

HOUSE BILL NO. 4708

July 01, 2025, Introduced by Reps. St. Germaine, Roth, Wozniak, Pavlov and DeBoyer and referred to Committee on Natural Resources and Tourism.

A bill to amend 1998 PA 362, entitled
"Michigan marina and boatyard storage lien act,"
by amending section 5 (MCL 570.375), as amended by 2016 PA 286.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 5. (1) A facility owner shall enforce a lien created
2 under this act only if the facility owner has notified the property
3 owner and all prior lienholders of the lien as required by section
4 4.

5 (2) If a property owner is in default for a period of more
6 than **60 days if there is no prior lienholder or of more than** 180
7 days **if there is a prior lienholder**, the facility owner may enforce

1 the lien by selling the repaired or stored property at a
2 commercially reasonable public sale. As used in this section,
3 "commercially reasonable" means that term as defined in the uniform
4 commercial code, 1962 PA 174, MCL 440.1101 to 440.9994. The
5 proceeds of the sale under this section must be applied in the
6 following order:

7 (a) To the reasonable expenses of the sale incurred by the
8 facility owner including, to the extent not prohibited by law,
9 reasonable attorney fees and legal expenses.

10 (b) To satisfy the lien created under this act to the extent
11 that ~~it~~ **the lien** has priority over all other liens.

12 (c) To satisfy all other liens on the property held by all
13 lienholders of record to be paid in the order of priority.

14 (d) To the extent that the proceeds of sale exceed the sum of
15 the items described in subdivisions (a) to (c), the facility owner
16 shall pay the surplus to the property owner.

17 (3) If, after satisfying the reasonable expenses of the sale
18 and the lien under subsection (2), there is a dispute concerning
19 the priority of record lienholders under subsection (2), the
20 facility owner may hold the proceeds of the sale until the dispute
21 is settled by the written agreement of the parties or until an
22 order or final judgment is issued by a court ~~of competent~~
23 ~~jurisdiction~~ relative to the dispute. The facility owner may pay
24 the proceeds of sale to a court with subject matter jurisdiction.
25 After a facility owner pays the proceeds to a court as described in
26 this subsection, the facility owner is relieved of all further
27 obligation concerning the proceeds.

28 (4) If proceeds of the sale under this section are not
29 sufficient to satisfy the property owner's outstanding obligations

1 to the facility owner or any lienholder of record, the property
2 owner remains liable to the facility owner or lienholder for the
3 deficiency.

4 (5) Before conducting a sale under this section, and within a
5 reasonable time after default has continued for more than **60 days**
6 **if there is no prior lienholder or for more than 180 days if there**
7 **is a prior lienholder**, the facility owner shall do both of the
8 following:

9 (a) Mail a notice of default to the property owner and the
10 secretary of state by certified mail or by another commercially
11 available delivery service that provides proof of delivery, and, if
12 the property is registered in another state or with a federal
13 agency, mail a notice by certified mail to the other state or
14 federal agency responsible for registration or documentation of the
15 property. If the property is a vessel or trailer, the secretary of
16 state shall provide the facility owner with the name and address of
17 the registered owner of the vessel or trailer and a list of all
18 lienholders. If the owner of property cannot be determined because
19 of the condition of identification numbers or because a check of
20 the records of the secretary of state or, if applicable, an agency
21 of another state or federal agency does not reveal ownership, the
22 facility owner may send notice of default by certified mail or by
23 another commercially available delivery service that provides proof
24 of delivery to the person that delivered the property to the
25 facility, if known, at the person's last known address and shall
26 publish in the print or electronic version of a newspaper of
27 general circulation a notice that contains a description of the
28 property and the information required to be provided in a notice of
29 default. The facility owner shall provide a copy of the notice of

1 default to each lienholder of record provided by the secretary of
2 state. The notice of default must include all of the following:

3 (i) A statement that the property is subject to a lien held by
4 the facility owner.

5 (ii) A statement of the facility owner's claim indicating the
6 charges due on the date of the notice, the amount of any additional
7 charges that will become due before the date of sale, and the date
8 the additional charges will become due.

9 (iii) A demand for payment of the charges due within a specified
10 time not less than 30 days after the date the notice is delivered
11 to the property owner and all lienholders of record.

12 (iv) A statement that the property will be sold if the claim is
13 not paid within the time stated in the notice. The statement must
14 include the time and location of the sale.

15 (v) The name, street address, and telephone number of the
16 facility owner, or the facility owner's designated agent, whom the
17 property owner may contact to respond to the notice.

18 (b) After the expiration of the 30-day period set forth in
19 subdivision (a) (iii), publish an advertisement of the sale once a
20 week for 2 consecutive weeks in the print or electronic version of
21 a newspaper of general circulation in the area where the sale is to
22 be held. The advertisement must include a general description of
23 the property, the name of the property owner, and the time and
24 location of the sale. The date of the sale must be not less than 15
25 days after the date the first advertisement of the sale is
26 published.

27 (6) At any time before the sale of property under this act,
28 any lienholder may cure the default by paying the amount of the
29 claim to the facility owner, ~~which~~ **and this** amount must be added to

1 the lien of the lienholder.

2 (7) A sale under this act must be held at the facility or at
3 another reasonable location.

4 (8) A person ~~who~~**that** purchases property sold at a
5 commercially reasonable sale under this act takes the property free
6 and clear of the rights of the property owner and all lienholders
7 of record.

8 (9) A facility owner who complies with this act is liable as
9 follows:

10 (a) The facility owner's liability to a lienholder of record
11 is limited to the net proceeds received from the sale of the
12 property.

13 (b) The facility owner's liability to the property owner is
14 limited to the net proceeds received from the sale of the property
15 after payment in full of all lienholders of record.

16 (10) A property owner or lienholder who suffers damages
17 because of a facility owner's failure to comply with this act may
18 bring an action ~~in a court of competent jurisdiction for his or her~~
19 actual damages or \$250.00, whichever is greater.

20 (11) A facility owner is limited to 1 lien under state law
21 against a property for the storage, labor, repairs, maintenance
22 services, materials, or supplies for the property. A facility owner
23 who asserts a lien against a property under another statute or the
24 common law shall not also assert a lien under this act for the same
25 storage, labor, repairs, maintenance services, materials, or
26 supplies, or other charges or expenses related to the property.

27 (12) A facility owner may deny a property owner who ~~has been~~
28 **was** notified under subsection (5) access to the storage facility,
29 except that the property owner is entitled to access to the

1 facility during normal business hours for the purpose of satisfying
2 the lien or viewing and verifying the condition of the property.

3 (13) Except as otherwise provided in this act, all notices
4 required by this act must be mailed by registered or certified
5 mail, return receipt requested. Notices to a facility owner must be
6 mailed to the **facility** owner's business address or to the address
7 of the **facility** owner's designated representative. Notices to a
8 property owner must be mailed to the property owner's last known
9 address as listed on the title, registration, or other marine
10 documentation or as provided in the most recent agreement
11 concerning storage, labor, repairs, maintenance services,
12 materials, or supplies entered into between the facility owner and
13 the property owner. Notices to a lienholder of record must be sent
14 to the address of the lienholder as provided by the secretary of
15 state under subsection (5). Notices are considered delivered on the
16 date the recipient of the notice signs the return receipt or, if
17 the notice is undeliverable, the date the post office last attempts
18 to deliver the notice.

19 (14) The facility owner may bid all or a portion of ~~his or her~~
20 **the facility owner's** claim at the auction sale of the property.