OWNERSHIP RIGHTS IN DIES, MOLDS, AND FORMS

Act 155 of 1981

AN ACT to provide for ownership rights in dies, molds, and forms for use in the fabrication of plastic parts under certain conditions and to establish a lien on certain dies, molds, and forms.

History: 1981, Act 155, Eff. Jan. 1, 1982 ;-- Am. 1986, Act 103, Imd. Eff. May 16, 1986

The People of the State of Michigan enact:

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445.611 Definitions.

Sec. 1.

For purposes of this act:

(a) "Customer" means a person who causes a moldbuilder to fabricate, cast, or otherwise make a die, mold, or form for use in the manufacture, assembly, or fabrication of plastic parts, or a person who causes a molder to use a die, mold, or form to manufacture, assemble, or fabricate a plastic product.

(b) "Moldbuilder" means a person who fabricates, casts, or otherwise makes, repairs, or modifies a die, mold, or form for use in the manufacture, assembly, or fabrication of plastic parts.

(c) "Molder" means a person who uses a die, mold, or form to manufacture, assemble, or fabricate plastic parts.

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

History: 1981, Act 155, Eff. Jan. 1, 1982 ;-- Am. 2002, Act 17, Imd. Eff. Mar. 1, 2002

445.612 Transfer of rights, title, and interest in die, mold, or form to molder; purpose.

Sec. 2.

Unless otherwise agreed in writing, if a customer does not claim possession of a die, mold, or form from the molder within 3 years from the last use of the die, mold, or form, all rights, title, and interest in the die, mold, or form may, at the option of the molder, be transferred by operation of law to the molder for purposes of destroying the die, mold, or form.

History: 1981, Act 155, Eff. Jan. 1, 1982

445.613 Notice of intention to terminate customer's rights, title, and interest in die, mold, or form.

Sec. 3.

After the expiration of the 3-year period set forth in section 2, if a molder chooses to have all rights, title, and interest in a die, mold, or form transferred to the molder by operation of law, the molder 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 molder intends to terminate the customer's rights, title, and interest in the die, mold, or form, by having all rights, title, and interest in the die, mold, or form transferred to the molder by operation of law, pursuant to this act.

History: 1981, Act 155, Eff. Jan. 1, 1982

445.614 Effect of customer's failure to claim possession of die, mold, or form or to make storage arrangements; construction of section.

Sec. 4.

If a customer does not claim possession of the die, mold, or form within 120 days after the date the molder receives the return receipt of the notice sent pursuant to section 3, or does not make other arrangements with the molder for storage of the die, mold, or form within the time limit set forth in this section, all rights, title, and interest of the customer in the die, mold, or form shall be transferred by operation of law to the molder for purposes of destroying the die, mold, or form. 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: 1981, Act 155, Eff. Jan. 1, 1982

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445.615 Retroactive application of 3-year waiting period.

Sec. 5.

The 3-year waiting period provided in section 2 shall apply retroactively in the case of a die, mold, or form in the possession of a molder on the effective date of this act.

History: 1981, Act 155, Eff. Jan. 1, 1982

445.616 Applicability and construction of MCL 445.612 to 445.615.

Sec. 6.

Sections 2 to 5 shall not apply if a molder retains title to and possession of a die, mold, or form. Sections 2 to 5 shall not be construed to grant a customer rights, title, or interest in a die, mold, or form.

History: 1981, Act 155, Eff. Jan. 1, 1982 ;-- Am. 1986, Act 103, Imd. Eff. May 16, 1986

445.617 Effective date.

Sec. 7.

This act shall take effect January 1, 1982.

History: 1981, Act 155, Eff. Jan. 1, 1982

445.618 Molder's lien.

Sec. 8.

A molder has a lien, dependent on possession, on any die, mold, or form in the molder's possession belonging to a customer for the amount due the molder from the customer for plastic fabrication work performed with the die, mold, or form. A molder may retain possession of the die, mold, or form until the amount due is paid.

History: Add. 1986, Act 103, Imd. Eff. May 16, 1986

445.618a Enforcement of lien; notice.

Sec. 8a.

Before enforcing a lien granted to a molder under section 8, notice in writing shall be given to the customer, whether 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 plastic fabrication work or for making or improving the die, mold, or form. The notice shall include a demand for payment.

History: Add. 1986, Act 103, Imd. Eff. May 16, 1986 ;-- Am. 2002, Act 17, Imd. Eff. Mar. 1, 2002

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445.618b Sale of die, mold, or form; conditions.

Sec. 8b.

If the molder has not been paid the amount due within 90 days after the notice has been received by the customer provided in section 8a, the molder may sell the die, mold, or form at a public auction if both of the following occur:

(a) The die, mold, or form is still in the molder's possession.

(b) The molder complies with section 8c.

History: Add. 1986, Act 103, Imd. Eff. May 16, 1986

445.618c Sale of die, mold, or form; notice; dispute.

Sec. 8c.

(1) Before a molder may sell the die, mold, or form, the molder 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 molder's intention to sell the die, mold, or form 60 days after the customer's receipt of the notice.

(b) A description of the die, mold, or form 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 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 molder shall publish notice of the molder's intention to sell the die, mold, or form in a newspaper of general circulation in the place where the die, mold, or form is being held for sale by the molder and in the place of the customer's last known address. The notice shall include a description of the die, mold, or form and name of the customer.

(3) If a customer disagrees with the notice described in subsection (1), the customer shall notify the molder in writing by registered mail, return receipt requested, that the product produced did not meet the quality or quantity

ordered. A molder who receives this notice shall not sell the die, mold, or form until the dispute is resolved.

History: Add. 1986, Act 103, Imd. Eff. May 16, 1986

445.618d Sale for sum greater than amount of lien; disposition of proceeds; prohibited sales.

Sec. 8d.

(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 molder 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: Add. 1986, Act 103, Imd. Eff. May 16, 1986

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445.619 Moldbuilder; lien; requirements.

Sec. 9.

(1) A moldbuilder shall permanently record on every die, mold, or form that the moldbuilder fabricates, repairs, or modifies the moldbuilder's name, street address, city, and state.

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

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

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

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

(a) The moldbuilder is paid the amount owed by the customer or molder.

(b) The customer receives a verified statement from the molder that the molder 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 the same die, mold, or form 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: Add. 2002, Act 17, Imd. Eff. Mar. 1, 2002

445.620 Moldbuilder; lien; enforcement; notice.

Sec. 10.

To enforce a lien that attaches under section 9, the moldbuilder shall give notice in writing to the customer and the molder. 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 molder. The notice shall state that a lien is claimed,

the amount that the moldbuilder claims it is owed for fabrication, repair, or modification of the die, mold, or form, and a demand for payment.

History: Add. 2002, Act 17, Imd. Eff. Mar. 1, 2002

445.620a Moldbuilder; right to possession of die, mold, or form.

Sec. 10a.

Subject to section 10b, if the moldbuilder has not been paid the amount claimed in the notice required under section 10 within 90 days after the notice required under section 10 has been received by the customer and the molder, the moldbuilder has a right to possession of the die, mold, or form and may enforce the right to possession of the die, mold, or form by judgment, foreclosure, or any available judicial procedure. The moldbuilder may do 1 or more of the following:

(a) Take possession of the mold, die, or form. The moldbuilder may take possession without judicial process if this can be done without breach of the peace.

(b) Sell the die, mold, or form in a public auction.

History: Add. 2002, Act 17, Imd. Eff. Mar. 1, 2002

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445.620b Sale of die, mold, or form; notice of intent.

Sec. 10b.

(1) Before a moldbuilder may sell a die, mold, or form for which a lien is claimed and for which the required notice has been sent under section 10, the moldbuilder shall notify the customer, the molder, and all other persons that have a perfected security interest in the die, mold, or form 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 moldbuilder's intention to sell the die, mold, or form 60 days after the receipt of the notice.

(b) A description of the die, mold, or form to be sold.

(c) The last known location of the die, mold, or form.

(d) The time and place of the sale.

(e) An itemized statement of the amount due.

(f) A statement that the die, mold, or form 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 moldbuilder shall publish notice of the moldbuilder's intention to sell the die, mold, or form in a newspaper of general circulation in the place where the die, mold, or form is last known to be located, in the place of the customer's last known address, and in the place of the molder's last known address. The published notice shall include a description of the die, mold, or form and the name of the customer and the molder.

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

History: Add. 2002, Act 17, Imd. Eff. Mar. 1, 2002

445.620c Sale; proceeds; prohibition.

Sec. 10c.

(1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the moldbuilder 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 10a if it would be in violation of any right of a customer or molder under federal patent, bankruptcy, or copyright law.

History: Add. 2002, Act 17, Imd. Eff. Mar. 1, 2002

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