

SUBSTITUTE FOR
HOUSE BILL NO. 4640

A bill 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, repair-
ing, 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, and 7; and to repeal acts and parts of
acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. ~~Every garage keeper who in pursuance of any con-~~
2 ~~tract, expressed or implied, written or unwritten, furnishes any~~
3 ~~labor, material, or supplies shall have a lien upon any vehicle~~
4 ~~stored, maintained, supplied, or repaired by him or her for the~~
5 ~~proper charges due for the storage, maintenance, keeping, and~~
6 ~~repair thereof and for gasoline or aviation fuel, electric~~

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1 ~~current, or other accessories and supplies furnished or expenses~~
2 ~~bestowed or labor performed thereon at the request or with the~~
3 ~~consent of the registered owner of the vehicle, whether the owner~~
4 ~~is a conditional sale vendee or a mortgagor remaining in posses-~~
5 ~~sion or otherwise. The garage keeper may detain the vehicle at~~
6 ~~any time it is in his or her possession within 90 days after per-~~
7 ~~forming the last labor or furnishing the last supplies for which~~
8 ~~the lien is claimed. The lien, insofar as the lien is for labor~~
9 ~~and material furnished in making repairs upon a vehicle, shall~~
10 ~~have priority over all other liens upon the vehicle. Except as~~
11 ~~provided in section 1a for aircraft, the lien shall become of no~~
12 ~~effect as against the holder of a security interest, conditional~~
13 ~~sales agreement, or other lien prior to the accrual of the lien~~
14 ~~upon the payment by the prior lien holder to the garage keeper of~~
15 ~~the amount of the lien, but not exceeding \$600.00 in the case of~~
16 ~~a ground vehicle, and \$200.00 in the case of watercraft, or any~~
17 ~~accessory used for the operation of watercraft, which payment~~
18 ~~shall then be added to the amount of the lien of the prior lien~~
19 ~~holder. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE "GARAGE~~
20 ~~KEEPER'S LIEN ACT".~~

21 Sec. 2. ~~Except as otherwise provided for aircraft in~~
22 ~~section 1b, if charges described in section 1 are not paid within~~
23 ~~45 days after a claim of lien together with an itemized statement~~
24 ~~of the account is delivered to the registered owner of the vehi-~~
25 ~~cle by personal service or service by registered or certified~~
26 ~~mail addressed to the last known address of the registered owner~~
27 ~~of the vehicle, the garage keeper may sell the vehicle at public~~

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1 ~~auction. The sale shall be held not less than 20 days nor more~~
2 ~~than 60 days after the expiration of the 45-day period. Not~~
3 ~~later than 10 days before any sale is held, the garage keeper~~
4 ~~shall give written notice of the time and place of the sale to~~
5 ~~the department of state, to any lienholder as shown by the~~
6 ~~records of the department of state, and to the registered owner~~
7 ~~of the vehicle. Notice to the department of state and the lien-~~
8 ~~holders shall be given by first-class mail, addressed to the~~
9 ~~department of state, Lansing, Michigan, and to the address of the~~
10 ~~lienholders, as shown by the records of the department. Notice~~
11 ~~to the registered owner of the vehicle shall be given personally~~
12 ~~or by certified mail, directly to the last known address of the~~
13 ~~registered owner. The garage keeper may bid for and purchase the~~
14 ~~vehicle at the sale. If the garage keeper directly or indirectly~~
15 ~~purchases the vehicle at the sale, the proceeds of the sale shall~~
16 ~~be considered to be either the amount paid by the garage keeper~~
17 ~~or the fair cash market value of the vehicle at the time of sale,~~
18 ~~whichever is the greater. Any surplus received at the sale,~~
19 ~~after all charges of the garage keeper have been paid and satis-~~
20 ~~fied and all costs of sale have been deducted, shall be returned~~
21 ~~to any lienholder who has given notice to the garage keeper of~~
22 ~~his or her claim of lien, before distribution of the proceeds of~~
23 ~~the sale is complete, and the balance shall be returned to the~~
24 ~~registered owner of the vehicle. AS USED IN THIS ACT:~~

25 (A) "DEPARTMENT" MEANS THE DEPARTMENT OF STATE.

26 (B) "GARAGE KEEPER" MEANS A PERSON OR THE PERSON'S HEIRS,
27 PERSONAL REPRESENTATIVE, SUCCESSORS, AND ASSIGNEES, WHO FOR HIRE

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1 OR REWARD, PUBLICLY OFFER TO STORE, MAINTAIN, KEEP, OR REPAIR A
2 VEHICLE OR AN ACCESSORY USED IN THE OPERATION OF A VEHICLE OR TO
3 FURNISH ACCESSORIES AND SUPPLIES FOR A VEHICLE OR AN ACCESSORY
4 USED IN THE OPERATION OF A VEHICLE.

5 (C) "LAST KNOWN ADDRESS" MEANS THE ADDRESS PROVIDED BY THE
6 OWNER IN THE MOST RECENT CONTRACT FOR STORAGE, LABOR, MATERIAL,
7 OR SUPPLIES ENTERED INTO BETWEEN THE GARAGE KEEPER AND THE OWNER,
8 OR IN A SUBSEQUENT WRITTEN NOTICE OF CHANGE OF ADDRESS TO THE
9 GARAGE KEEPER OR AS SHOWN BY THE RECORDS OF THE DEPARTMENT.

10 (D) "MARKET VALUE" MEANS THE VALUE AS DETERMINED BY THE
11 ISSUE OF THE NATIONAL AUTO DEALERS ASSOCIATION OFFICIAL USED CAR
12 GUIDE IN EFFECT AT THE TIME THE GARAGE KEEPER PERFORMS THE FIRST
13 LABOR OR FIRST FURNISHES SUPPLIES FOR WHICH THE GARAGE KEEPER
14 CLAIMS A LIEN UNDER THIS ACT.

15 (E) "OWNER" MEANS THE PERSON IN WHOSE NAME A VEHICLE IS REG-
16 ISTERED OR TITLED.

17 (F) "VEHICLE" MEANS THAT TERM AS DEFINED IN SECTION 79 OF
18 THE MICHIGAN VEHICLE CODE, 1949 PA 300, MCL 257.79.

19 Sec. 3. (1) ~~Wherever in the act is used the term "garage~~
20 ~~keeper", it shall be construed to include all persons who for~~
21 ~~hire or reward, publicly offer to store, maintain, keep and~~
22 ~~repair automobiles, aircraft, watercraft or any accessory used in~~
23 ~~the operation of watercraft and other vehicles and to furnish~~
24 ~~accessories and supplies for automobiles, aircraft, watercraft or~~
25 ~~any accessory used in the operation of watercraft or other vehi-~~
26 ~~cles for the transportation of persons or merchandise upon and~~
27 ~~over the public streets and highways or through the air. In~~

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1 ~~municipalities wherein are in force any laws or ordinances~~
2 ~~relative to the regulation and licensing of garages, no person~~
3 ~~shall be entitled to avail himself of the provisions of the act,~~
4 ~~unless he shall, during the period of the whole time covered by~~
5 ~~his claim for lien, have been duly licensed and shall have fully~~
6 ~~complied with all laws and ordinances relative to the licensing~~
7 ~~of garages.~~ A GARAGE KEEPER WHO, IN PURSUANCE OF A CONTRACT THAT
8 IS EXPRESSED, IMPLIED, WRITTEN, OR UNWRITTEN, FURNISHES LABOR,
9 MATERIAL, OR SUPPLIES, SHALL HAVE A LIEN UPON THE VEHICLE STORED,
10 MAINTAINED, SUPPLIED, OR REPAIRED BY HIM OR HER FOR THE CHARGES
11 DUE FOR THE STORAGE, MAINTENANCE, KEEPING, AND REPAIR OF THE
12 VEHICLE AND FOR GASOLINE, ELECTRIC CURRENT, OR OTHER ACCESSORIES
13 AND SUPPLIES FURNISHED, EXPENSES BESTOWED, OR LABOR PERFORMED ON
14 THE VEHICLE AT THE REQUEST OR WITH THE CONSENT OF THE OWNER OF
15 THE VEHICLE. A GARAGE KEEPER'S LIEN ATTACHES IN THE MANNER AND
16 AMOUNT PROVIDED IN THIS SECTION.

17 (2) THE GARAGE KEEPER MAY DETAIN A VEHICLE FOR NOT MORE THAN
18 120 DAYS AFTER PERFORMING THE LAST LABOR OR FURNISHING THE LAST
19 SUPPLIES FOR WHICH A LIEN IS CLAIMED AGAINST THE VEHICLE.

20 (3) THE PORTION OF A LIEN THAT IS FOR LABOR AND MATERIAL
21 FURNISHED IN MAKING REPAIRS UPON A VEHICLE HAS PRIORITY OVER ALL
22 OTHER LIENS UPON THE VEHICLE. THE LIEN HAS NO EFFECT AGAINST THE
23 HOLDER OF A SECURITY INTEREST, CONDITIONAL SALES AGREEMENT, OR
24 OTHER LIEN THAT ATTACHED BEFORE THE ATTACHMENT OF THE GARAGE
25 KEEPER'S LIEN UPON THE PAYMENT BY A PRIOR LIENHOLDER TO THE
26 GARAGE KEEPER OF THE AMOUNT OF THE LIEN CALCULATED UNDER
27 SUBSECTION (4).

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1 (4) EXCEPT AS PROVIDED IN SECTION 4, THE MAXIMUM AMOUNT OF A
2 LIEN THAT A PRIOR LIENHOLDER SHALL PAY A GARAGE KEEPER UNDER THIS
3 SECTION IS CALCULATED AS FOLLOWS:

4 (A) IF A REPAIRED VEHICLE HAS A MARKET VALUE OF MORE THAN
5 \$3,000.00, THEN THE AMOUNT OF THE LIEN SHALL BE NOT MORE THAN 20%
6 OF THE MARKET VALUE OF THE REPAIRED VEHICLE OR \$5,000.00, WHICH-
7 EVER IS LESS.

8 (B) IF A REPAIRED VEHICLE HAS A MARKET VALUE OF \$3,000.00 OR
9 LESS, THEN THE AMOUNT OF THE LIEN SHALL BE \$600.00.

10 (5) THE AMOUNT OF A PAYMENT MADE UNDER THIS SECTION SHALL BE
11 ADDED TO THE AMOUNT OF THE PRIOR LIENHOLDER'S LIEN.

12 SEC. 4. (1) A GARAGE KEEPER'S LIEN UNDER SECTION 3 SHALL
13 NOT INCLUDE AN AMOUNT FOR LABOR AND MATERIALS FOR ANY OF THE FOL-
14 LOWING IF THE MATERIALS USED WERE CUSTOM MATERIALS THAT ARE NOT
15 NORMALLY AVAILABLE FROM THE MANUFACTURER OR IN THE CASE OF A
16 VEHICLE MANUFACTURED IN A FOREIGN COUNTRY A DISTRIBUTOR OF THE
17 VEHICLE OR THAT ARE NOT NORMALLY INSTALLED ON THE VEHICLE BY THE
18 ORIGINAL MANUFACTURER:

19 (A) THE REPAIR OR REPLACEMENT OF ALL OR A PART OF THE
20 INTERIOR OR EXTERIOR OF THE REPAIRED VEHICLE.

21 (B) THE INSTALLATION, REPAIR, OR REPLACEMENT OF ELECTRONIC
22 AND RELATED PARTS.

23 (C) THE INSTALLATION, REPAIR, OR REPLACEMENT OF ANY OTHER
24 MATERIALS OR PARTS THAT ARE NOT ESSENTIAL TO THE NORMAL OPERATION
25 OF THE REPAIRED VEHICLE.

26 (2) A GARAGE KEEPER HAS A LIEN IN A REASONABLE AMOUNT FOR
27 THE STORAGE OF THE VEHICLE, FOR THE STORAGE OF AN ACCESSORY USED

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1 IN THE OPERATION OF A VEHICLE, OR FOR THE STORAGE OF ACCESSORIES
2 AND SUPPLIES FURNISHED FOR THE VEHICLE OR AN ACCESSORY USED IN
3 THE OPERATION OF THE VEHICLE. UNLESS OTHERWISE AGREED TO IN
4 WRITING, THE CHARGE SHALL BE FOR NOT MORE THAN 120 DAYS' STORAGE.
5 CHARGES DESCRIBED IN THIS SUBSECTION MAY BE IN ADDITION TO THE
6 MAXIMUM ALLOWANCE UNDER SECTION 3(4).

7 SEC. 5. (1) A LIEN UNDER SECTION 3 SHALL BE ENFORCED ONLY
8 AS PROVIDED IN THIS SECTION.

9 (2) IF CHARGES DESCRIBED IN SECTION 3 ARE NOT PAID, THE
10 GARAGE KEEPER MAY SELL THE VEHICLE AT A PUBLIC SALE DESCRIBED IN
11 THIS SECTION.

12 (3) THE GARAGE KEEPER SHALL NOTIFY THE OWNER OF THE PROPOSED
13 SALE OF THE VEHICLE IN ORDER TO SATISFY THE LIEN OF THE GARAGE
14 KEEPER BY A NOTICE SENT BY CERTIFIED MAIL TO THE LAST KNOWN
15 ADDRESS OF THE OWNER. THE NOTICE SHALL INCLUDE BOTH OF THE
16 FOLLOWING:

17 (A) AN ITEMIZED STATEMENT OF THE GARAGE KEEPER'S LIEN SHOW-
18 ING THE AMOUNT DUE AT THE TIME OF THE NOTICE AND THE DATE ON
19 WHICH THE AMOUNT BECAME DUE.

20 (B) A DEMAND FOR PAYMENT NOT MORE THAN 45 DAYS AFTER DELIV-
21 ERY OF THE NOTICE.

22 (4) ON THE SAME DAY THAT THE NOTICE DESCRIBED IN SUBSECTION
23 (3) IS SENT TO THE OWNER, THE GARAGE KEEPER SHALL SEND AN EXACT
24 DUPLICATE OF THAT NOTICE BY FIRST-CLASS MAIL, ADDRESSED TO BOTH
25 OF THE FOLLOWING:

26 (A) THE DEPARTMENT OF STATE, BUREAU OF AUTOMOTIVE
27 REGULATION, LANSING, MICHIGAN.

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1 (B) EACH PRIOR LIENHOLDER LISTED ON THE TITLE OF THE VEHICLE
2 AT THE ADDRESS INDICATED ON THE TITLE FOR THAT PRIOR LIENHOLDER,
3 IF ANY.

4 (5) THE SALE SHALL BE HELD NOT LESS THAN 20 DAYS AND NOT
5 MORE THAN 60 DAYS AFTER THE EXPIRATION OF THE 45-DAY PERIOD
6 DESCRIBED IN SUBSECTION (3).

7 (6) A SALE OF THE VEHICLE SHALL BE HELD AT THE FACILITY OF
8 THE GARAGE KEEPER OR AT THE NEAREST SUITABLE PLACE.

9 (7) BEFORE A SALE OF A VEHICLE PURSUANT TO THIS SECTION, THE
10 OWNER MAY PAY THE AMOUNT NECESSARY TO SATISFY THE LIEN, IN ADDI-
11 TION TO THE REASONABLE EXPENSES OR FEES INCURRED BY THE GARAGE
12 KEEPER UNDER THIS ACT, AND REDEEM THE VEHICLE. UPON RECEIPT OF
13 THIS PAYMENT, THE GARAGE KEEPER SHALL RETURN THE VEHICLE TO THE
14 OWNER IN THE SAME CONDITION, OR SUBSTANTIALLY THE SAME CONDITION,
15 AS IT WAS IN WHEN STORED BY THE GARAGE KEEPER.

16 (8) NOT LESS THAN 30 DAYS BEFORE A SALE IS HELD UNDER THIS
17 SECTION, THE GARAGE KEEPER SHALL GIVE WRITTEN NOTICE OF THE
18 MANNER, TIME, AND PLACE OF THE SALE TO EACH LIENHOLDER AS SHOWN
19 BY THE RECORDS OF THE DEPARTMENT, AND TO THE OWNER OF THE
20 VEHICLE. NOTICE TO THE LIENHOLDERS SHALL BE GIVEN BY CERTIFIED
21 MAIL, ADDRESSED TO THE LIENHOLDERS, AS SHOWN BY THE RECORDS OF
22 THE DEPARTMENT. NOTICE TO THE OWNER OF THE VEHICLE SHALL BE
23 GIVEN BY CERTIFIED MAIL, DIRECTLY TO THE LAST KNOWN ADDRESS OF
24 THE OWNER.

25 (9) BEFORE A SALE OF A VEHICLE UNDER THIS ACT, A LIENHOLDER
26 OF A VEHICLE TO BE SOLD MAY PAY THE GARAGE KEEPER THE AMOUNT OF
27 THE GARAGE KEEPER'S LIEN, IN ADDITION TO THE REASONABLE EXPENSES

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1 OR FEES INCURRED BY THE GARAGE KEEPER UNDER THIS ACT. THE AMOUNT
2 PAYABLE TO THE GARAGE KEEPER SHALL NOT EXCEED THE MARKET VALUE OF
3 THE VEHICLE. A PAYMENT MADE TO THE GARAGE KEEPER SHALL BE ADDED
4 TO THE AMOUNT OF THE LIEN OF THE LIENHOLDER WHO MADE THE PAYMENT,
5 AND SHALL BE SUBTRACTED FROM THE AMOUNT OF THE GARAGE KEEPER'S
6 LIEN. UPON RECEIPT OF THIS PAYMENT, THE GARAGE KEEPER SHALL
7 RETURN THE VEHICLE TO THE LIENHOLDER IN THE SAME CONDITION, OR
8 SUBSTANTIALLY THE SAME CONDITION, AS IT WAS IN WHEN REPAIRS WERE
9 COMPLETED AND AS STORED BY THE GARAGE KEEPER.

10 (10) AFTER THE EXPIRATION OF THE 45-DAY PERIOD DESCRIBED IN
11 SUBSECTION (3), THE GARAGE KEEPER MAY APPLY TO THE DEPARTMENT FOR
12 A CERTIFICATE, IN A FORM AS PRESCRIBED BY THE SECRETARY OF STATE,
13 FOR A FEE OF \$10.00 PAID TO THE SECRETARY OF STATE. UPON THE
14 SALE OF A VEHICLE UNDER THIS ACT, THE GARAGE KEEPER SHALL COM-
15 PLETE THE CERTIFICATE AS INDICATED ON ITS FACE AND GIVE THE COM-
16 PLETED CERTIFICATE TO THE PURCHASER OF THE VEHICLE. IN ADDITION
17 TO OTHER INFORMATION THAT MAY BE REQUIRED BY THE SECRETARY OF
18 STATE, THE PURCHASER SHALL SUBMIT THIS CERTIFICATE TO THE DEPART-
19 MENT WHEN MAKING AN ORIGINAL APPLICATION FOR A CERTIFICATE OF
20 TITLE OR A VEHICLE REGISTRATION FOR THE VEHICLE IN THE NAME OF
21 THE PURCHASER.

22 (11) THE GARAGE KEEPER MAY BID FOR AND PURCHASE THE VEHICLE
23 AT THE SALE. IF THE GARAGE KEEPER DIRECTLY OR INDIRECTLY PUR-
24 CHASES THE VEHICLE AT THE SALE, THE PROCEEDS OF THE SALE SHALL BE
25 CONSIDERED TO BE THE GREATER OF THE FOLLOWING:

26 (A) THE AMOUNT PAID BY THE GARAGE KEEPER.

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1 (B) THE MARKET VALUE OF THE VEHICLE AT THE TIME OF SALE.

2 (12) A PERSON WHO IN GOOD FAITH BUYS A VEHICLE AT A SALE
3 CONDUCTED PURSUANT TO THIS ACT TAKES THE VEHICLE FREE OF A SECUR-
4 ITY INTEREST CREATED BY THE SELLER EVEN THOUGH THE SECURITY
5 INTEREST IS PERFECTED AND EVEN THOUGH THE BUYER KNOWS OF ITS
6 EXISTENCE.

7 SEC. 6. (1) AFTER THE AMOUNT OF THE LIEN UNDER SECTION 3 IS
8 PAID TO THE GARAGE KEEPER AND THE COSTS OF THE SALE ARE DEDUCTED,
9 ANY REMAINING MONEY SHALL BE PAID TO THE FOLLOWING PERSONS IN
10 THIS DESCENDING ORDER OF PRIORITY:

11 (A) A PRIOR LIENHOLDER WHO GIVES NOTICE TO THE GARAGE KEEPER
12 OF HIS OR HER CLAIM OF LIEN BEFORE THE DISTRIBUTION OF THE MONEY
13 REALIZED FROM A SALE UNDER THIS ACT IS COMPLETE.

14 (B) THE REASONABLE CHARGES OF THE GARAGE KEEPER.

15 (C) THE OWNER OF THE VEHICLE AS DESCRIBED IN SUBSECTION
16 (2).

17 (2) PROCEEDS OF THE SALE REMAINING AFTER THE DISTRIBUTION IS
18 MADE UNDER SUBSECTION (1) SHALL BE RETURNED TO THE OWNER OF THE
19 VEHICLE BY MAILING THE PROCEEDS TO THE OWNER'S LAST KNOWN ADDRESS
20 BY CERTIFIED MAIL. IF THE GARAGE KEEPER CANNOT LOCATE THE OWNER
21 WITHIN 14 DAYS AFTER THE DATE OF THE SALE, THE REMAINING MONEY
22 SHALL BE TRANSMITTED TO THE DEPARTMENT. IF THE OWNER DOES NOT
23 CLAIM THE REMAINING MONEY WITHIN 2 YEARS AFTER THE DATE OF THE
24 SALE, IT SHALL ESCHEAT TO THE STATE.

25 SEC. 7. AN OWNER OR LIENHOLDER WHO SUFFERS DAMAGES BECAUSE
26 OF A GARAGE KEEPER'S FAILURE TO COMPLY WITH THIS ACT MAY BRING AN

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1 ACTION IN A COURT OF COMPETENT JURISDICTION FOR THE ACTUAL AMOUNT
2 OF THE DAMAGES OR \$250.00, WHICHEVER IS GREATER.

3 SEC. 8. THIS ACT DOES NOT APPLY TO A VEHICLE FOR WHICH THE
4 GARAGE KEEPER ISSUES A WAREHOUSE RECEIPT, BILL OF LADING, OR
5 OTHER DOCUMENT OF TITLE.

6 SEC. 9. (1) IN A MUNICIPALITY WHERE THERE IS IN FORCE A LAW
7 OR ORDINANCE CONCERNING THE REGULATION AND LICENSING OF GARAGES,
8 A GARAGE KEEPER IS NOT ENTITLED TO AVAIL HIMSELF OR HERSELF OF
9 THE PROVISIONS OF THIS ACT UNLESS DURING THE ENTIRE PERIOD OF
10 TIME COVERED BY THE GARAGE KEEPER'S CLAIM FOR A LIEN UNDER THIS
11 ACT, THE GARAGE KEEPER WAS DULY LICENSED AND HAD FULLY COMPLIED
12 WITH ALL LAWS AND ORDINANCES RELATIVE TO THE LICENSING OF
13 GARAGES.

14 (2) A GARAGE KEEPER WHO IS REGULATED BY THE MOTOR VEHICLE
15 SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1301 TO 257.1340, IS
16 NOT ENTITLED TO AVAIL HIMSELF OR HERSELF OF THE PROVISIONS OF
17 THIS ACT UNLESS HE OR SHE HAS BEEN IN COMPLIANCE WITH THE MOTOR
18 VEHICLE SERVICE AND REPAIR ACT, 1974 PA 300, MCL 257.1301 TO
19 257.1340, [AS TO THE VEHICLE IN QUESTION] DURING THE ENTIRE PERIOD
COVERED BY HIS OR HER CLAIM
20 FOR A LIEN.

21 (3) A GARAGE KEEPER WHO SUCCESSFULLY COLLECTS ON A LIEN ON A
22 VEHICLE UNDER THIS ACT SHALL NOT BRING AN ACTION FOR OR ATTEMPT
23 TO ASSERT ANY OTHER STATUTORY OR COMMON LAW LIEN ON THAT VEHICLE.

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