

HOUSE BILL NO. 6407

November 12, 2020, Introduced by Reps. Meerman and Steven Johnson and referred to the Committee on Government Operations.

A bill to amend 1961 PA 236, entitled
"Revised judicature act of 1961,"
by amending section 8733 (MCL 600.8733), as amended by 2003 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8733. (1) An authorized local official may seize and
2 impound a vehicle operated in the commission of a trailway
3 municipal civil infraction. ~~Upon~~ **On** impoundment, the vehicle is
4 subject to a lien, subordinate to a prior lien of record, in the

1 amount of any fine, costs, or assessment that the defendant ~~may be~~
 2 **is** ordered to pay under section 8727 and any expenses described in
 3 subsection (2) that the defendant ~~may be~~ **is** ordered to pay under
 4 section 8727. The defendant or a person with an ownership interest
 5 in the vehicle may post with the court a cash or surety bond in the
 6 amount of \$750.00. If such a bond is posted, the vehicle ~~shall~~ **must**
 7 be released from impoundment. The vehicle ~~shall~~ **must** also be
 8 released, ~~and the lien shall be discharged, upon~~ **on** a judicial
 9 determination that the defendant is not responsible for the
 10 trailway municipal civil infraction or ~~upon~~ **on** payment of the fine,
 11 costs, assessment, and damages and expenses.

12 (2) In a trailway municipal civil infraction action, an order
 13 under section 8727 may require the defendant to pay 1 or both of
 14 the following:

15 (a) The amount of damages to any land, water, wildlife,
 16 vegetation, or other natural resource or to any facility damaged by
 17 the violation of the ordinance. Money collected under this
 18 subdivision ~~shall~~ **must** be distributed to the governmental entity
 19 that has jurisdiction over the recreational trailway.

20 (b) The reasonable expense of impoundment under subsection
 21 (1). Money collected under this subdivision ~~shall~~ **must** be
 22 distributed to the governmental entity employing the authorized
 23 local official who impounded the vehicle involved in the trailway
 24 municipal civil infraction.

25 (3) If the court **in a trailway municipal civil infraction**
 26 **action** determines that the defendant is responsible for the
 27 ~~trailway municipal civil infraction~~ and the defendant defaults in
 28 the payment of the fine, costs, assessment, or damages or expenses,
 29 or in any installment, as ordered ~~pursuant to~~ **under** section 8727,

any bond posted under subsection (1) ~~shall~~**must** be forfeited and applied to the fine, costs, assessment, damages, expenses, or installment. The court shall certify any remaining unpaid amount to the attorney for the governmental entity whose ordinance was violated. The attorney for the governmental entity may enforce the lien by a foreclosure sale. The foreclosure sale ~~shall~~**must** be conducted in the **same** manner ~~provided as~~ and **is** subject to the same rights ~~as that apply in the case of~~ **to an** execution sales ~~sale~~ under sections 6031, 6032, 6041, 6042, and 6044 to 6047.

(4) Not less than 21 days before ~~the~~**a** foreclosure sale **under subsection (3)**, the attorney for the governmental entity whose ordinance was violated shall by certified mail send written notice of the time and place of the foreclosure sale to each person with a known ownership interest in or lien of record on the vehicle. In addition, not less than 10 days before the foreclosure sale, the attorney shall ~~twice publish~~**provide** notice of the time and place of the foreclosure sale ~~in~~**as follows**:

(a) **Before January 1, 2022, by publishing the notice twice in** a newspaper of general circulation in the county in which the vehicle was seized.

(b) **After December 31, 2021, in the manner provided in the local government public notice act.**

(5) The proceeds of ~~the~~**a** foreclosure sale ~~shall~~**under subsection (3) must** be distributed in the following order of priority:

(a) To discharge any lien on the vehicle that was recorded ~~prior to~~**before** the creation of the lien under subsection (1).

(b) To the clerk of the court for the payment of the fine, costs, assessment, damages, and expenses that the defendant was

1 ordered to pay under section 8727.

2 (c) To discharge any lien on the vehicle that was recorded
3 after the creation of the lien under subsection (1).

4 (d) To the owner of the vehicle.

5 Enacting section 1. This amendatory act does not take effect
6 unless Senate Bill No.____ or House Bill No. 6440 (request no.
7 02449'19) of the 100th Legislature is enacted into law.