

1998 PUBLIC AND LOCAL ACTS

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[No. 236]

(HB 4640)

AN ACT to amend 1915 PA 312, entitled "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," by amending sections 1, 2, and 3 (MCL 570.301, 570.302, and 570.303), sections 1 and 2 as amended by 1990 PA 58, and by adding sections 4, 5, 6, 7, 8, and 9; and to repeal acts and parts of acts.

*The People of the State of Michigan enact:*

570.301 Short title. [M.S.A. 9.1711]

Sec. 1. This act shall be known and may be cited as the "garage keeper's lien act".

570.302 Definitions. [M.S.A. 9.1712]

Sec. 2. As used in this act:

(a) "Department" means the department of state.

(b) "Garage keeper" means a person or the person's heirs, personal representative, successors, and assignees, who for hire or reward, publicly offer to store, maintain, keep, 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.

(c) "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.

(d) "Market value" means the 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.

(e) "Owner" means the person in whose name a vehicle is registered or titled.

(f) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

570.303 Garage keeper; attachment of lien upon vehicle; manner; amount. [M.S.A. 9.1713]

Sec. 3. (1) A garage keeper who, in pursuance of a contract that is expressed, implied, written, or unwritten, furnishes labor, material, or supplies, shall have a lien upon the vehicle stored, maintained, supplied, or repaired by him or her for the charges due for the storage, maintenance, keeping, 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. A garage keeper's lien attaches in the manner and amount provided in this section.

(2) The garage keeper may detain a vehicle for not more than 120 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).

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(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 \$3,000.00, 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 \$3,000.00 or less, then the amount of the lien shall be \$600.00.

(5) The amount of a payment made under this section shall be added to the amount of the prior lienholder's lien.

### 570.304 Garage keeper's lien; amounts not included; storage charge. [M.S.A. 9.1714]

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) A garage keeper has a lien in a reasonable amount 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. Charges described in this subsection may be in addition to the maximum allowance under section 3(4).

### 570.305 Garage keeper's lien; enforcement; sale of vehicle at public sale; notice; time; payment by owner or lienholder; bid for and purchase of vehicle by garage keeper; proceeds; purchase of vehicle free of security interest. [M.S.A. 9.1715]

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) The garage keeper shall notify the owner of the proposed sale of the vehicle in order to satisfy the lien of the garage keeper by a notice sent by certified mail to the last known address of the owner. The notice shall include both 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 not more than 45 days after delivery of the notice.

(4) On the same day that the notice described in subsection (3) is sent to the owner, the garage keeper shall send an exact duplicate of that notice by first-class mail, addressed to both of the following:

(a) The department of state, bureau of automotive regulation, Lansing, Michigan.

(b) Each prior lienholder listed on the title of the vehicle at the address indicated on the title for that prior lienholder, if any.

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(5) The sale shall be held not less than 20 days and not more than 60 days after the expiration of the 45-day period described in subsection (3).

(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 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 in the same condition, or substantially the same condition, as it was in when stored by the garage keeper.

(8) Not less than 30 days before a sale is held under this section, the garage keeper shall give written notice of the manner, time, and place of the sale to each lienholder as shown by the records of the department, and to the owner of the vehicle. Notice to the lienholders shall be given by certified mail, addressed to the lienholders, as shown by the records of the department. Notice to the owner of the vehicle shall be given by certified mail, directly to the last known address of the owner.

(9) Before a sale of a vehicle under this act, a lienholder of a vehicle to be sold may pay the garage keeper the amount of the garage keeper's lien, in addition to the reasonable expenses or fees incurred by the garage keeper under this act, or another amount to which the lienholder and garage keeper agree. However, the amount payable to the garage keeper shall not exceed the market value of the vehicle. A payment made to the garage keeper shall be added to the amount of the lien of the lienholder who made the payment, and shall be subtracted from the amount of the garage keeper's lien. 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 it was in when repairs were completed and as stored by the garage keeper.

(10) After the expiration of the 45-day period described in subsection (3), the garage keeper may apply to the department for a certificate, in a form as prescribed by the secretary of state, for a fee of \$10.00 paid to the secretary of state. Upon the sale of a vehicle under this act, the garage keeper shall complete the certificate 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 proceeds of the sale shall be considered to be the greater of the following:

(a) The amount paid by the garage keeper.

(b) The market value of the vehicle at the time of sale.

(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.

570.306 Proceeds of sale; distribution; order of priority; return of remaining proceeds to vehicle owner; disposition of unclaimed money. [M.S.A. 9.1716]

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.

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(b) The reasonable charges of the garage keeper.

(c) The owner 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 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.

570.307 Failure to comply with act; action by owner or lienholder.  
[M.S.A. 9.1717]

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.

570.308 Applicability of act to warehouse receipt, bill of lading, or other document of title. [M.S.A. 9.1718]

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.

570.309 Other ordinance or state law; effect. [M.S.A. 9.1719]

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.

Repeal of §§570.301a, 570.301b, and 570.302a.

Enacting section 1. Sections 1a, 1b, and 2a of 1915 PA 312, MCL 570.301a, 570.301b, and 570.302a, are repealed.

This act is ordered to take immediate effect.

Approved July 2, 1998.

Filed with Secretary of State July 3, 1998.

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