

# Legislative Analysis

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## SPECIAL TOOLS BUILDERS' AND MOLDBUILDER'S LIENS

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**House Bill 4356**  
**Sponsor: Rep. John Proos**

**House Bill 4358**  
**Sponsor: Rep. Andrew Kandrevas**

**House Bill 4357**  
**Sponsor: Rep. Mark Meadows**

**House Bill 4359**  
**Sponsor: Rep. Kim Meltzer**

**Committee: Judiciary**

**Complete to 2-16-10**

### **A SUMMARY OF HOUSE BILLS 4356-4359 AS INTRODUCED 2-19-09**

The bills would make identical amendments to separate acts to revise provisions regarding the liens of moldbuilders and special tool builders.

Moldbuilders are the companies that design and make molds that are used by other companies (known as molders) in manufacturing *plastic* parts that are then delivered to the end customer. A special tool builder is a person who designs, develops, manufactures, or assembles special tools for sale that are used in the design, development, manufacture, assembly, or fabrication of *metal* parts or metal products.

Current law delineates the process to be followed by a moldbuilder or a special tool builder to enforce a lien, including requiring written notice to the party owing on the item in question. If the moldbuilder or special tool builder is not paid the amount claimed in the notice within 90 days after receipt of the notice, the moldbuilder or special tool builder has a right to possession of the die, mold, or form (moldbuilder) or special tool (special tool builder) and can enforce the right by judgment, foreclosure, or any available judicial procedure. Possession can also be done without judicial process if that can be done without breach of the peace. **House Bills 4356 and 4359** would shorten the time frame between the notice and possession from 90 days to 30 days, allow an available judicial procedure to include a motion allowed under the court rules, and specify that the possession would be "immediate."

After taking possession of the die, mold, or form or a special tool, current law allows a moldbuilder or a special tool maker to sell the item at auction. If the proceeds of the sale are greater than the amount of the lien, the proceeds are first paid to the moldbuilder or special tool builder to satisfy the lien and the proceeds in excess of the lien are paid to the customer. **House Bills 4357 and 4358** would revise these provisions to specify that if a moldbuilder or a special tool builder prevailed in an action to enforce a perfected lien, the court would be required to award the moldbuilder or special tool builder interest,

reasonable attorney fees, court costs, and expenses related to the enforcement of the lien and sale before paying any proceeds to the customer.

House Bills 4356 and 4357 would amend the Special Tools Lien Act (MCL 570.567 and 570.571, respectively). The bills are tie-barred to each and to Senate Bill 345. Senate Bill 345 would amend the same act to remove the requirement that special tool builders permanently record certain information on every special tool the builder fabricates, repairs, or modifies; specify a lien attaches when the special tool is delivered to the customer or end user; and specify that certain provisions of a contract would be void and unenforceable.

House Bills 4358 and 4359 would amend Public Act 155 of 1981 (MCL 445.620c and 445.620a, respectively), which deals with the ownership of dies, molds, and forms used in the making of plastics. The bills are tie-barred to each other and to Senate Bill 344. That bill would amend Public Act 155 to make revisions for moldbuilders that are virtually identical to the revisions that Senate Bill 345, described above, would make for special tool builders.

**FISCAL IMPACT:**

The bills would have no fiscal impact on the state or local units of government.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.