

GARAGE KEEPER'S LIEN ACT (EXCERPT)
Act 312 of 1915

570.305 Garage keeper's lien; enforcement; sale of vehicle at public sale.

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) To enforce a lien under section 3, a garage keeper or authorized agent shall, not more than 105 days after the date the lien attached as provided in section 3, apply to the department, in a format prescribed by the department, for a certificate of foreclosure of garage keeper's lien and bill of sale accompanied by a fee of \$10.00 paid to the department. The department shall, not more than 30 days after the postmark date of a complete application received by mail or the date a complete application is hand-delivered by the garage keeper or authorized agent to the department, provide to the garage keeper or authorized agent the names and addresses of all owners of record and of all lienholders of the vehicle as shown by the records of the department.

(4) After complying with the requirements of subsection (3), the garage keeper shall notify the owner or owners, all lienholders, and the department of state, bureau of automotive regulation, Lansing, Michigan, of the proposed sale of the vehicle in order to satisfy the lien of the garage keeper by a notice sent by certified mail return receipt requested to the last known address of the owner or owners, the lienholders and the bureau. The garage keeper shall send all the notices required by this subsection not more than 30 days after the date placed on the certificate of foreclosure of garage keeper's lien and bill of sale by the department. The notice shall include all 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 in the amount necessary to satisfy the lien authorized under section 3(1). The demand for payment must give the owner or owners not less than 30 calendar days after the postmark date of the notice to satisfy the garage keeper's lien.

(c) A statement that all lienholders are being notified of the delinquency, that a lienholder has the right to satisfy the garage keeper's lien plus any storage charges provided for under section 4 and obtain possession of the vehicle as provided in section 5(8), and that a lienholder is required to notify the garage keeper before the proceeds are distributed under section 6 if the lienholder desires to claim any of the proceeds from the sale of the vehicle under section 6(1)(a).

(d) A statement of daily storage fees, if any.

(e) A statement of the date, time, manner, and place that the vehicle will be sold.

(5) Except as otherwise provided in this subsection, the sale shall be held not less than 75 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department. The bureau may object to a sale only if it has reason to believe that the garage keeper has failed to substantially comply with this act, the rules promulgated under this act, the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, in the repair transaction involving the vehicle that is the subject of the lien. If the bureau objects to the sale within the 75-day period, all of the following conditions shall apply:

(a) The bureau shall complete an investigation of its objection within 150 calendar days after the date placed on the certificate of foreclosure of the garage keeper's lien and bill of sale by the department.

(b) Upon completion of the investigation or the expiration of the 150-calendar-day period, whichever occurs first, the bureau shall do 1 of the following:

(i) Remove the objection to the sale.

(ii) Complete service upon the garage keeper of a written notice of alleged violation that alleges a specific violation of the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340, or the rules promulgated under that act, and extends the bureau's objection to the sale indefinitely until resolution under this section.

(c) The garage keeper may, within 10 days after the personal service or postmarked date of the notice of alleged violation, notify the bureau, in writing, that the garage keeper wants to contest the notice of alleged violation. If the garage keeper contests the notice, the bureau shall conduct an immediate review of its reasons for the objection. After this review, the bureau shall do 1 of the following:

(i) Remove the objection to the sale.

(ii) If the objection is sustained, the bureau shall, in writing, offer the garage keeper an opportunity to have the bureau's objection resolved under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, as a contested case proceeding under the motor vehicle service and repair act, 1974 PA 300, MCL 257.1301 to 257.1340. If a contested case proceeding is pursued under this section, the bureau may include in that proceeding's

complaint any other outstanding alleged repair act or rule violation against the garage keeper that may be pursued through a contested case proceeding. If the garage keeper fails to respond to the offer for a contested case proceeding within 10 days of receiving the offer from the bureau, the bureau's objection to the lien shall be deemed permanent.

(d) Storage charges provided for under this act shall not accrue during the period that the bureau objects to the sale.

(e) The 225-day period provided for in section 3(2) shall be extended by the number of days that the bureau objects to the sale.

(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 or owners 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 or owners in the same condition, or substantially the same condition, as the vehicle was in when the lien attached under section 3(1).

(8) Not less than 30 calendar days after the garage keeper's notice is mailed to the owner or owners, and prior to the sale, a lienholder may pay the garage keeper the amount of the garage keeper's lien as calculated under sections 3(4) and 4, or another amount to which the lienholder and garage keeper agree. 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 the vehicle was in when repairs were completed and it was stored by the garage keeper or, if no repairs were authorized by the owner, in the same condition or substantially the same condition, as the vehicle was in when it was received by the garage keeper. If the garage keeper performed diagnostic tests on the vehicle for which a lien is claimed, the garage keeper shall include a written explanation of the results of the diagnostic tests performed when the garage keeper returns the vehicle to the lienholder. The amount of a payment made under this section shall be added to the amount of the prior lienholder's lien.

(9) The amount payable to the garage keeper shall not exceed the market value of the vehicle.

(10) Upon the public sale of a vehicle under this act, the garage keeper shall complete the certificate described in subsection (3) 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 lien granted under this act is extinguished in full.

(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.

History: Add. 1998, Act 236, Imd. Eff. July 3, 1998 ;-- Am. 2002, Act 109, Eff. July 1, 2002

Popular Name: Garage Keeper's Lien Act