

Legislative Analysis



MARINA AND BOATYARD STORAGE LIEN ACT

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5429 (proposed H-2 substitute)

Sponsor: Rep. Andrea LaFontaine

Committee: Natural Resources

Complete to 5-23-16

Analysis available at
<http://www.legislature.mi.gov>

(Public Act 286 of 2016)

SUMMARY:

House Bill 5429 would amend several sections of the Michigan Marina and Boatyard Storage Lien Act by, mainly, including *the unpaid cost of repairs and maintenance services* and the *cost of storing boat cradles* to definitions relevant to when an individual may place a lien on boats or related equipment that is in default. The bill also would modify the procedures that must be followed for a facility owner to enforce a lien. The bill would take effect 90 days after the date it is enacted into law.

Amendments to definitions

Section 2 of the act contains definitions, several of which would be amended by HB 5429:

"Default" would be amended to mean "the failure to pay obligations incurred for labor, repairs, maintenance services, materials, supplies, or the storage of a boat, boat motor, boat cradle, or boat trailer." (The underlined language is new).

"Lienholder or lienholder of record" would be amended to mean a person to whom either of the following applies:

- The person has filed a lien notation on the title of a boat or boat trailer.
- The person claims an interest in a boat motor or boat cradle under a financing statement, or other marine documentation filed with the secretary of state, or under another public filing, other than a filing with a register of deeds in this state.

Presently, a "lienholder" is defined as a person who claims an interest in or a lien on the property pursuant to a financing statement, title, registration, or other marine documentation filed with the secretary of state, registrar of deeds, or other public filing.

"Property" would be amended to mean a boat, boat motor, boat cradle, or boat trailer in storage at a facility for or following service, repair, or storage.

The act would be amended to include *property stored at a facility for repairs or maintenance services* in a possessory lien held by that facility owner. The bill also would add *repairs* and *service* to instances where storage charges or agreements are presently cited. The current limit of one lien against a vessel for its storage, labor, materials or supplies would be updated by changing "vessel" to "property," and by including repairs and maintenance services in the list of services that count for the one lien limit.

Notifications requirements

Section 5 of the act contains notification requirements that a facility owner must follow prior to conducting a sale of property. House Bill 5429 would amend this section by requiring that mailing of a default notice by the facility owner be done by certified mail or another delivery service that includes proof of delivery. In addition, if the vessel is registered out of state, then a mailing must be sent to the other state or federal agency responsible for the registration or documentation of that property.

If the property is a vessel or trailer, the secretary of state must provide the facility owner with the name and address of the registered owner of that vessel or trailer as well as a list of all lienholders. Under the act currently, notice must be sent to the property holder and the secretary of state. The secretary of state would then notify the facility owner and provide him or her with the name of the registered owner of the property and a list of all lienholders.

If the owner of a vessel or trailer could not be determined due to the condition of the vessel ID number or because the records of the secretary of state or other applicable record keeping agency do not reveal ownership, the bill would direct the facility owner to send the notice, by certified mail or another delivery service that includes proof of delivery, to the person that delivered the vessel or trailer to the facility, if known, at that person's last known address. The facility owner must also publish a notice that contains a description of the property and the information required to be provided in a notice of default in the print or electronic version of a newspaper of general circulation.

Issuance of new title or registration

Once the property is sold, the secretary of state is required to issue a new title or registration to the new owner. The bill would add a requirement that if the vessel or trailer was registered in another state, then the secretary of state must notify the other state that a new title or registration has been issued.

FISCAL IMPACT:

The bill would have no fiscal impact on the Department of State.

The bill would not affect costs or revenues for the Department of Natural Resources. This bill would also not affect costs or revenues for local units of government.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.