

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

COMMITTEE SUBSTITUTE

FOR

HOUSE BILL NO. 2932

By: Blackburn

COMMITTEE SUBSTITUTE

An Act relating to contracts; defining terms; requiring rights to certain titles be the property of the customer; providing exception; providing for transfer to certain title belong to the molder after passage of certain time; stating purpose; providing procedures related thereto; providing for transfer of certain rights and title transfer by law; providing exceptions; providing for nonliability; providing for construction of section; authorizing certain lien; providing for procedures related thereto; providing for discharge of lien; specifying information to be included in notice related to said lien; providing for sale in excess of lien; prohibiting certain sales; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 691 of Title 15, unless there is created a duplication in numbering, reads as follows:

As used in Sections 1 through 4 of this act:

1. "Customer" means any individual or entity who causes or caused a molder to fabricate, cast, or otherwise make a die, mold, form, or pattern or who provides a molder with a die, mold, form, or pattern to manufacture, assemble, cast, fabricate, or otherwise make a product or products for a customer;

2. "Molder" means any individual or entity who fabricates, casts, or otherwise makes or uses a die, mold, form, or pattern for the purpose of manufacturing, assembling, casting, fabricating, or otherwise making a product or products for a customer. A "molder" includes, but is not limited to, a tool or die maker; and

3. "Within three (3) years following the last prior use" shall be construed to include any period following the last prior use of a die, mold, form, or pattern regardless of whether or not that period precedes July 1, 1998.

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 692 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. In the absence of any agreement to the contrary, the customer shall have all rights and title to any die, mold, form, or pattern in the possession of the molder.

B. If a customer does not claim possession from a molder of a die, mold, form, or pattern within three (3) years following the last prior use thereof, all rights and title to any die, mold, form, or pattern shall be transferred by operation of law to the molder for the purpose of destroying or otherwise disposing of such die, mold, form, or pattern, consistent with this section.

C. If a molder chooses to have all rights and title to any die, mold, form, or pattern transferred to the molder by operation of law, the molder shall send written notice by registered mail to the chief executive office of the customer or, if the customer is not a business entity, to the customer at the customer's last-known address indicating that the molder intends to terminate the customer's rights and title by having all such rights and title transferred to the molder by operation of law pursuant to this section. Such notice shall include a statement of the customer's rights as set forth in subsection D of this section.

D. 1. If a customer does not respond in person or by mail to claim possession of the particular die, mold, form, or pattern within one hundred twenty (120) days following the date the notice was sent, or does not make other contractual arrangements with the molder for storage of the die, mold, form, or pattern, all rights and title of the customer, except patents and copyrights, shall transfer by operation of law to the molder. Thereafter, the molder may destroy or otherwise dispose of the particular die, mold, form, or pattern as the molder's own property without any risk of liability to the customer.

2. This subsection shall not be construed in any manner to affect any right of the customer under federal patent or copyright law or federal law pertaining to unfair competition.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 693 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. Molders shall have a lien, dependent on possession, on all dies, molds, forms, or patterns in their hands belonging to a customer, for the balance due them from such customer for any manufacturing or fabrication work, and in the value of all material related to such work. The customer may at any time discharge the lien by depositing with the county clerk in whose office the lien claim has been filed an amount of money or bond equal to one hundred twenty-five percent (125%) of the lien claim amount, in accordance with the same procedures as specified in Section 147.1 of Title 42 of the Oklahoma Statutes. The molder may retain possession of the die, mold, form, or pattern until the charges are paid or the lien or bond is released.

B. Before enforcing such lien, 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. This notice shall state that a lien is claimed for the damages set forth in or attached to such writing for manufacturing or fabrication work contracted or performed for the customer. This notice shall also include a demand for payment.

C. If the molder has not been paid the amount due within sixty (60) days after the notice has been received by the customer as provided in subsection B of this section, the molder may sell the die, mold, form, or pattern at a public or private auction.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 694 of Title 15, unless there is created a duplication in numbering, reads as follows:

A. Before a molder may sell the die, mold, form, or pattern, the molder shall notify the customer by registered mail, return receipt requested. The notice shall include the following information:

1. The molder's intention to sell the die, mold, form, or pattern thirty (30) days after the customer's receipt of the notice;

2. A description of the die, mold, form, or pattern to be sold;

3. The time and place of the sale; and

4. An itemized statement for the amount due.

B. If there is not a return of the receipt of the mailing or if the postal service returns the notice as being nondeliverable, the molder shall publish notice of the molder's intention to sell the die, mold, form, or pattern in a newspaper of general circulation in the county of the customer's last-known place of business. The notice shall include a description of the die, mold, form, or pattern.

C. If the sale is for a sum greater than the amount of the lien, the excess shall be paid to any prior lienholder known to the molder at the time of the sale and any remainder to the customer, if the customer's address is known, or to the State Treasurer for deposit in the General Revenue Fund if the customer's address is unknown to the molder at the time of the sale.

D. A sale shall not be made under this subsection if it would be in violation of any right of a customer under federal patent or copyright law.

SECTION 5. This act shall become effective July 1, 1998.

SECTION 6. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.

46-2-9598

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