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JUDICIARY

HOUSE FILE 2188
BY SHOULTZ

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a tool and die lien Act.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2188

1 Section 1. NEW SECTION. 572A.1 SHORT TITLE.

2 This chapter shall be known and may be cited as the "Tool
3 and Die Lien Act".

4 Sec. 2. NEW SECTION. 572A.2 DEFINITIONS.

5 For the purposes of this chapter, the following definitions
6 shall have the following meanings:

7 1. "Customer" means any person or entity who contracted
8 with or caused a plastic or metal processor to use a tool,
9 die, mold, jig, fixture, form, or pattern to manufacture,
10 assemble, or otherwise make plastic or metal components or
11 products.

12 2. "Processor" means any person or entity including, but
13 not limited to, a tool or die maker, who uses a tool, die,
14 mold, jig, fixture, form, or pattern to manufacture, assemble,
15 or otherwise make a plastic or metal product or products for a
16 customer, pursuant to a contract or otherwise.

17 3. "Special tool" means a tool, die, mold, jig, fixture,
18 form, pattern, or part used to manufacture, assemble, or
19 otherwise make plastic or metal components or products.

20 4. "Toolmaker" means a person including, but not limited
21 to, a mold builder, model maker, patternmaker, molder, die
22 maker, metal former, jig and fixture builder, die sinker, die
23 caster, mold designer, mold programmer, die designer, die
24 programmer, and mold or die engineer who fabricates, cuts,
25 casts, forms, or designs molds for the plastic industry or
26 dies for the metal forming industry.

27 Sec. 3. NEW SECTION. 572A.3 LIEN.

28 1. A processor shall have a lien on the tools, dies,
29 molds, jigs, fixtures, forms, or patterns in the processor's
30 possession belonging to a customer, for the balance due the
31 processor or person from such customer for plastic or metal
32 processing work, and for all materials related to such work.
33 The processor may retain possession of the tool, die, mold,
34 jig, fixture, form, or pattern until such balance is paid,
35 subject only to a security interest properly perfected

1 pursuant to article 9 of the uniform commercial code as
2 provided in chapter 554.

3 2. A toolmaker has a lien on all special tools produced by
4 the toolmaker and on all proceeds from the assignment, sale,
5 transfer, exchange, or other disposition of the special tool
6 produced by the toolmaker until the toolmaker is paid in full
7 all amounts due the toolmaker for the production of the
8 special tool.

9 3. For the purposes of subsection 2, all of the following
10 shall apply:

11 a. The lien attaches when the special tool is delivered
12 from the toolmaker to the customer.

13 b. The amount of the lien is the amount that a customer or
14 processor owes the toolmaker for the fabrication, repair, or
15 modification of the special tool.

16 c. The toolmaker retains the lien even if the toolmaker is
17 not in possession of the special tool for which the lien is
18 claimed.

19 Sec. 4. NEW SECTION. 572A.4 NOTICE.

20 1. Before enforcing a lien as provided for in section
21 572A.3, subsection 1, an initial notice in writing shall be
22 given to the customer, either delivered personally or sent by
23 registered mail to the last known address of the customer.
24 The notice shall state that a lien is claimed in the amount
25 set forth in or in an attachment to the notice for processing
26 work contracted or performed for the customer. The notice
27 shall also include a demand for payment.

28 2. Before enforcing a lien as provided in section 572A.3,
29 subsection 2, an initial notice in writing shall be given to
30 the customer and processor, either delivered personally or
31 sent by registered mail to the last known address of the
32 customer and the processor. The notice shall state that a
33 lien is claimed in the amount set forth in or in an attachment
34 to the notice for the fabrication, repair, or modification of
35 the special tool. The notice shall also include a demand for

1 payment.

2 Sec. 5. NEW SECTION. 572A.5 SALE OF SPECIAL TOOL --
3 PROCESSOR.

4 If a processor has not been paid the amount due within
5 ninety days after the initial written notice has been received
6 by the customer as provided in section 572A.4, subsection 1,
7 the processor may sell the special tool at a public auction if
8 both of the following occur:

9 1. The special tool is still in the processor's
10 possession.

11 2. The processor complies with section 572A.7.

12 Sec. 6. NEW SECTION. 572A.6 POSSESSION OF SPECIAL TOOL
13 -- TOOLMAKER.

14 1. If a toolmaker has not been paid the amount due within
15 ninety days after the initial notice is received by the
16 customer and by the processor, the toolmaker has a right to
17 possession of the special tool and may do any of the
18 following:

19 a. Enforce the right to possession of the special tool by
20 judgment, foreclosure, or any available judicial procedure.

21 b. Commence a civil action in district court to enforce
22 the lien, including by obtaining a judgment for the amount
23 owed and a judgment permitting the special tool to be sold at
24 an execution sale.

25 c. Take possession of the special tool, if possession
26 without judicial process can be taken without breach of the
27 peace.

28 d. Sell the special tool in a public auction if the
29 toolmaker complies with section 572A.8.

30 2. A toolmaker that suffers damages under this chapter may
31 obtain appropriate legal and equitable relief, including
32 damages, in a civil action. The court shall award a toolmaker
33 that is the prevailing party reasonable attorney fees, court
34 costs, and expenses related to enforcement of the lien.

35 Sec. 7. NEW SECTION. 572A.7 SECOND NOTICE -- PUBLICATION

1 -- SALE BY PROCESSOR.

2 1. Before a processor sells the special tool, the
3 processor shall provide a second written notice to the
4 customer, by registered mail, return receipt requested. The
5 second notice shall include all of the following information:
6 a. The processor's intention to sell the special tool.
7 b. A description of the special tool to be sold.
8 c. The time and place of the sale.
9 d. An itemized statement for the amount due.

10 2. In addition to the notice by mail provided pursuant to
11 subsection 1, the processor shall publish in a newspaper of
12 general circulation in the location where the special tool is
13 being held for sale by the processor, notice of the
14 processor's intention to sell the special tool. The notice
15 shall include a description of the special tool and name of
16 the customer.

17 Sec. 8. NEW SECTION. 572A.8 SECOND NOTICE -- PUBLICATION
18 -- SALE BY TOOLMAKER.

19 1. Before a toolmaker may sell the special tool, the
20 toolmaker shall provide a second written notice to the
21 customer and processor, by registered mail, return receipt
22 requested. The second notice shall include all of the
23 following information:
24 a. The toolmaker's intention to sell the special tool.
25 b. A description of the special tool to be sold.
26 c. The time and place of the sale.
27 d. An itemized statement for the amount due.

28 2. In addition to the notice by mail provided pursuant to
29 subsection 1, the toolmaker shall publish in a newspaper of
30 general circulation in the location where the special tool is
31 being held for sale by the toolmaker, notice of the
32 toolmaker's intention to sell the special tool. The notice
33 shall include a description of the special tool and name of
34 the customer and processor.

35 Sec. 9. NEW SECTION. 572A.9 INSPECTION -- SALE FOR

1 AMOUNT EXCEEDING LIEN -- FEDERAL PREEMPTION.

2 1. Prior to the sale of any special tool in accordance
3 with this chapter, such item must be available for inspection,
4 upon request, by members of the public during normal business
5 hours for a period of at least two weeks prior to the sale.

6 2. If the sale is for a sum greater than the amount of the
7 lien, the excess shall be paid to any prior lienholder and any
8 remainder to the customer and the processor.

9 3. A sale shall not be made or a possession shall not be
10 obtained under this chapter if it would be in violation of any
11 right of a customer or a processor under federal patent,
12 bankruptcy, or copyright law.

13 EXPLANATION

14 This bill creates the tool and die lien Act.

15 The bill creates a lien for a plastic or metal processor on
16 the tools, dies, molds, jigs, fixtures, forms, or patterns in
17 the plastic or metal processor's possession belonging to a
18 customer for the balance due from such customer for plastic or
19 metal processing work and for all materials related to such
20 work. The bill also creates a lien for a toolmaker on all
21 special tools produced by the toolmaker and on all proceeds
22 from the sale of the special tools. The bill provides that a
23 toolmaker must deliver the special tool to the customer to
24 create the lien.

25 The bill provides that prior to enforcing a lien under the
26 bill, the processor shall give an initial notice to the
27 customer. Such notice shall be delivered either personally or
28 by registered mail and shall state the amount owed and include
29 a demand for payment. The bill provides that if the processor
30 has not been paid within 90 days after receipt of the initial
31 notice, the processor may sell the special tool at a public
32 auction if the processor is in possession of the tool, has
33 sent a second notice to the customer informing the customer of
34 the sale, has published notice of the sale in a newspaper, and
35 has made the special tool available for public inspection.

1 The bill provides that prior to enforcing a lien under the
2 bill, a toolmaker shall give an initial notice to the
3 customer. Such notice shall be delivered either personally or
4 by registered mail and shall state the amount owed and include
5 a demand for payment. The bill provides that if a toolmaker
6 has not been paid within 90 days after receipt of the initial
7 notice, the toolmaker may enforce the right to possession of
8 the special tool through court action, take possession of the
9 special tool, or sell the special tool at a public auction if
10 the processor is in possession of the tool, has sent a second
11 notice to the customer informing the customer of the sale, has
12 published notice of the sale in a newspaper, and has made the
13 special tool available for public inspection. The bill also
14 provides that a toolmaker who suffers damages under the bill
15 may obtain appropriate legal and equitable relief, including
16 damages and reasonable attorney fees and court costs.

17 A "processor" is defined as a person or entity including,
18 but not limited to, a tool or die maker, who uses a tool, die,
19 mold, jig, fixture, form, or pattern to manufacture, assemble,
20 or otherwise make a plastic or metal product or products for a
21 customer, pursuant to a contract or otherwise. A "toolmaker"
22 is defined as a person including, but not limited to, a mold
23 builder, model maker, patternmaker, molder, die maker, metal
24 former, jig and fixture builder, die sinker, die caster, mold
25 designer, mold programmer, die designer, die programmer, and
26 mold or die engineer who fabricates, cuts, casts, forms, or
27 designs molds for the plastic industry or dies for the metal
28 forming industry. A "special tool" is defined as a tool, die,
29 mold, jig, fixture, form, pattern, or part used to
30 manufacture, assemble, or otherwise make plastic or metal
31 components or products.

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