

**SFA**

BILL ANALYSIS

Senate Fiscal Agency

Lansing, Michigan 48909

(517) 373-5383

House Bill 4878 (Substitute H-3 as reported with amendment)

Sponsor: Representative Michael E. Nye

House Committee: State Affairs

Senate Committee: Government Operations

Date Completed: 3-21-90

**RATIONALE**

Under the garage keepers lien Act, a garage keeper who has been hired to repair, maintain, service, or store a vehicle can protect himself or herself from unpaid bills by placing a lien on the vehicle. To obtain a lien, a garage keeper must send an application and certain information to the Secretary of State. If the Secretary of State's office finds everything in order, it sends to the garage keeper a certificate of closure granting the lien, a case number, and information on any other liens on that vehicle. If the bill remains unpaid, the garage keeper can sell the vehicle at auction to cover his or her charges after satisfying certain requirements in the Act.

While the Act provides for the placing of a garage keeper's lien on watercraft and aircraft, as well as vehicles, the Secretary of State cannot grant liens on aircraft because, unlike vehicles and watercraft, it does not register aircraft. Though the Federal Aviation Administration (FAA) has a registry for the recording of liens against aircraft, reportedly it will not record liens filed by garage keepers in Michigan (as it does for other states) because the Act does not conform to the Federal standards for the placing of a lien on aircraft. This has proven problematic in two ways: 1) a business or person who provides a service for an aircraft owner cannot record a lien against unpaid bills and; 2) a person who owns an aircraft with a lien or liens against it can sell the aircraft to a buyer, and the buyer cannot check to see whether there are debts on the aircraft. It has been suggested that the Act be amended to conform to Federal standards to correct these problems.

**CONTENT**

The bill would amend the garage keepers lien Act to place in the Act separate provisions for the sale of aircraft at auction, and to provide for recording liens on aircraft with the Federal Aviation Administration.

Currently, under the Act, if charges due for labor, materials, or storage are not paid within 45 days after the owner of a vehicle is notified of a claim of lien, the garage keeper can sell the vehicle at public auction. The bill provides that if charges for an aircraft were not paid when due, a garage keeper could, within 60 days after the last work or service was performed, file with the Federal Aviation Administration Registry, a claim of lien stating the name and address of the lien claimant, the amount due, and a description of the aircraft by make, model, serial number, and registration number. If the charges were not paid within 60 days after the claim of lien, together with an itemized statement of the account, was delivered to the aircraft owner by personal service or by registered or certified mail (addressed to the last known address of the owner), and a record of the lien had been filed with the FAA Registry, the garage keeper could sell the aircraft at public auction. The sale would have to be held not less than 20 days, or more than 60 days, after the 60-day period expired.

No later than 20 days before a sale was held, the garage keeper would have to give written notice of the time and the place of the sale to the FAA Registry, to any lienholder, as shown by the records of the Registry, and to the owner of the aircraft. Notice of the time and place of the sale

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also would have to be posted conspicuously at the place of the sale and at every airport within a 25-mile radius of the place of the sale. Notice to the FAA and lienholders would have to be given by first class mail, and notice to the registered owner would have to be given personally or by certified mail.

The garage keeper could bid for and purchase the aircraft at the auction. If the garage keeper purchased the aircraft directly or indirectly at the auction, the proceeds of the sale would be either the amount paid by the garage keeper or the fair cash market value of the aircraft, as determined by a neutral aircraft appraiser immediately before the time of sale, whichever was greater.

Any surplus from the sale, after the garage keeper's charges had been paid and the costs of the sale deducted, would have to be returned to any lienholder with a properly recorded security interest before distribution of the proceeds of the sale was complete. The balance would be returned to the registered owner of the aircraft.

MCL 570.301 et al.

### SENATE COMMITTEE ACTION

As passed by the House, the bill provided that when an aircraft was sold at auction, any surplus funds from the sale (after the garage keeper's charges had been paid and costs of the sale deducted) would have to be returned to any lienholder with a properly recorded security interest who notified the garage keeper of the lien. The Senate committee adopted an amendment to eliminate the requirement that a lienholder notify the garage keeper of the lienholder's claim of lien.

### FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

### ARGUMENTS

#### Supporting Argument

Michigan's garage keepers lien Act does not meet the Federal criteria for the recording of a lien against an aircraft and, as a result, businesses providing services to aircraft cannot record a lien against an aircraft when bills go

unpaid. The provisions of the bill would meet Federal criteria and would permit the recording of a Michigan garage keeper lien against an aircraft with the FAA aircraft Registry. This would mean, among other things, that when a person checked with the FAA before purchasing a plane, he or she would learn whether a garage keeper's lien existed on the aircraft. The bill also specifies how the sale of a plane by a garage keeper to recover money owned would be conducted and how the proceeds would be distributed.

Legislative Analyst: G. Towne

Fiscal Analyst: B. Bowerman

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.