

HOUSE BILL No. 4812

May 23, 2001, Introduced by Rep. Richner and referred to the Committee on Commerce.

A bill to amend 1981 PA 155, entitled

"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,"

by amending sections 1 and 8a (MCL 445.611 and 445.618a), section 8a as added by 1986 PA 103, and by adding sections 9, 10, 10a, 10b, and 10c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1. For purposes of this act:

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

1 (B) "MOLDBUILDER" MEANS A PERSON WHO FABRICATES, CASTS, OR
2 OTHERWISE MAKES, REPAIRS, OR MODIFIES A DIE, MOLD, OR FORM FOR
3 USE IN THE MANUFACTURE, ASSEMBLY, OR FABRICATION OF PLASTIC
4 PARTS.

5 (C) ~~-(b)-~~ "Molder" means a person who ~~fabricates, molds,~~
6 ~~casts, or otherwise makes a die, mold, or form for use in the~~
7 ~~manufacture, assembly, or fabrication of a plastic part or a~~
8 ~~person who~~ uses a die, mold, or form to manufacture, assemble,
9 or fabricate ~~a plastic product~~ PARTS.

10 (D) ~~-(c)-~~ "Person" means an individual, firm, partnership,
11 association, ~~or~~ corporation, LIMITED LIABILITY COMPANY, OR
12 OTHER LEGAL ENTITY.

13 Sec. 8a. Before enforcing a lien ~~under this act~~ GRANTED
14 TO A MOLDER UNDER SECTION 8, notice in writing shall be given to
15 the customer, whether delivered personally or sent by registered
16 mail to the last known address of the customer. The notice shall
17 state that a lien is claimed for the amount due for plastic fab-
18 rication work or for making or improving the die, mold, or form.
19 The notice shall include a demand for payment.

20 SEC. 9. (1) A MOLDBUILDER SHALL PERMANENTLY RECORD ON EVERY
21 DIE, MOLD, OR FORM THAT THE MOLDBUILDER FABRICATES, REPAIRS, OR
22 MODIFIES THE MOLDBUILDER'S NAME, STREET ADDRESS, CITY, AND
23 STATE.

24 (2) A MOLDBUILDER HAS A LIEN ON ANY DIE, MOLD, OR FORM IDEN-
25 TIFIED PURSUANT TO SUBSECTION (1). THE AMOUNT OF THE LIEN IS THE
26 AMOUNT THAT A CUSTOMER OR MOLDER OWES THE MOLDBUILDER FOR THE
27 FABRICATION, REPAIR, OR MODIFICATION OF THE DIE, MOLD, OR FORM.

1 THE INFORMATION THAT THE MOLDBUILDER IS REQUIRED TO RECORD ON THE
2 DIE, MOLD, OR FORM UNDER SUBSECTION (1) SHALL CONSTITUTE ACTUAL
3 AND CONSTRUCTIVE NOTICE OF THE MOLDBUILDER'S LIEN ON THE DIE,
4 MOLD, OR FORM.

5 (3) THE MOLDBUILDER'S LIEN ATTACHES WHEN ACTUAL OR CONSTRUC-
6 TIVE NOTICE IS RECEIVED. THE MOLDBUILDER RETAINS THE LIEN THAT
7 ATTACHES UNDER THIS SECTION EVEN IF THE MOLDBUILDER IS NOT IN
8 PHYSICAL POSSESSION OF THE DIE, MOLD, OR FORM FOR WHICH THE LIEN
9 IS CLAIMED.

10 (4) THE LIEN REMAINS VALID UNTIL THE MOLDBUILDER IS PAID THE
11 AMOUNT OWED BY THE CUSTOMER OR MOLDER OR UNTIL THE CUSTOMER
12 RECEIVES A VERIFIED STATEMENT FROM THE MOLDER THAT THE MOLDER HAS
13 PAID THE AMOUNT FOR WHICH THE LIEN IS CLAIMED TO THE
14 MOLDBUILDER.

15 (5) THE PRIORITY OF A LIEN CREATED UNDER THIS ACT ON THE
16 SAME DIE, MOLD, OR FORM SHALL BE DETERMINED BY THE TIME THE LIEN
17 ATTACHES. THE FIRST LIEN TO ATTACH SHALL HAVE PRIORITY OVER
18 LIENS THAT ATTACH SUBSEQUENT TO THE FIRST LIEN.

19 SEC. 10. TO ENFORCE A LIEN THAT ATTACHES UNDER SECTION 9,
20 THE MOLDBUILDER SHALL GIVE NOTICE IN WRITING TO THE CUSTOMER AND
21 THE MOLDER. THE NOTICE SHALL BE GIVEN BY HAND DELIVERY OR CERTI-
22 FIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF
23 THE CUSTOMER AND TO THE LAST KNOWN ADDRESS OF THE MOLDER. THE
24 NOTICE SHALL STATE THAT A LIEN IS CLAIMED, THE AMOUNT THAT THE
25 MOLDBUILDER CLAIMS IT IS OWED FOR FABRICATION, REPAIR, OR MODIFI-
26 CATION OF THE DIE, MOLD, OR FORM, AND A DEMAND FOR PAYMENT.

1 SEC. 10A. SUBJECT TO SECTION 10B, IF THE MOLDBUILDER HAS
2 NOT BEEN PAID THE AMOUNT CLAIMED IN THE NOTICE REQUIRED UNDER
3 SECTION 10 WITHIN 90 DAYS AFTER THE NOTICE REQUIRED UNDER SECTION
4 10 HAS BEEN RECEIVED BY THE CUSTOMER AND THE MOLDER, THE
5 MOLDBUILDER HAS A RIGHT TO POSSESSION OF THE DIE, MOLD, OR FORM
6 AND MAY ENFORCE THE RIGHT TO POSSESSION OF THE DIE, MOLD, OR FORM
7 BY JUDGMENT, FORECLOSURE, OR ANY AVAILABLE JUDICIAL PROCEDURE.
8 THE MOLDBUILDER MAY DO 1 OR MORE OF THE FOLLOWING:

9 (A) TAKE POSSESSION OF THE MOLD, DIE, OR FORM. THE MOLDER
10 MAY TAKE POSSESSION WITHOUT JUDICIAL PROCESS IF THIS CAN BE DONE
11 WITHOUT BREACH OF THE PEACE.

12 (B) SELL THE DIE, MOLD, OR FORM IN A PUBLIC AUCTION.

13 SEC. 10B. (1) BEFORE A MOLDBUILDER MAY SELL A DIE, MOLD, OR
14 FORM FOR WHICH A LIEN IS CLAIMED AND FOR WHICH THE REQUIRED
15 NOTICE HAS BEEN SENT UNDER SECTION 10, THE MOLDBUILDER SHALL
16 NOTIFY THE CUSTOMER, THE MOLDER, AND ALL OTHER PERSONS THAT HAVE
17 A PERFECTED SECURITY INTEREST IN THE DIE, MOLD, OR FORM UNDER
18 PART 5 OF ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE, 1962 PA 174,
19 MCL 440.9501 TO 440.9527, BY CERTIFIED MAIL, RETURN RECEIPT
20 REQUESTED, OF ALL OF THE FOLLOWING:

21 (A) THE MOLDBUILDER'S INTENTION TO SELL THE DIE, MOLD, OR
22 FORM 60 DAYS AFTER THE RECEIPT OF THE NOTICE.

23 (B) A DESCRIPTION OF THE DIE, MOLD, OR FORM TO BE SOLD.

24 (C) THE LAST KNOWN LOCATION OF THE DIE, MOLD, OR FORM.

25 (D) THE TIME AND PLACE OF THE SALE.

26 (E) AN ITEMIZED STATEMENT OF THE AMOUNT DUE.

1 (F) A STATEMENT THAT THE DIE, MOLD, OR FORM WAS ACCEPTED AND
2 THE ACCEPTANCE WAS NOT SUBSEQUENTLY REJECTED.

3 (2) IF THERE IS NO RETURN OF THE RECEIPT OF THE MAILING OR
4 IF THE POSTAL SERVICE RETURNS THE NOTICE AS BEING NONDELIVERABLE,
5 THE MOLDBUILDER SHALL PUBLISH NOTICE OF THE MOLDBUILDER'S INTEN-
6 TION TO SELL THE DIE, MOLD, OR FORM IN A NEWSPAPER OF GENERAL
7 CIRCULATION IN THE PLACE WHERE THE DIE, MOLD, OR FORM IS LAST
8 KNOWN TO BE LOCATED, IN THE PLACE OF THE CUSTOMER'S LAST KNOWN
9 ADDRESS, AND IN THE PLACE OF THE MOLDER'S LAST KNOWN ADDRESS.
10 THE PUBLISHED NOTICE SHALL INCLUDE A DESCRIPTION OF THE DIE,
11 MOLD, OR FORM AND THE NAME OF THE CUSTOMER AND THE MOLDER.

12 (3) IF A CUSTOMER OR MOLDER AGAINST WHOM THE LIEN IS
13 ASSERTED DISAGREES THAT THE DIE, MOLD, OR FORM WAS ACCEPTED OR
14 THAT THE ACCEPTANCE WAS NOT SUBSEQUENTLY REJECTED, THE CUSTOMER
15 OR MOLDER SHALL NOTIFY THE MOLDBUILDER IN WRITING BY CERTIFIED
16 MAIL, RETURN RECEIPT REQUESTED, THAT THE DIE, MOLD, OR FORM WAS
17 NOT ACCEPTED OR THAT THE ACCEPTANCE WAS SUBSEQUENTLY REJECTED. A
18 MOLDBUILDER WHO RECEIVES THIS NOTICE SHALL NOT SELL THE DIE,
19 MOLD, OR FORM UNTIL THE DISPUTE IS RESOLVED.

20 SEC. 10C. (1) IF THE PROCEEDS OF THE SALE ARE GREATER THAN
21 THE AMOUNT OF THE LIEN, THE PROCEEDS SHALL FIRST BE PAID TO THE
22 MOLDBUILDER IN THE AMOUNT NECESSARY TO SATISFY THE LIEN. ALL
23 PROCEEDS IN EXCESS OF THE LIEN SHALL BE PAID TO THE CUSTOMER.

24 (2) A SALE SHALL NOT BE MADE UNDER SECTION 10A IF IT WOULD
25 BE IN VIOLATION OF ANY RIGHT OF A CUSTOMER OR MOLDER UNDER FED-
26 ERAL PATENT OR COPYRIGHT LAW.