
Senate Fiscal Agency
P. O. Box 30036
Lansing, Michigan 48909-7536

SFA**BILL ANALYSIS**

Telephone: (517) 373-5383
Fax: (517) 373-1986
TDD: (517) 373-0543

House Bill 4640 (Substitute H-4 as passed by the House)

Sponsor: Representative Kirk Profit

House Committee: Commerce

Senate Committee: Economic Development, International Trade and Regulatory Affairs

Date Completed: 12-9-97

CONTENT

The bill would amend the garage keepers' lien Act to apply general provisions of the Act to ground vehicles; revise the procedures garage keepers must follow in order to exercise a lien; cap the amount of the maximum lien for all vehicles; and repeal certain provisions pertaining to automobiles, aircraft, and watercraft liens.

("Garage keeper" would mean a person or the person's heirs, personal representative, successors, and assignees, who for hire or reward, publicly offered to store, maintain, keep, or repair a vehicle or to furnish accessories and supplies for a vehicle or an accessory used in the operation of a vehicle. "Vehicle" would be defined as it is in the Michigan Vehicle Code, i.e., every device in, upon, or by which any person or property is or may be transported or drawn upon a highway. "Market value" would mean the value as determined by the issue of the National Auto Dealer's Association official used car guide in effect at the time the garage keeper performed the first labor or first furnished supplies for which the garage keeper claimed a lien. "Owner" would mean the person in whose name a vehicle was registered or titled.)

Maximum Lien

Under the bill, the maximum amount of a lien that a prior lienholder would have to pay a garage keeper would be as follows: If a repaired vehicle's market value were \$3,000 or more, then the amount of the lien would be up to 20% of the market value of the repaired vehicle or \$5,000, whichever was less; or, if a repaired vehicle's market value were \$3,000 or less, then the amount of the lien would be \$600. The amount of payment would be added to the amount of the prior lienholder's lien.

Currently, a garage keeper's maximum lien is \$600 for a ground vehicle, \$200 for a watercraft, and between \$5,000 and \$100,000 for an aircraft.

Labor, Materials, and Storage

Under the bill, when materials used were custom materials that were not normally available from the manufacturer or a distributor in the case of a foreign car, or that were not normally installed on vehicles by the original manufacturer, the garage keeper's lien would not include an amount for labor and materials for the following: the repair or replacement of all or a part of the interior or exterior of the repaired vehicle; the installation, repair, or replacement of electronic and related parts; or the installation, repair, or replacement of any other materials or parts that were not essential to normal operation.

The bill also would allow a garage keeper to charge for storing a vehicle for up to 120 days (unless otherwise agreed to in writing) after performing labor or furnishing supplies. The storage fee would be considered in addition to the maximum lien.

Procedure

Currently, the Act allows a garage keeper to sell a vehicle at a public sale when charges are not paid. The garage keeper's notice of sale must include an itemized statement of charges due, the date they became due, and a demand for payment within 45 days. A sale must be scheduled between 20 and 60 business days after the notice is sent out. The garage keeper is required to notify all lienholders about the place of sale. The bill would add provisions to specify that the garage keeper would be required to give written notice at least 30 business days before a sale to each lienholder and to the owner. The bill also would require garage keepers to notify the Automotive Regulation in the Department of State and each prior lienholder listed on the title of the vehicle when any charges were due and a sale of a vehicle was scheduled at public auction.

The bill specifies that, before a sale, a lender who was a lienholder of a vehicle to be sold by the garage keeper could pay the garage keeper the amount of the garage keeper's lien, in addition to reasonable expenses or fees that were incurred, and redeem the vehicle. The payment made to the garage keeper could then be added to the lender's lien.

Under the bill, after the 45-day demand-for-payment period expired, the garage keeper could apply to the Department of State for a certificate, for \$10. Upon a vehicle's sale, the garage keeper would have to complete the certificate and give it to the purchaser. The purchaser would have to submit the certificate to the Secretary of State when applying for a certificate of title or a vehicle registration in the purchaser's name.

Under the Act, the garage keeper may bid for and purchase a vehicle at the sale. If the garage keeper directly or indirectly purchases the vehicle at the sale, the proceeds of the sale must be considered to be either the amount paid by the garage keeper or the fair cash market value of the vehicle at the time of the sale, whichever is greater. The bill also would add that a garage keeper who successfully collected on a lien on a vehicle, could not bring an action or attempt to assert any other statutory or common law lien on that vehicle.

Currently, any surplus received at a sale, after all garage keeper charges have been deducted, must be returned to any lienholder and the balance must be returned to the registered owner of the vehicle. The bill would retain these provisions and add that if the owner could not be located within 14 days, the surplus would have to be sent to the Department of State, and after two years the surplus would escheat to the State.

Liability

The bill specifies that any lienholder or owner who suffered damages because of a garage keeper's failure to comply with the Act, would be able to sue for the actual amount of the damages or \$250, whichever was greater.

Licenses

The Act provides that in a municipality that enforces a law or ordinance regulating or licensing garages, a garage keeper may not avail himself or herself of the Act's provisions unless the garage keeper was duly licensed and had fully complied with all the laws and ordinances during the entire period covered by his or her claim for a lien. The bill also would add that a garage keeper regulated

by the Motor Vehicle Service and Repair Act, could not take advantage of the garage keepers' lien Act unless the garage keeper was in compliance with the Service and Repair Act during the entire period covered by his or her claim for a lien.

Repealer

The bill would repeal Sections 1a and 1b (which pertain to a garage keeper's lien for aircraft), and Section 2a (which pertains to the bailor of an unregistered owner).

MCL 570.301 et al.

Legislative Analyst: N. Nagata

FISCAL IMPACT

Currently, garages place liens on approximately 800 vehicles. Increasing liens up to \$5,000 or 20% of book value (whichever was less) would increase the number of vehicles that garages place liens upon. As many as 1,000 vehicles could have liens placed upon them. Under the bill, a garage keeper would be allowed to purchase a \$10 certificate from the Department of State, fill out the certificate upon sale, and give it to the purchaser. If all vehicles with liens on them were sold (approximately 1,000), the Department of State could raise as much as \$10,000 under this provision.

Fiscal Analyst: E. Limbs

S9798\S4640SA

This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.