

Act No. 17
Public Acts of 2002
Approved by the Governor
February 28, 2002
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March 1, 2002
EFFECTIVE DATE: March 1, 2002

**STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002**

Introduced by Rep. Richner

ENROLLED HOUSE BILL No. 4812

AN ACT 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 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.

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.

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.

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.

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.

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.

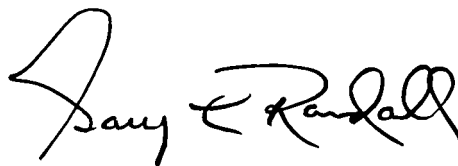
(2) If there is no return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the moldbuilder shall publish notice of the moldbuilder's intention to sell the die, mold, or form in a newspaper of general circulation in the place where the die, mold, or form 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.

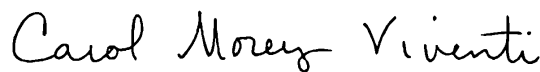
Sec. 10c. (1) If the proceeds of the sale are greater than the amount of the lien, the proceeds shall first be paid to the moldbuilder in the amount necessary to satisfy the lien. All proceeds in excess of the lien shall be paid to the customer.

(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.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.