

Michigan Special Tools Lien Act

By Attorney Raynor D. Zillgitt, Jr.

On June 27, 2002, the Michigan Special Tools Lien Act was enacted. If you are a tool builder or end user of special tools used in the metal fabrication business, this law will have an impact on your business. The Act allows special tool manufacturers to place a lien on special tools sold to its customers without the necessity of the parties entering into a security agreement.

Under the Act, a special tool builder must permanently record its name, street address, city and state on the special tool and then file a financing statement, which does not require the signature of the customer, with the Michigan Department of State. Once these two requirements have been met, then the special tool manufacturer will have a security interest in the amount that the customer or end user owes the special tool builder for the fabrication, repair or modification of the special tool.

Once the lien has been established, it is valid until (i) the customer or end user pays the special tool builder for the amount owed, (ii) the customer receives a verified statement from the end user that the end user has paid the amount for which the lien is claimed, or (iii) the financing statement is terminated by the tool builder.

Upon default, the special tool builder must provide a notice to the customer and end user that provides that a lien is claimed by the tool builder, the amount that the tool builder claims is owed for the purchase of the tool, and a demand for payment. If after 90 days, the amount has not been paid, then the tool builder may pursue its remedies under the Act. This would include self-help by taking possession of the special tool without judicial process if this can be accomplished without a breach of the peace, or instituting a judicial proceeding, typically a claim of delivery action for the return of the special tool.

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