL 1929, 13179 ;-- CL 1948, 570.443

570.444 Proceedings upon cases arising in other states.

Sec. 44.

In cases where by the general maritime law or laws of any other of the United States, now or hereafter to be passed, liens similar to those provided for in this act shall have been created against water-craft, the same may be enforced under the proceedings established by this act, in like manner as if they accrued in this state, and chattel mortgages upon such water-craft, or other interest therein held in such other states under the laws thereof, may be enforced hereunder against surplus proceeds, in like manner as if held in this state under its laws.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6689 ;-- How. 8278 ;-- CL 1897, 10831 ;-- CL 1915, 14934 ;-- CL 1929, 13180 ;-- CL 1948, 570.444

570.445 Enforcement of lien; time limitation, effect of bona fide purchase of craft.

Sec. 45.

Liens may be enforced under this act at any time within 6 years from their origin: Provided, That no lien shall be enforced against a water-craft in the hands of a bona-fide purchaser without notice, unless a complaint to enforce the same shall have been filed in the proper court in the county where the party claiming the lien resides, within 1 year from the time when the same accrued.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6690 ;-- How. 8279 ;-- CL 1897, 10832 ;-- CL 1915, 14935 ;-- CL 1929, 13181 ;-- CL 1948, 570.445

570.446 Costs; security; taxation, appeal.

Sec. 46.

The complainant and intervenors shall, at the time of filing their complaints, file security for costs to the satisfaction of the clerk; and the attorney for complainant or intervenor shall be liable for all costs and expenses until such security shall be given, and payment of the same may, upon motion of the court, be enforced by summary process of attachment: Provided, That in suits for seamen's wages no security for costs shall be required, except by special order of the court or judge thereof, upon motion and notice, and for good cause shown. Costs shall be taxed by the clerk upon notice as provided by the rules of the circuit courts, and either party may appeal from the taxation to the court, by filing his objections, serving a copy thereof upon the adverse party, and bringing the same to hearing upon notice.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6691 ;-- How. 8280 ;-- CL 1897, 10833 ;-- CL 1915, 14936 ;-- CL 1929, 13182 ;-- CL 1948, 570.446

570.447 Proceedings and practice; depositions, writs, costs.

Sec. 47.

The proceedings and practice under this act shall be the same as in personal actions at law except as herein otherwise provided so far as the same may be applicable, and the depositions of witnesses may be taken for the same causes, in the same manner and with the like effect as in personal actions. Forms of writ under this act shall be devised by the court in analogy to those in use in such actions and in case the claimant of such water-craft or any person interested therein defending such suit shall prevail either upon an issue of law or of fact, the court shall render judgment in his favor for all costs incurred in such said suit and for all damages which he may have sustained by reason of the seizure of such water-craft to be assessed by the court or a jury the same as in personal actions, and the court may render judgment against the complainant and his surety for costs, and in favor of the party interested defending such claim. And execution may issue for the collection of such damages and costs, the same as in personal actions.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- Am. 1865, Act 323, Eff. June 22, 1865 ;-- CL 1871, 6692 ;-- How. 8281 ;-- CL 1897, 10834 ;-- CL 1915, 14937 ;-- CL 1929, 13183 ;-- CL 1948, 570.447

570.448 Record of proceedings; fee for certifying copies.

Sec. 48.

The proceedings under this act shall be deemed matters of record, but the same shall not be required to be recorded at large, but shall be carefully filed, kept and numbered, being fastened together in the clerk's office, and a docket, calendar or short memorandum thereof, with the numbers, kept in a book by the clerk; and the clerk for affixing his name and the seal of the court to any form or paper, or certifying a copy thereof, shall be entitled to

receive as compensation \$1.00 per page.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6693 ;-- How. 8282 ;-- CL 1897, 10835 ;-- CL 1915, 14938 ;-- CL 1929, 13184 ;-- CL 1948, 570.448 ;-- Am. 1963, Act 28, Imd. Eff. Apr. 25, 1963

570.449 Clerk of recorder's court; bond.

Sec. 49.

The clerk of the recorder's court of the city of Detroit, before performing any duties under this act, shall file with the city clerk, a bond to the people of the state, in a penalty of 5,000 dollars, with 2 sufficient sureties to be approved by the recorder or judge of the court, conditioned to safely keep and account for all moneys received by him under this act, and to abide by all orders of the court relative thereto; and said bond may be prosecuted by any party injured, in his own name.

History: 1864, Ex. Sess., Act 59, Eff. May 7, 1864 ;-- CL 1871, 6694 ;-- How. 8283 ;-- CL 1897, 10836 ;-- CL 1915, 14939 ;-- CL 1929, 13185 ;-- CL 1948, 570.449

LIEN ON INVENTORY

Act 180 of 1947

570.501-570.512 Repealed. 1962, Act 174, Eff. Jan. 1, 1964.

SELF-SERVICE STORAGE FACILITY ACT

Act 148 of 1985

AN ACT to provide for a lien on personal property stored at a self-service storage facility or self-contained storage unit in favor of the owner of the facility or self-contained storage unit; to limit the liability of self-service storage facility and self-contained storage unit owners; and to provide for enforcement.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001

The People of the State of Michigan enact:

570.521 Short title.

Sec. 1.

This act shall be known and may be cited as the "self-service storage facility act".

History: 1985, Act 148, Eff. Mar. 31, 1986

570.522 Definitions.

Sec. 2.

As used in this act:

(a) "Active duty" means active duty pursuant to an executive order of the president of the United States, an act of congress, or an order of the governor.

(b) "Armed forces" means that term as defined in section 2 of the veteran right to employment services act, 1994 PA 39, MCL 35.1092.

(c) "Last known address" means the street address, post office box, or electronic mail address provided by the tenant in the latest rental agreement or in a subsequent written notice of change of address by hand delivery, first-class mail, or electronic mail.

(d) "Michigan national guard" means that term as defined in section 105 of the Michigan military act, 1967 PA 150, MCL 32.505.

(e) "Owner" means the owner, operator, lessor, or sublessor of a self-service storage facility or self-contained storage unit or his or her agent or any other person authorized by him or her to manage the facility or to receive rent from a tenant under a rental agreement.

(f) "Rental agreement" means an agreement or lease that establishes or modifies terms, conditions, rules, or any other provision concerning the use and occupancy of a self-service storage facility or use of a self-contained storage unit.

(g) "Self-contained storage unit" means a unit not less than 500 cubic feet in size, including, but not limited to, a trailer, box, or other shipping container, that is leased by a tenant primarily for use as storage space whether the unit is located at a facility owned or operated by the owner or at another location designated by the tenant.

(h) "Self-service storage facility" or "facility" means any real property designed or used for the purpose of renting or leasing individual storage space to tenants who are to have access to that space for the purpose of storing and removing personal property.

(i) "Service member" means a member of the armed forces, a reserve branch of the armed forces, or the Michigan national guard.

(j) "Tenant" means a person or the person's sublessee, successor, or assign entitled to the use of storage space to the exclusion of others at a self-service storage facility or in a self-contained storage unit under a rental agreement.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009

570.523 Lien; attachment; priority; written notice; limit on property value; late payment charge.

Sec. 3.

(1) The owner of a self-service storage facility or a self-contained storage unit and the heirs, personal representatives, successors, and assignees of the owner have a lien upon all personal property, whether or not owned by the tenant, located at the self-service storage facility or self-contained storage unit for rent or other lawful charges incurred relative to the storage of the personal property, including expenses necessary for its preservation, or reasonably incurred in its sale pursuant to this act. The lien attaches on the date the personal property arrives at the self-service storage facility or self-contained storage unit or the date a rental agreement for the storage space is signed by the tenant, whichever is earlier.

(2) The priority of a lien under this act is as provided in section 5(14).

(3) If a tenant defaults on a rental agreement, the owner shall give notice to all holders of a perfected security interest under the uniform commercial code, 1962 PA 174, MCL 440.1101 to 440.11102, in which the tenant is named as a debtor.

(4) At the commencement of a rental agreement for storage space at a self-service storage facility or in a self-contained storage unit, the owner shall provide the tenant with the following written notice:

"NOTICE: If you fail to make your required payments, you will have to vacate the unit or your property may later be sold at a public sale. Before the sale, you will be notified by first-class mail or by electronic mail of the amount due. The notice will be mailed to your last known address. In order to preserve your right to be notified, it is important that you notify us in writing of any change in your mailing address. Also, you should supply us with the name and address of another person who can reach you if you are not at your mailing address, and we will notify that person at the same time and in the same manner as we notify you."

(5) A rental agreement under this section may provide for a limit on the value of the property stored at the

facility or unit. The stated limit shall be considered the maximum value of the stored property for all purposes.

(6) A rental agreement under this section may provide for a reasonable late charge for failure of the tenant to timely make payments for the storage space when due. A monthly late fee of \$20.00 or 20% of the monthly rental amount, whichever is greater, shall be considered reasonable and is not a penalty. The owner of the self-service storage facility or self-contained storage unit has the burden of justifying the reasonableness of any higher late fee.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009 ;-- Am. 2014, Act 61, Eff. June 26, 2014

570.524 Denial of access upon nonpayment of rent; disclosure of nontenant occupant; tenant as service member who is transferred or deployed.

Sec. 4.

(1) Upon the failure of a tenant to pay the rent for the storage space or unit when it becomes due, the owner may, without notice, not less than 5 days after the date the rent is due, deny the tenant access to the personal property located in the self-service storage facility or self-contained storage unit.

(2) The tenant who signs a rental agreement for storage space at a self-service storage facility shall disclose in writing the identity, including name, address, and telephone number, of the occupant if the occupant is other than the tenant who signs the agreement.

(3) A tenant who is a service member and who is transferred or deployed overseas on active duty for a period of 180 days or more may notify the owner of the transfer or deployment. The tenant shall provide written evidence of the transfer or deployment with the notice.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009

570.525 Enforcement of lien.

Sec. 5.

(1) An owner's lien under section 3 shall be enforced only as provided in this section.

(2) The tenant and any occupant designated by the tenant under section 4(2) shall be notified of the owner's intent to enforce the owner's lien by written notice delivered in person, by first-class mail, or by electronic mail to the tenant's and, if applicable, occupant's last known address. The notice shall include all of the following:

(a) An itemized statement of the owner's claim, showing the amount due at the time of the notice and the date when the amount became due.

(b) A demand for payment within a specified time not less than 14 days after delivery of the notice.

(c) A conspicuous statement that, unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of at a specified time and place as provided in subsection (5).

(d) The name, street address, and telephone number of the owner whom the tenant may contact to respond to the notice.

(e) A statement that if the tenant is a service member and is transferred or deployed overseas on active duty for a period of 180 days or more, the tenant is entitled to give the owner notice of that transfer or deployment and is entitled to protections under this act or other law.

(3) A notice under this section is presumed delivered when it is deposited with the United States postal service and properly addressed with postage prepaid or when it is transmitted by electronic mail to the tenant's last known electronic mail address.

(4) Subject to subsection (16), after the expiration of the time given in the notice described in subsection (2), the contents of the storage space may be moved to another storage space pending its sale or other disposition under this act.

(5) After the expiration of the time given in the notice described in subsection (2), except as provided in subsection (6), an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in the print or electronic version of a newspaper of general circulation in the area where the self-service

storage facility or self-contained storage unit is located or posted once per week for 2 consecutive weeks on a publicly available website identified in the rental agreement. Regardless of whether a sale involves the property of more than 1 tenant, a single advertisement may be used to advertise the disposal of property at the sale. An advertisement under this section shall include all of the following:

(a) A brief, general inventory, as described in subsection (7), of the personal property subject to the lien that is to be sold.

(b) The address of the self-storage facility or the address where the self-contained storage unit is located and the name of the tenant.

(c) The time, place, and manner of the sale or other disposition. Subject to subsection (16), the sale or other disposition shall not take place sooner than 15 days after the first publication of the advertisement under this section.

(6) If there is no newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located and a publicly available website is not identified in the rental agreement, the advertisement shall be posted not less than 10 days before the date of the sale or other disposition in not less than 3 conspicuous places in the neighborhood where the self-service storage facility or self-contained storage unit is located.

(7) The inventory required under subsection (5) shall reasonably identify the property. A container, including, but not limited to, a trunk, valise, or box that is locked, fastened, sealed, or tied in a manner that deters immediate access to its contents may be described as being in that condition, and a description of the container's contents is not required. However, a container closed in such a manner may be opened and its contents inventoried, and those conducting the inventory, the owner, and the owner's employees, agents, and representatives are not liable for incidental damage to the container caused by the inventory.

(8) A sale or other disposition of personal property under this section shall conform to the terms of the notification as provided in this section and shall be conducted in a commercially reasonable manner.

(9) Before a sale or other disposition of personal property under this section, the tenant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section to redeem the personal property. Upon receipt of the redemption amount, the owner shall return the personal property to the tenant. After returning the personal property to the tenant under this subsection, the owner is not liable to any person concerning that personal property. If the tenant fails to redeem the personal property or satisfy the lien, including reasonable expenses under this section, the tenant shall be considered to have unjustifiably abandoned the personal property and the owner may resume possession of the self-service storage facility or self-contained storage unit.

(10) If any property to which a lien attaches under section 3 is a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft and the rent and other storage charges remain unpaid or unsatisfied for 60 days, the owner may, in lieu of a sale of the property, have the property towed from the facility by an independent motor carrier with a proper certificate of authority from the Michigan public service commission under the motor carrier act, 1933 PA 254, MCL 475.1 to 479.43. An owner who has property towed under this subsection is not liable or responsible for the property after the transfer of possession of the property to the motor carrier.

(11) Before the sale of a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft, the owner shall contact the secretary of state and any other governmental agency as reasonably necessary to determine the name and address of the title holders or lienholders of the item, and the owner shall notify every identified title holder or lienholder of the time and place of the proposed sale. The owner is liable for notifying the holder of a security interest only if the security interest is filed under the name of the person signing the rental agreement, the tenant, or an occupant identified in section 4(2). An owner who fails to make the lien searches required by this section is liable only to valid lienholders injured by that failure as provided in section 6.

(12) Before the sale of personal property under this act, a holder of a prior lien on a motor vehicle, aircraft, mobile home, moped, motorcycle, snowmobile, trailer, or watercraft to be sold may pay the owner the amount of the owner's lien attributable to storage of the property, including the reasonable expenses incurred by the owner under this section. The amount payable to the owner shall not exceed the equivalent of 4 months' rent. A payment made to the owner shall be added to the amount of the lien of the prior lienholder who made the payment and shall be subtracted from the amount of the owner's lien.

(13) A purchaser in good faith of the personal property sold under this section takes the property free of any right of a person against whom the lien was valid, despite noncompliance by the owner with the requirements of this section.

(14) A person conducting a sale under this section shall distribute the proceeds in the following sequence:

(a) First, to satisfy the owner's liens up to an amount equivalent to 4 months' rent, minus any amount already paid the owner pursuant to subsection (12).

(b) Second, to satisfy outstanding balances owed to prior perfected lienholders.

(c) Third, to satisfy the balance of the owner's liens, including, but not limited to, all unpaid rent, late fees, and reasonable lien enforcement expenses.

(15) Any proceeds of a sale under this section remaining after the distribution is made under subsection (14) shall

be returned to the tenant by mailing the proceeds to the tenant's last known address by certified mail and by notifying the tenant by first-class mail. If the tenant does not claim the remaining proceeds within 2 years after the date of sale, the remaining proceeds shall escheat to this state. The owner shall maintain proper records of money received in any sale held under this section, and the records are subject to audit by the department of treasury.

(16) If an owner receives a notice with supporting evidence under section 4(3) from a tenant, the owner shall not enforce an owner's lien until 90 days after the end of the tenant's overseas service.

(17) An owner is not liable for any damages or claims related to the release, use, or misuse of confidential, proprietary, or personal identification information contained in any documents or other media stored by a tenant in the facility or unit after the sale or other disposition of the documents or media.

(18) If an owner reasonably believes that a storage space contains any documents or other media containing confidential, proprietary, or personal identification information, the owner is authorized to destroy any or all of the documents or media in lieu of a sale under this section. An owner who destroys documents or media under this subsection is not liable to any person for the destruction.

(19) If an owner has actual knowledge of, and the storage space contains, any property that the owner may not lawfully sell, the owner is authorized to properly dispose of the property in any manner allowed by applicable law in lieu of a sale under this section. An owner who disposes of property under this subsection is not liable to any person for the disposal.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001 ;-- Am. 2009, Act 177, Imd. Eff. Dec. 15, 2009 ;-- Am. 2014, Act 61, Eff. June 26, 2014

570.526 Action for damages.

Sec. 6.

(1) A tenant who suffers damages because of an owner's failure to comply with this act may bring an action in a court of appropriate jurisdiction for the actual amount of the damages or \$250.00, whichever is greater, together with reasonable attorney fees.

(2) This act shall not be construed in any manner that impairs or affects the rights of parties to create liens by special contract or agreement, or that affects any other lien arising at common law, in equity, or by any statute of this state or any other lien not provided for under this act.

(3) Except for actions that an owner is permitted to take under this act or under a rental agreement concerning personal property stored in a self-service storage facility or self-contained storage unit, an owner does not have care, custody, or control of a tenant's personal property.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001

570.527 Applicability of act.

Sec. 7.

This act does not apply to personal property for which the owner issues a warehouse receipt, bill of lading, or other document of title.

History: 1985, Act 148, Eff. Mar. 31, 1986 ;-- Am. 2000, Act 443, Imd. Eff. Jan. 9, 2001

SPECIAL TOOLS LIEN ACT

Act 481 of 2002

AN ACT to provide for and establish possession and ownership rights in special tools for use in the fabrication of

metal parts under certain conditions; to require procedures to establish a lien; and to establish and maintain a lien on certain special tools.

History: 2002, Act 481, Imd. Eff. June 27, 2002

The People of the State of Michigan enact:

570.541 Short title.

Sec. 1.

This act shall be known and may be cited as the "special tools lien act".

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.542 Definitions.

Sec. 2.

For purposes of this act:

(a) "Customer" means a person who causes a special tool builder to design, develop, manufacture, assemble for sale, or otherwise make a special tool for use in the design, development, manufacture, assembly, or fabrication of metal parts, or a person who causes an end user to use a special tool to design, develop, manufacture, assemble, or fabricate a metal product.

(b) "End user" means a person who uses a special tool as part of his or her manufacturing process.

(c) "Special tool" means any tools, dies, jigs, gauges, gauging fixtures, special machinery, cutting tools, or metal castings manufactured by a special tool builder.

(d) "Special tool builder" means a person who designs, develops, manufactures, or assembles special tools for sale.

(e) "Person" means an individual, firm, partnership, association, corporation, limited liability company, or other legal entity.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.543 Special tools; unclaimed possession; transfer of rights from customer to end user; destruction.

Sec. 3.

Unless otherwise agreed in writing, if a customer does not claim possession of a special tool from the end user within 3 years from the last use with that end user of the special tool, all rights, title, and interest in the special tool may, at the option of the end user, be transferred by operation of law to the end user for purpose of destroying the special tool.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.545 Transfer of rights to end user; notice; waiting period.

Sec. 5.

After the expiration of the 3-year period set forth in section 3, if an end user chooses to have all rights, title, and interest in a special tool transferred to the end user by operation of law, the end user shall send written notice by registered mail, return receipt requested, to an address designated in writing by the customer, or if not so designated, to the customer's last known address, indicating that the end user intends to terminate the customer's rights, title, and interest in the special tool, by having all rights, title, and interest in the special tool transferred to the end user by operation of law, under this act.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.547 Return receipt of notice; possession unclaimed; transfer.

Sec. 7.

If a customer does not claim possession of the special tool within 120 days after the date the end user receives the return receipt of the notice sent under section 5, or does not make other arrangements with the end user for storage of the special tool within the time limit set forth in this section, all rights, title, and interest of the customer in the special tool shall be transferred by operation of law to the end user for purposes of destroying the special tool. This section shall not be construed to affect a right of a customer under federal patent or copyright law or any state or federal law pertaining to unfair competition.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.549 Retroactive application of waiting period.

Sec. 9.

The 3-year waiting period provided in section 3 shall apply retroactively in the case of a special tool in the possession of an end user on the effective date of this act.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.551 Applicability and construction of MCL 570.543, 570.545, 570.547, and 570.549.

Sec. 11.

Sections 3, 5, 7, and 9 shall not apply if an end user retains title to and possession of a special tool. Sections 3, 5, 7, and 9 shall not be construed to grant a customer rights, title, or interest in a special tool.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.553 Lien; possession.

Sec. 13.

An end user has a lien, dependent on possession, on any special tool in the end user's possession belonging to a customer for the amount due the end user from the customer for metal fabrication work performed with the special tool. An end user may retain possession of the special tool until the amount due is paid.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.555 Enforcement of lien; notice.

Sec. 15.

Before enforcing a lien granted to an end user under section 13, notice in writing shall be given to the customer, delivered personally or sent by registered mail to the last known address of the customer. The notice shall state that a lien is claimed for the amount due for metal fabrication work or for making or improving the special tool. The notice shall include a demand for payment.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.557 Sale of special tool at public auction; conditions.

Sec. 17.

If the end user has not been paid the amount due within 90 days after the notice has been received by the customer provided in section 15, the end user may sell the special tool at a public auction if both of the following occur:

- (a) The special tool is still in the end user's possession.
- (b) The end user complies with section 19.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.559 Sale of special tool at public auction; notice; information; notice nondeliverable; dispute.

Sec. 19.

(1) Before an end user may sell the special tool, the end user shall notify, by registered mail, return receipt requested, the customer and any person whose security interest is perfected by filing. The notice shall include the following information:

- (a) The end user's intention to sell the special tool 60 days after the customer's receipt of the notice.
- (b) A description of the special tool to be sold.
- (c) The time and place of the sale.
- (d) An itemized statement for the amount due.
- (e) A statement that the product produced by the special tool complies with the quality and quantity ordered.

(2) If there is not a return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the end user shall publish notice of the end user's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is being held for sale by the end user and in the place of the customer's last known address. The notice shall include a description of the special tool and the name of the customer.

(3) If a customer disagrees with the notice described in subsection (1), the customer shall notify the end user in writing by registered mail, return receipt requested, that the product produced by the special tool did not meet the quality or quantity ordered. An end user who receives this notice shall not sell the special tool until the dispute is resolved.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.561 Payment of proceeds to prior lienholder; payment of amount to end user possessing lien or to customer.

Sec. 21.

(1) If the sale is for a sum greater than the amount of the lien, the proceeds shall first be paid to the prior lienholder who has a perfected lien in an amount sufficient to extinguish that interest. Any excess shall next be paid to the end user who possesses a lien under this act in an amount sufficient to extinguish that interest. Any remainder shall then be paid to the customer.

(2) A sale shall not be made under this act if it would be in violation of any right of a customer under federal patent or copyright law.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.563 Information recorded by special tool builder; filing financial statement; constructive notice of lien on special tool; attachment; duration of lien; priority.

Sec. 23.

(1) A special tool builder shall permanently record on every special tool that the special tool builder fabricates, repairs, or modifies the special tool builder's name, street address, city, and state.

(2) A special tool builder shall file a financing statement in accordance with the requirements of section 9502 of the uniform and commercial code, 1962 PA 174, MCL 440.9502.

(3) A special tool builder has a lien on any special tool identified pursuant to subsection (1). The amount of the lien is the amount that a customer or end user owes the special tool builder for the fabrication, repair, or modification of the special tool. The information that the special tool builder is required to record on the special tool under subsection (1) and the financing statement required under subsection (2) shall constitute actual and constructive notice of the special tool builder's lien on the special tool.

(4) The special tool builder's lien attaches when actual or constructive notice is received. The special tool builder retains the lien that attaches under this section even if the special tool builder is not in physical possession of the special tool for which the lien is claimed.

(5) The lien remains valid until the first of the following events takes place:

(a) The special tool builder is paid the amount owed by the customer or end user.

(b) The customer receives a verified statement from the end user that the end user has paid the amount for which the lien is claimed.

(c) The financing statement is terminated.

(6) The priority of a lien created under this act on a special tool shall be determined by the time the lien attaches. The first lien to attach shall have priority over liens that attach subsequent to the first lien.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.565 Enforcement of lien; notice.

Sec. 25.

To enforce a lien that attaches under section 23, the special tool builder shall give notice of the lien in writing to the customer and the end user. The notice shall be given by hand delivery or certified mail, return receipt requested,

to the last known address of the customer and to the last known address of the end user. The notice shall state that a lien is claimed, the amount that the special tool builder claims it is owed for fabrication, repair, or modification of the special tool, and a demand for payment.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.567 Rights of possession.

Sec. 27.

Subject to section 29, if the special tool builder has not been paid the amount claimed in the notice required under section 25 within 90 days after the notice required under section 25 has been received by the customer and the end user, the special tool builder has a right to possession of the special tool and may enforce the right to possession of the special tool by judgment, foreclosure, or any available judicial procedure. The special tool builder may do 1 or more of the following:

- (a) Take possession of the special tool. The special tool builder may take possession without judicial process if this can be done without breach of the peace.
- (b) Sell the special tool in a public auction.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.569 Sale of special tool with lien asserted.

Sec. 29.

(1) Before a special tool builder may sell a special tool for which a lien is claimed and for which the required notice has been sent under section 25, the special tool builder shall notify the customer, the end user, and all other persons that have a perfected security interest in the special tool under part 5 of article 9 of the uniform commercial code, 1962 PA 174, MCL 440.9501 to 440.9527, by certified mail, return receipt requested, of all of the following:

- (a) The special tool builder's intention to sell the special tool 60 days after the receipt of the notice.
- (b) A description of the special tool to be sold.
- (c) The last known location of the special tool.
- (d) The time and place of the sale.
- (e) An itemized statement of the amount due.
- (f) A statement that the special tool was accepted and the acceptance was not subsequently rejected.

(2) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the special tool builder shall publish notice of the special tool builder's intention to sell the special tool in a newspaper of general circulation in the place where the special tool is last known to be located, in the place of the customer's last known address, and in the place of the end user's last known address. The published notice shall include a description of the special tool and the name of the customer and the end user.

(3) If a customer or end user against whom the lien is asserted disagrees that the special tool was accepted or that the acceptance was not subsequently rejected, the customer or end user shall notify the special tool builder in writing by certified mail, return receipt requested, that the special tool was not accepted or that the acceptance was subsequently rejected. A special tool builder who receives this notice shall not sell the special tool until the dispute is resolved.

History: 2002, Act 481, Imd. Eff. June 27, 2002

570.571 Sale of special tool; use of excess proceeds; prohibition.

Sec. 31.

(1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the special tool builder in the amount necessary to satisfy the lien. All proceeds in excess of the lien shall be paid to the customer.

(2) A sale shall not be made or possession shall not be obtained under section 27 if it would be in violation of any right of a customer or end user under federal patent, bankruptcy, or copyright law.

History: 2002, Act 481, Imd. Eff. June 27, 2002

COMMERCIAL REAL ESTATE BROKER'S LIEN ACT

Act 201 of 2010

AN ACT to create a lien against real property for unpaid commercial real estate broker's commissions and services; and to provide remedies.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

The People of the State of Michigan enact:

570.581 Short title.

Sec. 1.

This act shall be known and may be cited as the "commercial real estate broker's lien act".

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.582 Definitions.

Sec. 2.

As used in this act:

- (a) "Buyer" means a purchaser or lessee of a legal or equitable interest in real estate.
- (b) "Claim of lien" means a claim of a commercial real estate broker's lien asserted under this act.
- (c) "Commercial real estate" means real estate or an interest in real estate that is not any of the following:
 - (i) Real estate zoned for single-family use and on which no building or structure is located.
 - (ii) Real estate on which 4 or fewer residential units are located.
 - (iii) Real estate on which more than 4 residential units are located if the units are single-family residential units, including houses, condominiums, or townhouses in a subdivision or condominium project, that are sold, leased, or otherwise conveyed on a unit-by-unit basis.
- (d) "Commercial real estate broker's lien" means a lien created under this act.
- (e) "Record" means to record with the register of deeds for the county in which the commercial real estate is located.
- (f) "Seller" means the equitable or legal owner or lessor of an interest in real estate.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.583 Commercial real estate broker's lien; availability.

Sec. 3.

A commercial real estate broker's lien is only available to an individual licensed as a real estate broker under article 25 of the occupational code, 1980 PA 299, MCL 339.2501 to 339.2518. A commercial real estate broker's lien is not available to an employee, agent, subagent, or independent contractor of a licensed real estate broker.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.584 Lien; attachment; conditions; recording; time of filing; contents of claim; form; mailing; claim of lien as void and unenforceable; priority of prior-recorded lien or mortgage; "lease" defined.

Sec. 4.

(1) A commercial real estate broker's lien attaches to commercial real estate in favor of a real estate broker if all of the following circumstances exist:

- (a) The real estate broker has a written commission agreement.
- (b) The real estate broker is entitled to a commission under the written commission agreement.
- (c) Except as provided in subsections (3) to (8), the real estate broker records a claim of lien before the actual conveyance of the commercial real estate.

(2) Unless this act specifically provides otherwise, a commercial real estate broker's lien attaches on the date the claim of lien is recorded.

(3) Except as provided in subsections (4) to (6), when payment of a real estate broker's commission is due in installments, 1 or more of which are due after the conveyance of the commercial real estate, a claim of lien for the payments due after the date of the conveyance may be recorded after the date of the conveyance and before the dates on which the payments are due. However, a claim of lien under this subsection shall be recorded within 60 days after the conveyance of the commercial real estate. A lien under this subsection is only effective against the commercial real estate to the extent payment is still owed to the seller by the buyer.

(4) If a real estate broker is owed a commission as a result of a lease, the real estate broker may record a claim of lien any time within 60 days after the lease is signed. Except as provided in subsections (5) and (6), a lien under this subsection attaches after both of the following occur:

- (a) The claim of lien is recorded.
- (b) The lessee takes possession of the leased premises.

(5) If a real estate broker may be owed a commission in the future as a result of an extension of the term or the expansion of the leased premises under an existing lease, a commercial real estate broker's lien attaches after both of the following occur:

- (a) A claim of lien is recorded. A claim of lien under this subsection shall be recorded within 60 days after the signing of the existing lease.
- (b) The extension or modification of the existing lease is confirmed in writing.

(6) If written notice of the intent to enter into a lease that includes a date on which the lease is intended to be signed is personally served on a real estate broker at least 10 days before the intended date of signing, the real estate broker shall file a claim of lien before the intended date of signing.

(7) If a real estate broker has a written agreement with a potential buyer to act as a buyer's agent, a commercial real estate broker's lien attaches after both of the following occur:

- (a) The buyer purchases or accepts the conveyance of the commercial real estate.
- (b) A claim of lien is recorded.

(8) If a real estate broker may be owed a commission in the future as a result of an option to purchase commercial real estate, the real estate broker may record a claim of lien at any time after the option to purchase is signed and before the transfer or conveyance pursuant to the exercise of the option. A lien attaches under this subsection after both of the following occur:

- (a) The claim of lien is recorded.
- (b) The real estate is transferred or conveyed pursuant to the exercise of the option to purchase.
- (9) A claim of lien shall contain all of the following:
 - (a) The name and the license number of the claimant.

- (b) The name of the owner of the commercial real estate.
- (c) The amount for which the lien is claimed.
- (d) As an attachment, the legal description of the commercial real estate on which the lien is being claimed.
- (e) As an attachment, a legible copy of the written instrument on which the claim for commission or fee is based.
- (f) A statement that the information contained in the claim of lien is true and accurate to the knowledge of the signer.

(g) The notarized signature of the real estate broker or a person authorized to sign on behalf of the real estate broker.

(10) A claim of lien recorded under this section shall meet the requirements of 1937 PA 103, MCL 565.201 to 565.203, and be substantially in the following form:

CLAIM OF LIEN

[Name of Broker],) Claim of Commercial Real Estate

) Broker's Lien

Broker-Claimant)

) In the Office of the Register

) of Deeds of _____

) County, Michigan

The broker-claimant named above, whose real estate license number is _____, and whose business address is _____, Michigan, claims a commercial real estate broker's lien under section 4 of the commercial real estate broker's lien act and states:

1. The real property ("property") against which the lien is claimed is located at _____, _____ County, Michigan, and is legally described on Exhibit A attached to this claim. The record owner ("owner") of the property is _____.

2. On _____, the broker-claimant entered into a written agreement with the (owner) (buyer) obligating the (owner) (buyer) to pay a commission to the broker-claimant. A legible copy of the agreement is attached as Exhibit B.

3. The broker-claimant, by its agents, provided services for the (owner) (buyer) and is in compliance with the broker-claimant's obligations under the written agreement referred to in paragraph 2.

4. The amount of the commission or fee to which the broker-claimant is entitled is _____.

5. _____ (a) The broker-claimant now claims a lien on the property and all improvements to the property and against all persons interested in the property in the amount of \$ _____.

_____ (b) The broker-claimant claims a potential future lien on the property and all improvements to the property and against all persons interested in the property if there is a lease extension or expansion.

_____ (c) The broker-claimant claims a potential future lien on the property and all improvements to the property and against all persons interested in the property if an option to purchase the property is exercised. This lien is only effective if the property is conveyed pursuant to the option to purchase; it may otherwise be disregarded.

6. The information contained in this claim of lien is true and accurate to the best knowledge of the signer.

[Name of Broker]

By: _____

Its Authorized Agent

Signed and sworn to before me in _____ County, Michigan, on _____, _____ [year].

[Notary's name, county, acting in county, state, and date commission expires]

Note: This claim of lien is void and unenforceable unless recorded with the register of deeds of the county in which the real estate is located, as required by the commercial real estate broker's lien act.

Prepared By:

Return To:

(11) Within 10 days of recording a claim of lien under this section, the real estate broker shall provide a copy of the claim of lien to the owner of record of the commercial real estate and to the party who signed the written commission agreement by mailing a copy of the claim of lien by registered or certified mail with return receipt requested to the address of the commercial real estate that is the subject of the claim of lien or by personal service. Mailing a copy of the claim of lien is effective as notice under this subsection when deposited in a United States mailbox with postage prepaid. The commercial real estate broker's lien is void and unenforceable if a copy of the claim of lien is not served within the time and in the manner required by this subsection.

(12) A claim of lien not recorded in compliance with this section is void and unenforceable.

(13) A valid prior-recorded lien or mortgage on commercial real estate has priority over a commercial real estate broker's lien. A valid prior-recorded lien or mortgage includes, but is not limited to, both of the following:

(a) A valid construction lien that is recorded after the claim of lien is recorded and that relates back to a date before the claim of lien is recorded.

(b) A lien securing revolving credit and future advances of construction loans that is recorded before the claim of lien is recorded.

(14) As used in this section, "lease" includes a sublease, assignment of a lease, or modification of a lease.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.585 Escrow account; establishment to satisfy lien; release.

Sec. 5.

(1) If a claim of lien recorded under section 4 would otherwise prevent the closing of a transaction involving commercial real estate, the parties to the transaction shall, subject to subsection (2), establish an escrow account from the proceeds of the transaction in an amount sufficient to satisfy the lien. A buyer or seller shall not refuse to close the transaction because of the requirement of establishing an escrow account under this subsection. The money shall remain in the escrow account until the rights to the money have been determined by a written agreement of the parties, a judgment or order by a court of competent jurisdiction, or any other method agreeable to the parties.

(2) An escrow account is not required under subsection (1) if either of the following circumstances exists:

(a) Alternative procedures are available that will allow the transaction to close and that are acceptable to all the parties to the transaction.

(b) The proceeds from the transaction are insufficient to satisfy all liens against the commercial real estate under this act.

(3) If an amount sufficient to satisfy a commercial real estate broker's lien is escrowed under subsection (1), the lien is extinguished and the real estate broker shall provide a release of lien that meets the requirements of 1937 PA 103, MCL 565.201 to 565.203, and is substantially in the following form:

RELEASE OF LIEN

The undersigned is the claimant under a claim of commercial real estate broker's lien recorded on _____ [date] in the office of the register of deeds of _____ County, Michigan, at Liber _____, Page _____, or at _____ [enter other unique identifying numbers]. The undersigned releases the lien on the following described property:

[Legal description]

[Name of Claimant]

By: _____

Its Authorized Agent

Signed and sworn to before me in _____ County, Michigan,
on _____, _____ [year].

[Notary's name, county, acting
in county, state, and date
commission expires]

Prepared By:

Return To:

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.586 Action to enforce lien; complaint.

Sec. 6.

(1) A person claiming a commercial real estate broker's lien may bring an action to enforce the lien in the circuit court for the county where the commercial real estate is located by filing a complaint and affidavit that the claim of lien has been recorded.

(2) The plaintiff in an action under this section shall name as defendants all persons that, at the time the action is filed, have an interest in the commercial real estate that is the subject of the action that would be divested or impaired by the foreclosure of the lien.

(3) The complaint in an action under this section may include a claim on the contract from which the lien arises.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.587 Commencement of action; time period.

Sec. 7.

(1) An action under section 6 shall be commenced within 1 year after the date the commercial real estate broker's lien attaches.

(2) Failure to commence an action within the applicable time period under this section extinguishes the lien. A later claim of lien for the same commission or services shall not be made and shall not be the basis of an action filed under section 6.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.588 Sale of interest in commercial real estate; court order; order of foreclosure; period of redemption; order of deficiency judgment; costs.

Sec. 8.

(1) If the court in an action under section 6 finds that the plaintiff is entitled to the commercial real estate lien and that the amount claimed has not been paid, the court may enter a judgment ordering the sale of any interest in the commercial real estate, or part of the commercial real estate, to which the lien attaches. In the order of foreclosure sale, the court shall set a period of redemption not exceeding 4 months. The order of foreclosure sale shall be recorded. The sale shall be conducted in the same manner as a sale on execution. The sale is final, subject to the period of redemption, on the entry of an order of confirmation by the court. On expiration of the period of redemption, the grantee named in the deed is vested with all right, title, and interest in the commercial real estate that was subject to the lien. Redemption from a foreclosure sale is complete on full payment of the amount in the judgment of foreclosure. If the court determines that the proceeds of the sale are insufficient to satisfy the judgment, the court may enter a deficiency judgment against the person who signed the written agreement to pay the real estate broker.

(2) The court in an action under section 6 may, in its discretion, award costs to a prevailing plaintiff, including reasonable attorney fees, court and litigation costs, and prejudgment interest.

(3) If the court determines that an action under section 6 was frivolous, the court may, in its discretion, award costs described in subsection (2) to the defendant.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.589 Written demand on behalf of owner of commercial real estate; service.

Sec. 9.

A written demand on behalf of the owner of commercial real estate may be served on a person claiming a commercial real estate broker's lien, demanding that an action be commenced to enforce the lien or that an answer be filed in an action pending between the owner and the lien claimant. If the action is not commenced or the answer is not filed within 30 days after service of the demand, the lien is extinguished without further action. Service of the demand may be by registered or certified mail, return receipt requested, or by personal service.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.590 Condition prohibiting compensation; release of lien.

Sec. 10.

If a claim of lien has been recorded under this act and a condition occurs that prohibits the real estate broker from receiving compensation under the terms of the written agreement on which the claim is based, the real estate broker shall provide a release of lien under section 5 to the owner of record within 10 days after a written demand by the owner of record or the owner's agent.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.591 Payment of claim or failure to commence action; release of lien.

Sec. 11.

If a claim of lien recorded under this act has been paid, or if an action to enforce the lien has not been commenced within the time limitations of section 7, the real estate broker shall record a release of lien under section 5 within 5 days after a written demand by the owner of record or the owner's agent and provide a copy of the recorded release.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.592 Partial payment of lien claim; partial satisfaction and release of lien; form.

Sec. 12.

(1) If a claim of lien recorded under this act has been partially paid, the real estate broker shall provide a partial satisfaction and release of lien in the form provided in subsection (2) within 5 days after written demand by the owner of record or the owner's agent.

(2) A partial satisfaction and release of lien under this section shall meet the requirements of 1937 PA 103, MCL 565.201 to 565.203, and be in substantially the following form:

PARTIAL SATISFACTION AND RELEASE OF LIEN

The claimant named below is the claimant under a claim of commercial real estate broker's lien recorded on _____ [date] in the office of the register of deeds of _____ County, Michigan, at Liber _____, Page _____ on the following described property:
[Legal description]

The claimant has been paid \$ _____, a portion of the amount of the lien. The remaining amount of the lien is \$ _____.

Therefore, the claimant, for and in consideration of the payment, waives, to the extent of the payment, the claim of or right to a lien under the commercial real estate broker's lien act against the property described above, the building or buildings on the property, and the tenant spaces in the building or buildings.

[Name of Claimant]

By: _____

Its Authorized Agent

Signed and sworn to before me in _____ County, Michigan, on _____, _____ [year].

[Notary's name, county, acting
in county, state, and date
commission expires]

Prepared By:

Return To:

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.593 Priority of subsequently recorded mortgage; condition.

Sec. 13.

A subsequently recorded mortgage has priority over a commercial real estate broker's lien if the mortgagee did not have actual or constructive knowledge of the lien at the time the mortgagee advanced money under the mortgage.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

570.594 Written commission agreement signed after effective date of act; applicability.

Sec. 14.

This act applies to a written commission agreement signed after the effective date of this act.

History: 2010, Act 201, Imd. Eff. Oct. 5, 2010

CONSTRUCTION LIEN ACT

Act 497 of 1980

AN ACT to establish, protect, and enforce by lien the rights of persons performing labor or providing material or equipment for the improvement of real property; to provide for defenses to construction liens; to provide remedies and prescribe penalties; and to repeal acts and parts of acts.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 2006, Act 497, Eff. Jan. 3, 2007 ;-- Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010

The People of the State of Michigan enact:
Part 1

570.1101 Short title.

Sec. 101.

This act shall be known and may be cited as the "construction lien act".

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1102 Meanings of words and phrases.

Sec. 102.

For the purposes of this act, the words and phrases defined in sections 103 to 106 have the meanings ascribed to them in those sections.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1103 Definitions.

Sec. 103.

(1) "Actual physical improvement" means the actual physical change in, or alteration of, real property as a result of labor provided, pursuant to a contract, by a contractor, subcontractor, or laborer which is readily visible and of a kind that would alert a person upon reasonable inspection of the existence of an improvement. Actual physical improvement does not include that labor which is provided in preparation for that change or alteration, such as surveying, soil boring and testing, architectural or engineering planning, or the preparation of other plans or drawings of any kind or nature. Actual physical improvement does not include supplies delivered to or stored at the real property.

(2) "Co-lessee" means a person having an interest in real property, the nature of which is identical to that of the interest of the lessee who contracted for the improvement to the real property, whether the extent of such interest is identical or not.

(3) "Construction lien" means the lien of a contractor, subcontractor, supplier, or laborer, as described in section 107.

(4) "Contract" means a contract, of whatever nature, for the providing of improvements to real property, including any and all additions to, deletions from, and amendments to the contract.

(5) "Contractor" means a person who, pursuant to a contract with the owner or lessee of real property, provides an improvement to real property.

(6) "Co-owner" means a person having an interest in real property, the nature of which is identical to that of the interest of the owner who contracted for the improvement to the real property, whether the extent of such interest is identical or not.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982

570.1104 Additional definitions.

Sec. 104.

(1) "Court" means the circuit court in which an action to enforce a construction lien through foreclosure is pending.

(2) "Design professional" means an individual who is licensed or registered as an architect, professional engineer, or professional surveyor under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, or a corporation, partnership, limited liability company, or other legal entity that is authorized under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, to engage in the practice of any of these professions.

(3) "Designee" means a person named by an owner or lessee to receive, on behalf of the owner or lessee, all notices or other instruments required to be furnished under this act. The owner or lessee may name himself or herself as designee. The owner or lessee may not name the contractor as designee. However, a contractor who is providing only architectural or engineering services may be named as designee.

(4) "Fringe benefits and withholdings" means compensation due an employee pursuant to a written contract or written policy for holiday, time off for sickness or injury, time off for personal reasons or vacation, bonuses, authorized expenses incurred during the course of employment, and any other contributions made to or on behalf of an employee.

(5) "General contractor" means a contractor who contracts with an owner or lessee to provide, directly or indirectly through contracts with subcontractors, suppliers, or laborers, substantially all of the improvements to the property described in the notice of commencement.

(6) "Improvement" means the result of labor or material provided by a contractor, subcontractor, supplier, or laborer, including, but not limited to, surveying, engineering and architectural planning, construction management, clearing, demolishing, excavating, filling, building, erecting, constructing, altering, repairing, ornamenting, landscaping, paving, leasing equipment, and installing or affixing a fixture or material, pursuant to a contract.

(7) "Laborer" means an individual who, pursuant to a contract with a contractor or subcontractor, provides an improvement to real property through the individual's personal labor.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2006, Act 497, Eff. Jan. 3, 2007 ;-- Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1105 Additional definitions.

Sec. 105.

(1) "Lessee" means a person, other than the owner, who holds an interest, other than a security interest, in real property.

(2) "Lien claimant" means a person having a right to a construction lien under this act.

(3) "Owner" means a person holding a fee interest in real property or an equitable interest arising out of a land contract.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982

570.1106 Additional definitions.

Sec. 106.

(1) "Person" means an individual, corporation, partnership, association, other legal entity, or any combination of these.

(2) "Professional services" means services that are customarily and legally performed by or under the supervision or responsible control of design professionals in the course of their professional practice, including, but not limited to, programming, planning, surveying, site investigation, analysis, assessment, design, preparation of drawings and

specifications, and construction administration services.

(3) "Project" means the aggregate of improvements contracted for by the contracting owner.

(4) "Residential structure" means an individual residential condominium unit or a residential building containing not more than 2 residential units, the land on which it is or will be located, and all appurtenances, in which the owner or lessee contracting for the improvement is residing or will reside on completion of the improvement.

(5) "Subcontractor" means a person, other than a laborer or supplier, who pursuant to a contract between himself or herself and a person other than the owner or lessee performs any part of a contractor's contract for an improvement.

(6) "Supplier" means a person who, pursuant to a contract with a contractor or a subcontractor, leases, rents, or in any other manner provides material or equipment that is used in the improvement of real property. Supplier does not include a design professional or a person that has a subcontract with a design professional as described in section 107b.

(7) "Wages" means all earnings of an employee, whether determined on the basis of time, task, piece, commission, or other method of calculation, for labor or services, except fringe benefits and withholdings.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2006, Act 497, Eff. Jan. 3, 2007 ;-- Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1107 Construction lien generally.

Sec. 107.

(1) Each contractor, subcontractor, supplier, or laborer who provides an improvement to real property has a construction lien upon the interest of the owner or lessee who contracted for the improvement to the real property, as described in the notice of commencement given under section 108 or 108a, the interest of an owner who has subordinated his or her interest to the mortgage for the improvement of the real property, and the interest of an owner who has required the improvement. A construction lien acquired pursuant to this act shall not exceed the amount of the lien claimant's contract less payments made on the contract.

(2) A construction lien under this act attaches to the entire interest of the owner or lessee who contracted for the improvement, including any subsequently acquired legal or equitable interest.

(3) Each contractor, subcontractor, supplier, or laborer who provides an improvement to real property to which the person contracting for the improvement had no legal title has a construction lien upon the improvement for which the contractor, subcontractor, supplier, or laborer provided labor, material, or equipment. The forfeiture, surrender, or termination of any title or interest held by an owner or lessee who contracted for an improvement to the property, an owner who subordinated his or her interest to the mortgage for the improvement, or an owner who has required the improvement does not defeat the lien of the contractor, subcontractor, supplier, or laborer upon the improvement.

(4) If the rights of a person contracting for an improvement as a land contract vendee or a lessee are forfeited, surrendered, or otherwise terminated, any lien claimant who has provided a notice of furnishing or is excused from providing a notice of furnishing under section 108, 108a, or 109 and who performs the covenants contained in the land contract or lease within 30 days after receiving actual notice of the forfeiture, surrender, or termination is subrogated to the rights of the contracting vendee or lessee as those rights existed immediately before the forfeiture, surrender, or termination.

(5) For purposes of this act, if the real property is owned or leased by more than 1 person, there is a rebuttable presumption that an improvement to real property under a contract with an owner or lessee was consented to by any other co-owner or co-lessee. If enforcement of a construction lien through foreclosure is sought and the court finds that the improvement was consented to by a co-owner or co-lessee who did not contract for the improvement, the court shall order the entire interest of that co-owner or co-lessee, including any subsequently acquired legal or equitable interest, to be subject to the construction lien. A deficiency judgment shall not be entered against a noncontracting owner, co-owner, lessee, or co-lessee.

(6) If the real property of an owner or lessee is subject to multiple construction liens, the sum of the construction liens shall not exceed the amount the owner or lessee agreed to pay the person with whom he or she contracted for the improvement as modified by all additions, deletions, and other amendments, less payments made by or on behalf of the owner or lessee, pursuant to either a contractor's sworn statement or a waiver of lien, in accordance with this act.

(7) After the effective date of the amendatory act that added this subsection, a construction lien of a subcontractor or supplier for an improvement to a residential structure shall only include an amount for interest,

including, but not limited to, a time-price differential or a finance charge, if the amount is in accordance with the terms of the contract between the subcontractor or supplier and the contractor or subcontractor and does not include any interest that accrues after 90 days after the claim of lien is recorded.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2006, Act 497, Eff. Jan. 3, 2007

570.1107a Construction lien for professional services contract by design professionals; notice of contract; form; recording; validity, effectiveness, and duration of notice; applicability to other liens.

Sec. 107a.

(1) A design professional who enters into a written contract with an owner, or with a person acting as an agent of the owner, to provide professional services relating to the proposed or actual erection, alteration, repair, or removal of a structure on or other improvement to real property may record a notice with the register of deeds for the county in which the property is located. The notice must be in substantially the following form:

NOTICE OF
PROFESSIONAL
SERVICES
CONTRACT

Under a written contract dated _____ between _____,
owner, and _____, design professional, the design professional is to
furnish or has furnished professional services relating to the proposed or actual erection,
alteration, repair, or removal of a structure on or other improvement to real property described
as follows:

Insert description
of services

The legal description of the real property is as follows:

Insert legal
description

(2) A design professional may record a notice under subsection (1) at any time after the written contract is executed regardless of whether the professional services under the written contract have been commenced or completed, and regardless of whether the erection, alteration, repair, or removal of the structure or the other improvement to which the professional services relate has been, or is ever, commenced or completed. However, a design professional shall not record a notice later than 90 days after the design professional, or another person acting by, through, or under the design professional, last performed professional services.

(3) A notice under this section is valid for 1 year after the date it is recorded. The design professional may record a subsequent notice with respect to the written contract. All of the requirements of this section, including the time limitation of subsection (2), apply to a subsequent notice.

(4) If an actual physical improvement is made to the property after a notice is recorded under this section, the notice is only effective from the date of the first actual physical improvement.

(5) This section, or the recording of a notice under this section, does not affect the requirements of this act regarding the creation of a construction lien, including requirements of section 107, the steps necessary to claim a lien, or the manner of enforcing a lien.

History: Add. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1107b Construction lien for subcontract for professional services with design professional; approval by owner; notice of subcontract; form; recording; validity, effectiveness, and duration of notice; applicability to other liens.

Sec. 107b.

(1) A person that furnishes professional services under a written subcontract with a design professional who has recorded a notice under section 107a, and whose engagement has been approved in writing by or on behalf of the owner of the property, may record with the register of deeds for the county in which the property is located a notice of the subcontract in substantially the following form:

NOTICE OF
PROFESSIONAL
SERVICES
SUBCONTRACT

Under a written subcontract dated _____ between
_____, design professional, and
_____, as sub-design professional,
_____ is to furnish or has furnished professional services
relating to the proposed or actual erection, alteration, repair, or removal of a structure on or
other improvement to real property described as follows, which services are a portion of the
services furnished or to be furnished by the design professional under a written original contract
with _____, the owner:

Insert description
of services
rendered

The legal description of the real property is as follows:

Insert legal
description

At the time of this notice, an account of the subcontract is as follows:

1. Estimated or agreed contract price: _____
2. Approved extra or additional services: _____
3. Payments received: _____

The regular mailing address of the subcontracting party recording this notice is as follows:

Insert address

(2) A person entitled to record a notice of contract under subsection (1) may record the notice at any time after the execution of the written subcontract regardless of whether the professional services under the written subcontract have been commenced or completed, and regardless of whether the construction, alteration, repair, or removal of the structure or the other improvement to which the professional services relate has been, or is ever, commenced or completed. However, the person shall not record the notice later than 90 days after the last day a design professional who is entitled to record a notice under this section or section 107a, or any person claiming by, through, or under the design professional, performed professional services for the project.

(3) A notice under this section is valid for 1 year after the date it is recorded. The person furnishing professional services under the written contract with a design professional may record a subsequent notice with respect to the written contract. All of the requirements of this section, including the time limitation of subsection (2), apply to a subsequent notice.

(4) If an actual physical improvement is made to the property after a notice is recorded under this section, the notice is only effective from the date of the first actual physical improvement.

(5) This section, or the recording of a notice under this section, does not affect the requirements of this act regarding the creation of a construction lien, including requirements of section 107, the steps necessary to claim a lien, or the manner of enforcing a lien.

History: Add. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1108 Improvements to real property; notice of commencement; form; recording; contents of notice; blank notice of furnishing; incorrect information in notice; providing copy of notice and blank notice of furnishing form to subcontractor, supplier, or laborer upon request; posting copy of notice; failure of owner, lessee, or designee to record, provide, or post required notice; failure of contractor or subcontractor to provide notice; section inapplicable to residential structure improvement.

Sec. 108.

(1) Before the commencement of any improvements to real property, the owner or lessee contracting for the improvements shall record in the office of the register of deeds for each county in which the real property to be improved is located a notice of commencement, in the form set forth in this section. If all improvements relate to a single project only 1 notice of commencement need be recorded. A subsequent notice of commencement need not be recorded for an improvement to real property that currently has a notice of commencement recorded in the office of the register of deeds if the recorded notice of commencement contains the same information as the subsequent notice of commencement.

(2) A notice of commencement required under this section must contain the following information:

(a) The legal description of the real property on which the improvement is to be made. A description that conforms to section 212 or 255 of the land division act, 1967 PA 288, MCL 560.212 and 560.255, is a sufficient legal description.

(b) The name, address, and capacity of the owner or lessee of the real property contracting for the improvement.

(c) The name and address of the fee owner of the real property, if the person contracting for the improvement is a land contract vendee or lessee.

(d) The name and address of the owner's or lessee's designee.

(e) The name and address of the general contractor, if any.

(f) The following statement:

"To lien claimants and subsequent purchasers:

Take notice that work is about to commence on an improvement to the real property described in this instrument. A person that has a construction lien may preserve the lien by providing a notice of furnishing to the designee named above and the general contractor, if any, and by timely recording a claim of lien, in accordance with law.

A person that has a construction lien because of work performed on this improvement should refer to the name of the owner or lessee and the legal description that appears in this notice. A person that subsequently acquires an interest in the land described is not required to be named in a claim of lien.

A copy of this notice with an attached form for notice of furnishing may be obtained by making a written request by certified mail to the owner or lessee named above; the designee; or the person with whom you have contracted."

(g) The name and address of the person preparing the notice.

(h) An affidavit of the owner or lessee or the agent of the owner or lessee that verifies the notice.

(3) A copy of a notice of commencement required under this section must have a blank notice of furnishing as described in section 109 attached to it. The blank notice of furnishing must be easily detachable from the copy of the notice and need not be recorded.

(4) Incorrect information contained in a notice of commencement furnished by or for an owner or lessee does not affect adversely the rights of a lien claimant as against the property of the owner or lessee.

(5) An owner, lessee, or designee required to record a notice of commencement under this section, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer.

(6) A contractor who has been provided with a notice of commencement from an owner, lessee, or designee, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the contractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer.

(7) A subcontractor who has been provided with a notice of commencement from an owner, lessee, designee, contractor, or subcontractor, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the subcontractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the requesting subcontractor, supplier, or laborer.

(8) An owner, lessee, or designee required to record a notice of commencement under this section shall post and keep posted a copy of the notice of commencement in a conspicuous place on the real property described in the notice during the course of the improvement to the real property.

(9) An owner, lessee, or designee required to record a notice of commencement under this section shall provide a copy of the notice of commencement to the general contractor, if any. An owner, lessee, or designee that fails to provide the notice of commencement to the general contractor is liable to the general contractor for all actual expenses sustained by the general contractor in obtaining the information otherwise provided by the notice of commencement.

(10) Failure of an owner, lessee, or designee to record a notice of commencement as required by this section extends the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement has been recorded.

(11) Failure of an owner, lessee, or designee to provide, on written request, a notice of commencement as

required by this section extends the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement actually has been furnished to the subcontractor or supplier.

(12) Failure of an owner, lessee, or designee to record a notice of commencement as required by this section extends the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement has been recorded, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(13) Failure of an owner, lessee, or designee to provide a notice of commencement as required by this section extends the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement has been provided, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(14) An owner, lessee, or designee that fails to post or keep posted a copy of a notice of commencement as required by subsection (8) is liable to a subcontractor, supplier, or laborer who becomes a lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the posting.

(15) A contractor who has been provided with a notice of commencement from an owner, lessee, or designee, who fails to provide the notice of commencement on the request of a lien claimant who has a direct contract with the contractor for an improvement to the property is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the notice of commencement.

(16) A subcontractor who has been provided with a notice of commencement from an owner, lessee, designee, contractor, or subcontractor who fails to provide the notice of commencement on the request of a subcontractor, supplier, or laborer who has a direct contract with the subcontractor is liable to the requesting subcontractor, supplier, or laborer for all actual expenses sustained by the subcontractor, supplier, or laborer in obtaining the information otherwise provided by the notice of commencement.

(17) If the owner, lessee, or designee fails to provide, record, and post the notice of commencement as provided in this act and if, after the first improvement, the contractor by certified mail makes a written request to the owner, lessee, or designee to provide, record, and post the notice of commencement and the owner, lessee, or designee fails within 10 days after receipt of the request to do so, the owner or lessee is barred from requiring the contractor to hold the owner or lessee harmless from the lien of a lien claimant to the extent the lien could have otherwise been avoided through proper payment had the request been complied with. If the contractor pays a valid lien claim at the direction of the owner, lessee, or designee after the owner, lessee, or designee has failed to comply with this section, the owner or lessee is liable to the contractor to the extent the lien could have otherwise been avoided through proper payment had the request been complied with. This subsection does not apply if the name of the lien claimant appears on a sworn statement provided to the contractor and the claim of the lien claimant could have been avoided had payment been made in accordance with the sworn statement.

(18) This section does not apply to an improvement to a residential structure.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1108a Improvement to residential structure; notice of commencement; contents of notice; blank notice of furnishing; incorrect information in notice; providing copy of notice and blank notice of furnishing to contractor, subcontractor, supplier, or laborer upon request; posting copy of notice; failure of owner, lessee, or designee to provide or post notice; failure of contractor or subcontractor to provide notice and name and address of owner or lessee; liability to lien claimant; section applicable to residential structure improvement.

Sec. 108a.

(1) An owner or lessee who contracts for an improvement to a residential structure shall prepare and provide a notice of commencement to a contractor, subcontractor, supplier, or laborer who has made a written request for the notice as provided in this section.

(2) A notice of commencement required under this section must contain the following information:

(a) The legal description of the real property on which the improvement is to be made. A description that conforms to section 212 or 255 of the land division act, 1967 PA 288, MCL 560.212 and 560.255, is a sufficient legal description.

(b) The name, address, and capacity of the owner or lessee of the real property contracting for the improvement.

(c) The name and address of the fee owner of the real property, if the person contracting for the improvement is

a land contract vendee or lessee.

(d) The name and address of the owner's or lessee's designee.

(e) The name and address of the general contractor, if any. The notice of commencement form must contain the following caption below the line for the general contractor's name and address: (the name of the person with whom you have contracted to provide substantially all the improvements to the property.)

(f) The following statement in boldface type on the front of the form:

WARNING TO HOMEOWNER

Michigan law requires that you do the following:

1. Complete and return this form to the person who asked for it within 10 days after the date of the postmark on the request.

2. If you do not complete and return this form within the 10 days you may have to pay the expenses incurred in getting the information.

3. If you do not live at the site of the improvement, you must post a copy of this form in a conspicuous place at that site.

You are not required to but should do the following:

1. Complete and post a copy of this form at the place where the improvement is being made, even if you live there.

2. Make and keep a copy of this form for your own records.

(g) The following statement:

"To lien claimants and subsequent purchasers:

Take notice that work is about to commence on an improvement to the real property described in this instrument. A person that has a construction lien may preserve the lien by providing a notice of furnishing to the designee named above and the general contractor, if any, and by timely recording a claim of lien, in accordance with law.

A person that has a construction lien because of work performed on this improvement should refer to the name of the owner or lessee and the legal description in this notice. A person that subsequently acquires an interest in the land described is not required to be named in a claim of lien.

A copy of this notice with an attached form for notice of furnishing may be obtained on making a written request by certified mail to the owner or lessee named above; the designee; or the person with whom you have contracted."

(h) The name and address of the person preparing the notice.

(i) An affidavit of the owner or lessee or the agent of the owner or lessee that verifies the notice.

(3) A copy of a notice of commencement required under this section must have a blank notice of furnishing as described in section 109 attached to it. The blank notice of furnishing must be easily detachable from the copy of the notice and need not be recorded.

(4) Incorrect information contained in a notice of commencement furnished by or for an owner or lessee under this section does not affect adversely the rights of a lien claimant as against the property of the owner or lessee.

(5) An owner, lessee, or designee required to provide a notice of commencement under this section, within 10 days after the date of mailing of a written request by certified mail from a contractor, subcontractor, supplier, or laborer, shall prepare and provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the contractor, subcontractor, supplier, or laborer. A contractor, subcontractor, supplier, or laborer who requests a notice of commencement from an owner or lessee of a residential structure shall supply a blank notice of commencement form with the attached blank notice of furnishing to the owner or lessee at the time the request is made.

(6) A contractor who has been provided with a notice of commencement under this section from the owner, lessee, or designee, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the contractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the subcontractor, supplier, or laborer. If the contractor has not been provided a notice of commencement, the contractor shall provide the subcontractor, supplier, or laborer the name and address of the owner or lessee.

(7) A subcontractor who has been provided with a notice of commencement under this section from the owner, lessee, designee, or contractor, or another subcontractor, within 10 days after the date of mailing of a written request by certified mail from a subcontractor, supplier, or laborer who has a direct contract with the subcontractor, shall provide a copy of the notice of commencement, with an attached blank notice of furnishing form, to the requesting subcontractor, supplier, or laborer. If the subcontractor has not been provided a notice of commencement, the subcontractor shall provide to the requesting subcontractor, supplier, or laborer, the name and address of the owner or lessee.

(8) If an owner, lessee, or designee has received a blank notice of commencement form under subsection (5) and if the owner or lessee does not currently reside at the real property described in the notice of commencement, the owner, lessee, or designee shall post a copy of the notice of commencement in a conspicuous place on the real property during the course of the improvement to the real property.

(9) Failure of an owner, lessee, or designee to provide, on written request, a notice of commencement as

required by this section extends the time within which a subcontractor or supplier may provide a notice of furnishing, as described in section 109, until 20 days after the notice of commencement actually has been furnished to the subcontractor or laborer.

(10) Failure of an owner, lessee, or designee to provide a notice of commencement as required by this section extends the time within which a laborer may provide a notice of furnishing, as described in section 109, until 30 days after the notice of commencement actually has been furnished to the laborer, or until the time in which to provide the notice of furnishing in accordance with section 109 expires, whichever is later.

(11) An owner, lessee, or designee that fails to post or keep posted a copy of a notice of commencement as required by subsection (8) is liable to a subcontractor, supplier, or laborer who becomes a lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the posting.

(12) A contractor that has been provided with a notice of commencement from the owner, lessee, or designee and that fails to provide the notice of commencement on the request of a lien claimant that has a contract with the contractor for an improvement to the property is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the information otherwise provided by the notice of commencement. A contractor that fails to provide the name and address of the owner or lessee as required by subsection (6) is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the name and address of the owner or lessee.

(13) A subcontractor that has been provided with a notice of commencement from the owner, lessee, designee, contractor, or subcontractor and that fails to provide the notice of commencement on the request of a subcontractor, supplier, or laborer who has a direct contract with the subcontractor is liable to the subcontractor, supplier, or laborer for all actual expenses sustained by the subcontractor, supplier, or laborer in obtaining the information otherwise provided by the notice of commencement. A subcontractor that fails to provide the name and address of the owner or lessee as required by subsection (7) is liable to the lien claimant for all actual expenses sustained by the lien claimant in obtaining the name and address of the owner or lessee.

(14) This section only applies to an improvement to a residential structure.

History: Add. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1109 Subcontractor, supplier, or laborer contracting to provide improvement to real property; service of notice of furnishing; form of notice; effect of failure by lien claimant to provide notice within time specified; failure of laborer to provide notice of furnishing; authorization of agent by laborers to prepare and serve notice.

Sec. 109.

(1) Except as otherwise provided in sections 108 and 108a, a subcontractor or supplier that contracts to provide an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, as named in the notice of commencement at the address shown in the notice of commencement, either personally or by certified mail, within 20 days after furnishing the first labor or material. If a designee has not been named in the notice of commencement, or if the designee has died, service must be made on the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by certified mail, service is complete on mailing. A contractor is not required to provide a notice of furnishing to preserve lien rights arising from his or her contract directly with an owner or lessee.

(2) Except as otherwise provided in sections 108 and 108a, a laborer who contracts to provide an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, as named in the notice of commencement at the address shown in the notice of commencement, either personally or by mail, within 30 days after wages were contractually due but were not paid. If a designee has not been named in the notice of commencement, or if the designee has died, service must be made on the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by mail, service is complete on mailing by first class mail with postage prepaid.

(3) Except as otherwise provided in sections 108 and 108a, a laborer who provides an improvement to real property shall provide a notice of furnishing to the designee and the general contractor, if any, named in the notice of commencement at the address shown in the notice of commencement, either personally or by certified mail, by the fifth day of the second month following the month in which fringe benefits or withholdings from wages were contractually due but were not paid. If a designee has not been named in the notice of commencement, or if the designee has died, service must be made on the owner or lessee named in the notice of commencement. If service of the notice of furnishing is made by certified mail, service is complete on mailing.

(4) A notice of furnishing, if not given on the form attached to the notice of commencement, must be in substantially the following form:

NOTICE OF FURNISHING

To:

(name of designee (or owner or lessee) from notice of commencement)

(address from notice of commencement)

Please take notice that the undersigned is furnishing to

.....
(name and address of other contracting party)

certain labor or material for,

(describe type of work)

in connection with the improvements to the real property described
in the notice of commencement recorded in liber, on
page, records,
(name of county)

.....

or (a copy of which is attached to this notice)

WARNING TO OWNER: THIS NOTICE IS REQUIRED BY THE
MICHIGAN CONSTRUCTION LIEN ACT. IF YOU HAVE
QUESTIONS ABOUT YOUR RIGHTS AND DUTIES UNDER
THIS ACT, YOU SHOULD CONTACT AN ATTORNEY TO
PROTECT YOU FROM THE POSSIBILITY OF PAYING TWICE
FOR THE IMPROVEMENTS TO YOUR PROPERTY.

.....

(name and address of lien claimant)

by

(name and capacity of party signing for
lien claimant)

.....

(address of party signing)

Date:.....

(5) The failure of a lien claimant to provide a notice of furnishing within the time specified in this section does not defeat the lien claimant's right to a construction lien for work performed or materials furnished by the lien claimant after the service of the notice of furnishing.

(6) The failure of a lien claimant to provide a notice of furnishing within the time specified in this section does not defeat the lien claimant's right to a construction lien for work performed or materials furnished by the lien claimant before the service of the notice of furnishing except to the extent that payments were made by or on behalf of the owner or lessee to the contractor pursuant to either a contractor's sworn statement or a waiver of lien in accordance with this act for work performed or material delivered by the lien claimant. This subsection does not apply to a laborer.

(7) The failure of a laborer to provide a notice of furnishing to the designee as required by subsection (2) defeats the laborer's lien for the wages for which the notice of furnishing is required.

(8) The failure of a laborer to provide a notice of furnishing to the designee as required by subsection (3) defeats the laborer's lien for the fringe benefits and withholdings for which the notice of furnishing is required.

(9) The failure of a laborer to provide a notice of furnishing to the general contractor within the time specified in subsection (2) or (3) does not defeat the laborer's right to a construction lien, but the laborer is liable for any actual damages sustained by the general contractor as a result of the failure.

(10) One or more laborers may authorize an agent to prepare and serve a notice of furnishing in the manner provided in this section. Notice of furnishing under this section may contain the notice of furnishing of more than 1 laborer and must contain the information required by subsection (4) as to each laborer for whom it is prepared. A court shall consider the notice of furnishing of each lien claimant under this subsection on its own merits.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1110 Sworn statement by contractor or subcontractor; contents; form; notice of receipt; withholding from contractor or subcontractor amount due subcontractors, suppliers, laborers, or lien claimants; direct payments to lien claimants; notice; itemized statement; reliance on sworn statement to avoid claim; failure of contractor or subcontractor to provide sworn statement to owner or lessee prior to recording claim of lien; giving false sworn statement to owner or lessee as crime; total amount; prior convictions; prohibited use.

Sec. 110.

- (1) A contractor shall provide a sworn statement to the owner or lessee in each of the following circumstances:
- (a) When payment is due to the contractor from the owner or lessee or when the contractor requests payment from the owner or lessee.
 - (b) When a demand for the sworn statement has been made by or on behalf of the owner or lessee.
- (2) A subcontractor shall provide a sworn statement to the owner or lessee when a demand for the sworn statement has been made by or on behalf of the owner or lessee and, if applicable, the owner or lessee has complied with the requirements of subsection (6).
- (3) A subcontractor shall provide a sworn statement to the contractor when payment is due to the subcontractor from the contractor or when the subcontractor requests payment from the contractor.
- (4) A sworn statement shall list each subcontractor and supplier with whom the person issuing the sworn statement has contracted relative to the improvement to the real property. The sworn statement shall contain a list of laborers with whom the person issuing the sworn statement has contracted relative to the improvement to the real property and for whom payment for wages or fringe benefits and withholdings are due but unpaid and the itemized amount of such wages or fringe benefits and withholdings. The sworn statement shall be in substantially the following form:

SWORN STATEMENT

State of Michigan)

)
ss.

County of)

.....(deponent), being sworn, states the following:

..... is the (contractor) (subcontractor) for an improvement to the following real property in
County, Michigan, described as follows:

.....

(insert legal description of property)

The following is a statement of each subcontractor and supplier, and laborer for whom payment of wages or fringe benefits and withholdings is due but unpaid, with whom the (contractor) (subcontractor) has (contracted) (subcontracted) for performance under the contract with the owner or lessee of the property, and the amounts due to the persons as of the date of this statement are correctly and fully set forth opposite their names:

Name, address, and tele-phone number of subcontractor, supplier, or laborer	Type of improvement furnished	Total contract price	Amount already paid	Amount currently owing	Balance to complete (optional)	Amount of laborer wages due but unpaid	Amount of laborer fringe benefits and withholdings due but unpaid
---	-------------------------------	----------------------	---------------------	------------------------	--------------------------------	--	---

.....

Totals

(Some columns are not applicable to all persons listed)

The contractor has not procured material from, or subcontracted with, any person other than those set forth and owes no money for the improvement other than the sums set forth.

I make this statement as the (contractor) (subcontractor) or as of the (contractor) (subcontractor) to represent to the owner or lessee of the property and his or her agents that the property is free from claims of construction liens, or the possibility of construction liens, except as specifically set forth in this statement and except for claims of construction liens by laborers that may be provided under section 109 of the construction lien act, 1980 PA 497, MCL 570.1109.

WARNING TO OWNER OR LESSEE: AN OWNER OR LESSEE OF THE PROPERTY SHALL NOT RELY

ON THIS SWORN STATEMENT TO AVOID THE CLAIM OF A SUBCONTRACTOR, SUPPLIER, OR LABORER WHO HAS PROVIDED A NOTICE OF FURNISHING OR A LABORER WHO MAY PROVIDE A NOTICE OF FURNISHING UNDER SECTION 109 OF THE CONSTRUCTION LIEN ACT, 1980 PA 497, MCL 570.1109, TO THE DESIGNEE OR TO THE OWNER OR LESSEE IF THE DESIGNEE IS NOT NAMED OR HAS DIED.

IF THIS SWORN STATEMENT IS IN REGARD TO A RESIDENTIAL STRUCTURE, ON RECEIPT OF THE SWORN STATEMENT, THE OWNER OR LESSEE, OR THE OWNER'S OR LESSEE'S DESIGNEE, MUST GIVE NOTICE OF ITS RECEIPT, EITHER IN WRITING, BY TELEPHONE, OR PERSONALLY, TO EACH SUBCONTRACTOR, SUPPLIER, AND LABORER WHO HAS PROVIDED A NOTICE OF FURNISHING UNDER SECTION 109 OR, IF A NOTICE OF FURNISHING IS EXCUSED UNDER SECTION 108 OR 108A, TO EACH SUBCONTRACTOR, SUPPLIER, AND LABORER NAMED IN THE SWORN STATEMENT. IF A SUBCONTRACTOR, SUPPLIER, OR LABORER WHO IS ENTITLED TO NOTICE OF RECEIPT OF THE SWORN STATEMENT MAKES A REQUEST, THE OWNER, LESSEE, OR DESIGNEE SHALL PROVIDE THE REQUESTER A COPY OF THE SWORN STATEMENT WITHIN 10 BUSINESS DAYS AFTER RECEIVING THE REQUEST.

.....

Deponent

WARNING TO DEPONENT: A PERSON WHO GIVES A FALSE SWORN STATEMENT WITH INTENT TO DEFRAUD IS SUBJECT TO CRIMINAL PENALTIES AS PROVIDED IN SECTION 110 OF THE CONSTRUCTION LIEN ACT, 1980 PA 497, MCL 570.1110.

Subscribed and sworn to before me on(DATE)

.....

Notary Public,..... County, Michigan.

My commission expires:

(5) The contractor or subcontractor is not required to list in the sworn statement material furnished by the contractor or subcontractor out of his or her own inventory that was not purchased specifically for performing the contract.

(6) On receipt of a sworn statement regarding an improvement to a residential structure, the owner, lessee, or designee shall give notice of its receipt, either in writing, by telephone, or personally, to each subcontractor, supplier, and laborer who has provided a notice of furnishing under section 109 or, if a notice of furnishing is excused under section 108 or 108a, to each subcontractor, supplier, and laborer named in the sworn statement. If a subcontractor, supplier, or laborer entitled to notice under this subsection requests a copy of the sworn statement, the owner, lessee, or designee shall provide the requester a copy within 10 business days after receiving the request.

(7) After the contractor or subcontractor provides the sworn statement, the owner or lessee may withhold or, upon written demand from the contractor, shall withhold from the amount due or to become due to the contractor or to the subcontractor for work already performed an amount sufficient to pay all sums due to subcontractors, suppliers, or laborers, as shown by the sworn statement, or due to lien claimants who have provided a notice of furnishing under section 109. From the amount withheld, the owner or lessee may directly pay subcontractors, suppliers, or laborers the amount they are due as shown by the sworn statement. If the contract provides for payments by the owner to the general contractor in the normal course of construction, but the owner elects to pay lien claimants directly under this section, the first time the owner elects to make payment directly to a lien claimant, he or she shall provide at least 5 business days' notice to the general contractor of the intention to make direct payment. Subsequent direct disbursements to lien claimants need not be preceded by the 5-day notice provided in this section unless the owner first returns to the practice of paying all sums to the general contractor. As between the owner or lessee and the contractor or subcontractor, all payments made under this subsection are considered the same as if paid directly to the contractor or subcontractor. If an amount is withheld under this subsection from the contractor or subcontractor, the owner or lessee, upon request, shall prepare and provide to the contractor or subcontractor an itemized statement of the sums withheld. If an amount is paid directly to a lien claimant under this section, the owner or lessee shall, if requested by the contractor or subcontractor, provide to the contractor or subcontractor an itemized statement of the sums paid.

(8) An owner, lessee, designee, mortgagee, or contractor may rely on a sworn statement prepared by a party other than himself or herself to avoid the claim of a subcontractor, supplier, or laborer unless the subcontractor, supplier, or laborer has provided a notice of furnishing as required under section 109 or unless the notice of furnishing is excused under section 108 or 108a.

(9) If a contractor fails to provide a sworn statement to the owner or lessee before recording the contractor's claim of lien, the contractor's construction lien is not invalid. However, the contractor is not entitled to any payment, and a complaint, cross-claim, or counterclaim may not be filed to enforce the construction lien, until the sworn statement has been provided.

(10) If a subcontractor fails to provide a sworn statement under subsection (2) to the owner or lessee before recording the subcontractor's claim of lien, the subcontractor's construction lien is valid. However, a complaint,

cross-claim, or counterclaim may not be filed to enforce the construction lien until the sworn statement has been provided.

(11) A contractor or subcontractor who desires to draw money and gives or causes to be given to any owner or lessee a sworn statement required by this section that is false, with intent to defraud, is guilty of a crime as follows:

(a) If the statement involved is for less than \$200.00, the contractor or subcontractor is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the contractor or subcontractor is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine:

(i) The statement involved is for \$200.00 or more but less than \$1,000.00.

(ii) The statement involved is for less than \$200.00 and the contractor or subcontractor has 1 or more prior convictions for committing or attempting to commit an offense under this act.

(c) If any of the following apply, the contractor or subcontractor is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine:

(i) The statement involved is for \$1,000.00 or more but less than \$20,000.00.

(ii) The statement involved is for more than \$200.00 but less than \$1,000.00 and the contractor or subcontractor has 1 or more prior convictions for violating or attempting to violate this act. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation described in subdivision (a) or (b)(ii).

(d) If any of the following apply, the contractor or subcontractor is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$15,000.00 or 3 times the statement amount, whichever is greater, or both imprisonment and a fine:

(i) The statement involved is for \$20,000.00 or more.

(ii) The statement involved is for \$1,000.00 or more but less than \$20,000.00 and the contractor or subcontractor has 2 or more prior convictions for committing or attempting to commit an offense under this act. For purposes of this subparagraph, however, a prior conviction does not include a conviction for a violation or attempted violation described in subdivision (a) or (b)(ii).

(12) For purposes of subsection (11), statements involved in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total amount involved in the statements.

(13) If the prosecuting attorney intends to seek an enhanced sentence for a violation under this section based upon the defendant having 1 or more prior convictions, the prosecuting attorney shall include in the complaint and information a statement listing the prior conviction or convictions. The existence of the defendant's prior conviction or convictions shall be determined by the court, without a jury, at sentencing or at a separate hearing for that purpose before sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(14) If the sentence for a conviction under this section is enhanced by 1 or more convictions, those prior convictions shall not be used to further enhance the sentence for the conviction pursuant to section 10, 11, or 12 of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.10, 769.11, and 769.12.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2001, Act 151, Eff. Jan. 1, 2002 ;-- Am. 2006, Act 572, Imd. Eff. Jan. 3, 2007 ;-- Am. 2007, Act 28, Imd. Eff. June 28, 2007

570.1111 Claim of lien; recording; validity; form; assignment; statement; proof of service of notice of furnishing; serving copy of claim of lien and recorded proof of service on designee, owner, or lessee; claim of lien of more than 1 laborer; consideration by court.

Sec. 111.

(1) Notwithstanding section 109, the right of a contractor, subcontractor, laborer, or supplier to a construction

lien created by this act shall cease to exist unless, within 90 days after the lien claimant's last furnishing of labor or material for the improvement, pursuant to the lien claimant's contract, a claim of lien is recorded in the office of the register of deeds for each county where the real property to which the improvement was made is located. A claim of lien shall be valid only as to the real property described in the claim of lien and located within the county where the claim of lien has been recorded.

(2) A claim of lien shall be in substantially the following form:

CLAIM OF LIEN

Notice is hereby given that on the day of, 19,

(name)

(address)

first provided labor or material for an improvement to

.....,

(legal description of real property from notice of commencement)

the (owner) (lessee) of which property is

(name of owner or lessee from notice of commencement)

The last day of providing the labor or material was the day of, 19

TO BE COMPLETED BY A LIEN CLAIMANT WHO IS A CONTRACTOR,
SUBCONTRACTOR, OR SUPPLIER:

The lien claimant's contract amount, including extras, is \$..... . The lien claimant has received payment thereon in the total amount of \$..... , and therefor claims a construction lien upon the above-described real property in the amount of \$

TO BE COMPLETED BY A LIEN CLAIMANT WHO IS A LABORER:

The lien claimant's hourly rate, including fringe benefits and withholdings, is \$..... . There is due and owing to or on behalf of the laborer the sum of \$ for which the laborer claims a construction lien upon the above-described real property.

(lien claimant)

by

(signature of
lien claimant,
agent, or
attorney)

(address of
party signing
claim of lien)

Date:..... .

State of Michigan

)

) ss.

County of

)

Subscribed and sworn to before me this day of, 19

Signature of Notary Public

My commission expires:

Prepared by:

(name and
address of
party)

(3) If the claim of lien has been assigned, the claim of lien shall state: "The construction lien having been assigned, this claim of lien is made by as assignee thereof".

(4) A claim of lien by a subcontractor, supplier, or laborer shall have attached to it a proof of service of a notice of furnishing described in section 109.

(5) Each contractor, subcontractor, supplier, laborer, or agent of a group of laborers authorized under subsection (6) recording a claim of lien, within 15 days after the date of the recording, shall serve on the designee personally or by certified mail, return receipt requested, at the address shown on the notice of commencement, a copy of the claim of lien and a copy of any proof of service recorded in connection with the claim of lien. If a designee has not been named in the notice of commencement, or if the designee has died, service shall be made upon the owner or

lessee named in the notice of commencement. If the service is made by certified mail, service is complete upon mailing. Proof of making the service shall be attached to any complaint, cross-claim, or counterclaim filed to enforce a construction lien.

(6) One or more laborers may authorize an agent to prepare, record, and serve a claim of lien in the manner provided in this section. A claim of lien under this section may contain the claim of lien of more than 1 laborer and shall contain the information required in subsection (2) as to each laborer for whom it is prepared. The claim of lien of each lien claimant under this subsection shall be considered by the court on its own merits.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982

570.1112 Endorsing and indexing instrument by register of deeds; recording fee; constructive notice.

Sec. 112.

(1) If a notice of professional services contract, notice of professional services subcontract, notice of commencement, claim of lien, certificate of discharge of lien, or a certificate of a county clerk that no proceedings to enforce a construction lien have been commenced within the period provided by law is recorded in the office of a register of deeds, the register shall endorse on the instrument the date of its recording and properly index the instrument.

(2) The fee for recording an instrument described in subsection (1) is the same as the fee for recording a real estate mortgage under section 2567 of the revised judicature act of 1961, 1961 PA 236, MCL 600.2567.

(3) The recording of a notice of professional services contract, notice of professional services subcontract, notice of commencement, or claim of lien operates as constructive notice to subsequent purchasers or encumbrancers in the same manner as the recording of a real estate mortgage.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1113 Making available to lien claimant copy of contract and statement of amount due and unpaid; liability of owner or lessee; providing to owner, lessee, or designee statement of labor and material furnished; liability of lien claimant failing to provide statement; honoring request for payment by lien claimant.

Sec. 113.

(1) An owner or lessee who contracts for an improvement, upon receipt of a written demand by a lien claimant, shall make available for inspection and copying to the lien claimant, within 10 days after receipt of the written demand, a copy of the contract for the improvement between the owner or lessee and the contractor, and a written statement of the amount due and unpaid on that date on the contract. Any owner or lessee who fails to make available for inspection and copying a copy of the contract and the written statement of the amount due and unpaid, within 10 days after receipt of a written demand, shall be liable to the lien claimant for all actual damages sustained by the lien claimant due to the failure.

(2) Each lien claimant, upon receipt of a written demand by an owner, lessee, designee, or contractor, shall provide to the owner, lessee, designee, or contractor, within 10 days after receipt of the written demand, a written statement of the amount of labor and material furnished to the date of the statement in connection with the improvement for which a construction lien is claimed, any amount remaining due for the labor and material furnished, and the contractual amount of any work remaining to be performed. A lien claimant who fails to provide a statement within 10 days after receipt of a written demand shall be liable to the owner, lessee, or contractor for actual damages sustained by the owner, lessee, or contractor due to the failure. In addition, the owner, lessee, or contractor, after the expiration of the 10-day period without receipt of the requested statement, shall not be required to honor a request for payment by the lien claimant until the statement has been received by the person who requested it.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982

570.1114 Construction lien on interest of owner or lessee in residential structure; providing improvement under written contract required; statement; contents.

Sec. 114.

A contractor does not have a right to a construction lien on the interest of an owner or lessee in a residential structure unless the contractor has provided an improvement to the residential structure under a written contract between the owner or lessee and the contractor and any amendments or additions to the contract are also in writing. The contract required under this section shall contain a statement, in type no smaller than that of the body of the contract, stating all of the following:

(a) That a residential builder or a residential maintenance and alteration contractor is required to be licensed under article 24 of the occupational code, 1980 PA 299, MCL 339.2401 to 339.2412. That an electrician is required to be licensed under article 7 of the skilled trades regulation act, MCL 339.5701 to 339.5739. That a plumbing contractor is required to be licensed under article 11 of the skilled trades regulation act, MCL 339.6101 to 339.6133. That a mechanical contractor is required to be licensed under article 8 of the skilled trades regulation act, MCL 339.5801 to 339.5819.

(b) If the contractor is required to be licensed to provide the contracted improvement, that the contractor is licensed and the contractor's license number.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2006, Act 497, Eff. Jan. 3, 2007 ;-- Am. 2016, Act 415, Eff. Apr. 4, 2017

570.1114a Construction lien recorded by unlicensed person.

Sec. 114a.

(1) The owner of residential property on which a construction lien has been recorded by a person who was not licensed as described in section 114, or any person affected by the lien, may bring an action to discharge the lien.

(2) If the court in an action under subsection (1) determines that the person who recorded the lien was not licensed as required, the person is liable to the person who brought the action for all damages that result from the recording and any attempts to enforce the lien, including actual costs and attorney fees.

(3) A person who brings an action to recover for the performance of an act or contract for which a license is required as described in section 114 shall allege in the complaint and has the burden of proving that he or she was properly licensed.

History: Add. 2006, Act 497, Eff. Jan. 3, 2007

570.1115 Waiver of construction lien.

Sec. 115.

(1) A person shall not require, as part of any contract for an improvement, that the right to a construction lien be waived in advance of work performed. A waiver obtained as part of a contract for an improvement is contrary to public policy, and shall be invalid, except to the extent that payment for labor and material furnished was actually made to the person giving the waiver. Acceptance by a lien claimant of a promissory note or other evidence of indebtedness from an owner, lessee, or contractor shall not of itself serve to waive or discharge otherwise valid construction lien rights.

(2) A lien claimant who receives full payment for his or her contract shall provide to the owner, lessee, or

designee a full unconditional waiver of lien.

(3) A lien claimant who receives partial payment for his or her contract shall provide to the owner, lessee, or designee a partial unconditional waiver of the lien for the amount which the lien claimant has received, if the owner, lessee, or designee requests the partial unconditional waiver.

(4) A partial conditional waiver of lien or a full conditional waiver of lien shall be effective upon payment of the amount indicated in the waiver.

(5) For purposes of this act, retainage that is not payable under a contract until the happening of a certain event in addition to the providing of an improvement is not due as of the date of the providing of the improvement.

(6) A waiver of a lien under this section shall be effective when a person makes payment relying on the waiver unless at the time payment was made the person making the payment has written notice that the consideration for the waiver has failed.

(7) Subject to subsection (8), if the improvement is provided to property that is a residential structure, an owner, lessee, or designee shall not rely on a full or partial unconditional or conditional waiver of lien provided by a person other than the lien claimant named in the waiver if the lien claimant has either filed a notice of furnishing under section 109 or is excused from filing a notice of furnishing under section 108 or 108a unless the owner, lessee, or designee has first verified the authenticity of the lien waiver with the lien claimant either in writing, by telephone, or personally.

(8) An agent who is authorized to prepare and serve a notice of furnishing or to prepare, record, and serve a claim of lien on behalf of a laborer or group of laborers is automatically authorized to provide and responsible for providing waivers of lien, unless or until the laborer or group of laborers notifies the designee in writing that someone other than the agent is authorized to provide appropriate waivers. An individual laborer may also provide waivers under this section instead of the agent.

(9) The following forms shall be used in substantially the following format to execute waivers of construction liens:

(a) PARTIAL UNCONDITIONAL WAIVER

I/we have a contract with to

(other contracting party)

provide for the improvement to the property described as
....., and by signing this waiver waive my/our construction
lien to the amount of \$....., for labor/materials provided through
.....

(date)

This waiver, together with all previous waivers, if any, (circle one) does does not cover all amounts due to me/us for contract improvement provided through the date shown above. If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....
.....

(signature of lien
claimant)

Signed on:
(date)

Address:.....

.....
Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

(b) PARTIAL CONDITIONAL WAIVER

I/we have a contract with to

(other contracting party)

provide for the improvement to the property described
as:....., and by signing this waiver waive my/our construction
lien to the amount of \$, for labor/materials provided
through.....

(date)

This waiver, together with all previous waivers, if any, (circle one) does does not cover all amounts due to me/us for contract improvement provided through the date shown above. This waiver is conditioned on actual payment of the amount shown above.

If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....

.....

(signature of lien
claimant)

Address:.....

Signed on:

(date)

.....

Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

(c) FULL UNCONDITIONAL WAIVER

My/our contract with to

(other contracting party)

provide for the improvement of the property described
as:..... has been fully paid and satisfied. By signing this
waiver, all my/our construction lien rights against the described property are waived
and released.

If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

.....

.....

(signature of lien
claimant)

Address:.....

Signed on:

(date)

.....

Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

(d) FULL CONDITIONAL WAIVER

My/our contract with to

(other contracting party)

provide for the improvement of the property described
as:..... has been fully paid and satisfied. By signing this waiver,
all my/our construction lien rights against the described property are waived and
released.

This waiver is conditioned on actual payment of If the improvement is provided to property that is a residential structure and if the owner or lessee of the property or the owner's or lessee's designee has received a notice of furnishing from me/one of us or if I/we are not required to provide one, and the owner, lessee, or designee has not received this waiver directly from me/one of us, the owner, lessee, or designee may not rely upon it without contacting me/one of us, either in writing, by telephone, or personally, to verify that it is authentic.

Signed on:
(date)

.....
.....
(signature of lien
claimant)
Address:.....
.....
Telephone:.....

DO NOT SIGN BLANK OR INCOMPLETE FORMS. RETAIN A COPY.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2006, Act 572, Imd. Eff. Jan. 3, 2007 ;-- Am. 2007, Act 28, Imd. Eff. June 28, 2007

570.1116 Claim of lien; vacation and discharge; bond; penal sum; filing; notification of lien claimant; objection to sufficiency of surety; appearance by surety; approval of bond; certificate; recordation; discharge of claim of lien and notice of lis pendens; action by obligee; court order or other relief.

Sec. 116.

(1) The claim of lien of a contractor, subcontractor, supplier, or laborer may at any time be vacated and discharged if a bond, with the lien claimant as obligee, is filed with the county clerk for the county in which the property covered by the lien is located and a copy is given to the obligee lien claimant. The bond shall be in the penal sum of twice the amount for which the lien is claimed and shall be conditioned on the payment of any sum for which the obligee in the bond may obtain judgment on the claim for which the claim of lien was filed. The bond may be either a cash bond executed by a principal, or a surety bond executed by a principal and a surety company authorized to do business in this state.

(2) Within 10 days after receiving the bond, the county clerk shall notify each lien claimant that a bond has been filed and indicate the amount of the bond and the name of the surety on the bond. The lien claimants shall have 10 days after being notified of the bond within which to file an objection to the sufficiency of the surety on the bond, in which case the county clerk shall not approve the bond until the surety has appeared before the county clerk and answered under oath those questions asked by or on behalf of the lien claimant touching on the surety's financial responsibility. If an objection to the surety is not filed within the 10 days after being notified of the bond or if the county clerk approves the bond after the questioning of the surety, the county clerk shall at once give to the principal and the obligee named in the bond a certificate that a good and sufficient bond has been filed in accordance with this act. The certificate shall state the names of the obligor and obligee, the amount of the bond, and the description of the property covered by the claim of lien being discharged. Upon the recording of the certificate in the office of the register of deeds where the claim of lien was recorded, the claim of lien of the obligee lien claimant named in the claim of lien shall be discharged. If because of the pendency of proceedings to enforce the claim of lien, a notice of lis pendens has been recorded, the recording of the certificate shall also operate as a discharge of the notice of lis pendens. The obligee may make any obligor on the bond a party to an action to enforce a claim under the bond, and a judgment may be recovered in the action against all or any of the obligors.

(3) In an action brought in connection with the claim of the obligee, the court may do 1 or more of the following:

- (a) Order the amount of the bond to be reduced.
- (b) Order other or additional surety to be provided.
- (c) Grant any other relief the court considers to be equitable.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1117 Action for enforcement of construction lien through foreclosure; notice of lis pendens; agent appointed to represent laborers; parties; action on contract by lien claimant; enforcement of lien by cross-claim or counterclaim where lien claimant party; sworn statement.

Sec. 117.

(1) Proceedings for the enforcement of a construction lien and the foreclosure of any interests subject to the construction lien shall not be brought later than 1 year after the date the claim of lien was recorded.

(2) At the time of commencing an action for the enforcement of a construction lien through foreclosure, the plaintiff shall record a notice of lis pendens with respect to the action in the office of the register of deeds for the county in which the real property involved in the action is located.

(3) As provided in section 111(6), an action to foreclose on a construction lien may be maintained by an agent appointed to represent laborers.

(4) Each person who, at the time of filing the action, has an interest in the real property involved in the action which would be divested or otherwise impaired by the foreclosure of the lien, shall be made a party to the action.

(5) In connection with an action for foreclosure of a construction lien, the lien claimant also may maintain an action on any contract from which the lien arose.

(6) Except as otherwise provided in subsection (1), a lien claimant who has been made a party to an action for foreclosure of a construction lien may enforce his or her own construction lien in the action by a cross-claim or counterclaim, and the owner or lessee may timely join other or potential lien claimants in the action.

(7) In an action brought by a contractor or subcontractor to enforce a construction lien through foreclosure, the complaint, cross-claim, or counterclaim must show that the owner or lessee was provided a sworn statement, if a sworn statement was requested or required, pursuant to section 110.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982

570.1118 Action to enforce construction lien through foreclosure; circuit court; equitable nature of action; enforcement of lien by cross-claim or counterclaim filed in pending action; duties of court; attorneys' fees.

Sec. 118.

(1) An action to enforce a construction lien through foreclosure shall be brought in the circuit court for the county where the real property described in the claim of lien is located. If the real property is located in more than 1 county or judicial circuit, the action may be brought in any of the counties where the real property is located. An action to enforce a construction lien through foreclosure is equitable in nature. A construction lien also may be enforced by a cross-claim or counterclaim timely filed in a pending action involving title to, or foreclosure of mortgages or encumbrances on, real property.

(2) In an action to enforce a construction lien through foreclosure, the court shall examine each claim and defense that is presented and determine the amount, if any, due to each lien claimant or to any mortgagee or holder of an encumbrance and their respective priorities. The court may allow reasonable attorneys' fees to a lien claimant who is the prevailing party. The court also may allow reasonable attorneys' fees to a prevailing defendant if the court determines the lien claimant's action to enforce a construction lien under this section was vexatious.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2010, Act 147, Imd. Eff. Aug. 23, 2010

570.1118a Attachment of claim to residential structure; affidavit; rebuttable presumption of payment by owner or lessee to contractor.

Sec. 118a.

(1) A claim of construction lien does not attach to a residential structure, to the extent payments have been made, if the owner or lessee files an affidavit with the court stating that the owner or lessee has paid the contractor for the improvement to the residential structure according to the contract, indicating in the affidavit the amount of the payment. The owner or lessee shall attach to the affidavit copies of the contract, any change orders, and any evidence of the payment that the owner or lessee has, including, but not limited to, a canceled check or a credit card or other receipt.

(2) If there is no written contract between the owner or lessee and the contractor as required by section 114, the filing of an affidavit under this section creates a rebuttable presumption that the owner or lessee has paid the contractor for the improvement. The presumption may be overcome only by a showing of clear and convincing evidence to the contrary.

History: Add. 2010, Act 147, Imd. Eff. Aug. 23, 2010

570.1119 Claims of lien having equal priority; priority of construction lien over garnishments and over other interests, liens, or encumbrances; attachment; effect of recording; priority of recorded mortgage, lien, encumbrance, or other interest over construction lien; advances; retainage.

Sec. 119.

(1) Except as otherwise provided by subsection (4), as between parties entitled to claim construction liens under this act, the liens have equal priority. This subsection applies and the construction liens have equal priority regardless of whether the lien arises at the time of the first actual physical improvement or at the time a notice is recorded under section 107a or 107b.

(2) A construction lien under this act has priority over all garnishments for the contract debt made after the lien arises, without regard to the date of recording of the claim of lien.

(3) A construction lien arising under this act has priority over all other interests, liens, or encumbrances that may attach to the building, structure, or improvement, or on the real property on which the building, structure, or improvement is erected, if the other interests, liens, or encumbrances are recorded after the construction lien arises.

(4) A mortgage, lien, encumbrance, or other interest recorded before the construction lien arises has priority over a construction lien arising under this act. The priority of the mortgage exists as to all obligations secured by the mortgage except for indebtedness arising out of advances made after the construction lien arises. An advance made pursuant to the mortgage, but after the construction lien arises, has priority over a construction lien if, for that advance, the mortgagee has received a contractor's sworn statement as provided in section 110, has made disbursements pursuant to the contractor's sworn statement, and has received waivers of lien from the contractor and all subcontractors, laborers, and suppliers who have provided notices of furnishing. The construction lien of a lien claimant not set forth on the sworn statement on which an advance was made is subordinate to the lien of the mortgage, including the advance, unless before the advance the lien claimant provided the designee with a notice of furnishing if required by section 109 or recorded a claim of lien. An advance made after a notice of furnishing has been provided or has been excused as provided in sections 108, 108a, and 109 or after a claim of lien has been recorded is subordinate to the construction lien of the lien claimant unless before the advance the mortgagee received from the lien claimant either a full unconditional waiver of lien or a partial unconditional waiver of lien for the full amount due the lien claimant as of the date through which the lien is waived as shown on the lien waiver and the date through which the lien is waived as shown on the partial unconditional waiver is within 30 days before the advance.

(5) For purposes of this section, retainage that is not payable under a contract until a certain event happens in addition to an improvement being provided, is not due as of the date the improvement is provided.

(6) For purposes of determining priorities under this section, a construction lien arises as follows:

(a) Except as provided in subdivision (b), at the time of the first actual physical improvement.

(b) As to a lien claimed by a person after the person has recorded a notice under section 107a or 107b, at the time a notice is recorded, subject to any applicable limitation under section 107a(4) or 107b(4).

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982 ;-- Am. 2018, Act 367, Imd. Eff. Dec. 12, 2018

570.1120 Failure of owner or lessee to perform contract; compensation and additional damages.

Sec. 120.

If a lien claimant, by reason of the failure of an owner or lessee to perform the contract, and without fault on the part of the lien claimant, has been prevented from completely performing the contract, the lien claimant shall be entitled to compensation for as much as was performed by the claimant under the contract, in proportion to the price stipulated for complete performance of the whole contract, less any payments made to the lien claimant and also to any additional damages which the lien claimant may be entitled to as a matter of law.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1121 Judgment of foreclosure; sale of real property or improvement; satisfaction of lien from rents, profits, and income; adding tax and insurance premium payments; affidavit; redemption period; conduct of sale; right, title, and interest vested in grantee; final order; deficiency judgment; surplus; bringing sale proceeds into court; redemption.

Sec. 121.

(1) If the court finds that a lien claimant is entitled to a construction lien upon the real property to which he or she furnished an improvement, and the amount adjudged to be due has not been paid, the court may enter a judgment ordering the sale of any interest in the real property, or a part of the real property, to which the construction lien attaches. If the construction lien attaches only to the improvement furnished, the court may order a sale of the improvement. If the court finds that there is an interest in or encumbrance against the real property which is superior to the construction lien being foreclosed, the order for sale shall indicate that fact. The court may order a construction lien satisfied out of the rents, profits, and income from the real property to which the construction lien has attached.

(2) In a judgment of foreclosure, the court may provide for adding to the amount determined to be due any amount paid by any lien claimant, mortgagee, or receiver appointed by the court, after the foreclosure sale and before the expiration of the period of redemption, for taxes assessed against the real property sold or for that portion of the premium of an insurance policy covering the building located on the real property, which premium portion is required to keep the policy in force until the expiration of the period of redemption. After the making of any tax or premium payments, an affidavit with respect to the payments shall be recorded immediately in the office of the register of deeds for the county in which the deed on foreclosure sale was recorded.

(3) In the order for the foreclosure sale, the court shall fix a period for redemption. The period of redemption shall not exceed 4 months. The sale shall be conducted in the same manner as a sale on execution. The sale shall become final, subject to the period of redemption, upon the entry of an order of confirmation by the court. Pursuant to section 119(3) and subject to subsection (1), the foreclosure, upon becoming final, shall vest in the grantee named in the deed all the right, title, and interest in the real property which the owner, co-owner, lessee, or co-lessee whose interest is being foreclosed had at the date of the execution of the contract or at any time thereafter.

(4) The court shall enter a final order directing the distribution of all of the funds obtained from the foreclosure sale in accordance with the priorities of the parties as determined by the court. The court shall adjudicate the rights, if any, of lien claimants to a deficiency judgment against any owner or lessee contracting for an improvement. After the making of all payments directed by the court, any surplus from the proceeds of the sale of property on the foreclosure of a construction lien under this act shall be paid over to the owner, co-owner, lessee, co-lessee, or such other person as may be entitled to the surplus. However, the surplus shall be subject to a subsequent judgment or execution under this act in the same manner as if the surplus was derived from a sale made under the subsequent execution.

(5) If all claims of lien are not ascertained when a sale is ordered, or if for any other reason it is deemed proper to postpone the order of distribution of the proceeds of a sale on foreclosure, the court may direct the party making the sale to bring the proceeds of the sale into court, to be disposed of according to order of the court.

(6) Redemption from a foreclosure sale is complete upon payment of all sums set forth in the judgment of foreclosure, together with any sums due for the payment of taxes or insurance premiums as provided in subsection (2). If there is not a redemption from the foreclosure sale, taxes and insurance premiums paid after the sale shall not be included in any deficiency judgment.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982

570.1122 Appointing receiver in action to enforce construction lien through foreclosure or in action to foreclose mortgage; petition; motion; finding; appointment; nominations by mortgagee and lien claimant; fiduciary responsibility; appointment of receiver for residential structure or certain apartment buildings prohibited; power of receiver.

Sec. 122.

(1) If the improvement to the real property is not completed as of the date of commencement of an action in which enforcement of a construction lien through foreclosure is sought or in any action to foreclose a mortgage on the real property on which the incomplete improvement exists, any lien claimant or mortgagee may petition the court for the appointment of a receiver. The petition shall be heard as a motion. A receiver may be appointed by the court upon finding that a substantial unpaid construction lien exists, or that the mortgage on the real property is in default and that the lien claimant, the mortgagee, or both, are likely to sustain substantial loss if the improvement is not completed.

(2) When making an appointment of a receiver under this section, the court shall give consideration to the nominations of the mortgagee and the lien claimant. Any receiver appointed under this section shall be deemed a fiduciary for the benefit of all persons having or claiming interests in the real property, and shall exercise his or her office accordingly.

(3) A receiver shall not be appointed under this section for any residential structure, nor for any apartment building containing 4 or less apartments.

(4) The receiver shall be entitled to possession of the real property upon his or her appointment. Unless otherwise limited by the court, and subject to his or her fiduciary responsibility as provided in this act, the receiver shall have all powers generally exercised by a receiver in a court of equity, including the right to be compensated for his or her services and those of his or her agents and attorneys.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982

570.1123 Petition by receiver for authority to complete construction of improvements, borrow money, grant security, or sell real property under foreclosure; sale; redemption period; purchase of real property by lien claimant or mortgagee; right, title, and interest vested in grantee.

Sec. 123.

(1) The receiver may petition the court for authority to complete construction of improvements to the real property in full or in part, to borrow money to complete the construction, and to grant security, by way of mortgage or otherwise, for the borrowings. The priority of the security shall be determined by the court. A petition for authority to complete construction of improvements shall not be granted unless the court finds that the value added to the real property which will result from the construction is likely to exceed the cost of the additional construction, including all estimated overhead and administrative costs, together with interest on any funds that are to be borrowed for the construction. The receiver also may be authorized by the court to borrow funds for other purposes, including such purposes as preserving and operating the real property.

(2) The receiver may petition the court for authority to sell the real property interest under foreclosure for cash or on other terms as may be ordered by the court. The sale may be by private or public sale and shall be held in the manner directed by the court. A sale under this subsection shall become final upon the entry of an order of confirmation by the court, unless the court allows a period for redemption. The redemption period, if allowed, shall not exceed 4 months.

(3) Any lien claimant or mortgagee may purchase the real property at a sale on foreclosure or a sale by the receiver, and may apply on the purchase price any sums which would be payable to him or her from the proceeds of the sale.

(4) Pursuant to section 119(3) and subject to section 121(1), a sale by the receiver, upon becoming final, shall vest in the grantee named in the deed all the right, title, and interest in the real property which the owner, co-owner, lessee, or co-lessee whose interest is being foreclosed had at the date of the execution of the contract for the

improvement or at any time thereafter.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982

570.1124 Final account of receiver; final order directing distribution of assets; order of priority; deficiency judgment; notice of hearing.

Sec. 124.

(1) Upon the completion of the sale of the real property, the receiver shall prepare and submit a final account for examination and approval by the court. The court shall enter a final order directing the distribution of all funds or other assets held by the receiver. Repayment of funds borrowed by the receiver, under court authority, for the completion of improvements, or for any other purpose shall have priority in the distribution, unless a different priority has been ordered by the court. The next priority shall be that of funds expended by the receiver, including his or her fees and those of his or her attorneys and agents. The remaining funds shall be distributed to the parties in the order of the priority of their respective liens, encumbrances, or other rights as determined by the court. The court shall adjudicate the right, if any, to a deficiency judgment against any contracting party.

(2) Each person who appeared in the foreclosure action shall receive a notice of hearing on any court action concerning the receivership.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1125 Assignability of construction lien; powers and obligations of assignee.

Sec. 125.

A construction lien which arises under this act is assignable. Proceedings for the enforcement of the lien may be maintained by, and in the name of, the assignee. In that case, the assignee shall have the same power to enforce the construction lien, and shall be subject to the same obligations, as if the proceedings were being taken by, and in the name of, the lien claimant.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1126 Construction lien concerning condominium; limitations; definitions.

Sec. 126.

(1) A construction lien, concerning a condominium, arising under this act is subject to the following limitations:

(a) Except as otherwise provided in this section, a construction lien for an improvement furnished to a condominium unit or to a limited common element shall attach only to the condominium unit to which the improvement was furnished.

(b) A construction lien for an improvement authorized by the developer of a condominium project and performed upon the common elements shall attach only to condominium units owned by the developer at the time of recording of the claim of lien.

(c) A construction lien for an improvement authorized by the association of coowners of condominium units shall attach to each condominium unit only to the proportional extent that the coowner of the condominium unit is required to contribute to the expenses of administration, as provided by the condominium documents.

(d) A construction lien shall not arise or attach to a condominium unit for work performed on the common elements, if the work was not contracted for by the developer or the association of coowners of condominium units.

(2) This section shall be subject to the definitions and limitations of Act No. 59 of the Public Acts of 1978, being sections 559.101 to 559.272 of the Michigan Compiled Laws.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1127 Full payment of claim of lien; certificate; discontinuance or dismissal of action to enforce lien through foreclosure and to discharge notice of lis pendens; documents; providing discharges of lien and other documents.

Sec. 127.

(1) When any claim of lien has been fully paid, the lien claimant shall deliver to the owner, lessee, or other person making payment a certificate, witnessed and acknowledged in the same manner as a discharge of mortgage, that the claim has been paid and is now discharged. If an action to enforce the construction lien through foreclosure is pending, the lien claimant also shall furnish, upon request, those documents which are necessary to effect a discontinuance or dismissal of the action and a discharge of any notice of lis pendens filed in connection with the action.

(2) An agent who is authorized to prepare and serve a notice of furnishing on behalf of a laborer or group of laborers or an agent who is authorized to prepare, record, and serve a claim of lien on behalf of a laborer or group of laborers is automatically authorized to provide discharges of lien and other documents described in subsection (1), unless or until the laborer or group of laborers notifies the designee in writing that someone other than a previously authorized agent is duly authorized to provide the appropriate documents. An agent who is authorized to prepare and serve a notice of furnishing or a claim of lien on behalf of a laborer or group of laborers shall be responsible for providing discharges of lien and the other documents described in subsection (1) on behalf of such laborer or laborers pursuant to this section. An agent who is authorized to prepare and serve a claim of lien on behalf of a laborer or group of laborers shall be responsible for providing discharges of lien and the other documents described in subsection (1) on behalf of such laborer or laborers pursuant to this section. An individual laborer may also provide discharges of lien and the other documents described in subsection (1) pursuant to this section instead of the agent.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982

570.1128 Failure to commence proceedings to enforce lien within time provided by law; certificate; recording; affidavit showing time statement or claim of lien recorded.

Sec. 128.

If any statement or claim of lien has been recorded in the office of a register of deeds, and the time within which proceedings to enforce the lien through foreclosure has elapsed without commencement of the proceedings, a person with an interest in the real property affected by the lien, or that person's agent or attorney, may make and present to the county clerk of the county in which the statement or claim of lien was recorded, an affidavit showing the time when the statement or claim of lien was recorded and the names of the parties to the statement or claim of lien. The county clerk shall examine the records of his or her office, and if it appears that proceedings to enforce the lien have not been commenced with the time provided by law, the county clerk shall execute and deliver to the owner a certificate of that fact, bearing the seal of the circuit court. The certificate may be recorded in the office of the register of deeds for the county where the statement or claim of lien was recorded, after which the statement or claim of lien shall have no effect.

History: 1980, Act 497, Eff. Jan. 1, 1982

570.1201-570.1207 Repealed. 1010, Act 147, Imd. Eff. Aug. 23, 2010.

Compiler's Notes: The repealed sections pertained to the homeowner construction lien recovery fund.

Part 3

570.1301 Repealed. 2018, Act 367, Imd. Eff. Dec. 12, 2018.

Compiler's Notes: The repealed section pertained to laws governing rights to construction liens.

570.1302 Construction of act.

Sec. 302.

(1) This act is declared to be a remedial statute, and shall be liberally construed to secure the beneficial results, intents, and purposes of this act. Substantial compliance with the provisions of this act shall be sufficient for the validity of the construction liens provided for in this act, and to give jurisdiction to the court to enforce them.

(2) This act shall not be construed to prevent a lien claimant from maintaining a separate action on a contract.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1982, Act 17, Eff. Mar. 1, 1982

570.1303, 570.1304 Repealed. 2010, Act 147, Imd. Eff. Aug. 23, 2010.

Compiler's Notes: The repealed sections pertained to the repeal of certain acts and creation of a joint review committee in the legislative council.

570.1305 Effective date of act; effective date of MCL 570.1303.

Sec. 305.

(1) Except as provided in subsection (2), this act shall take effect January 1, 1982.

(2) Section 303 takes effect March 1, 1982.

History: 1980, Act 497, Eff. Jan. 1, 1982 ;-- Am. 1981, Act 191, Eff. Jan. 1, 1982