CHAPTER 69

Mold Lien and Retention

**SECTION 39‑69‑10.** Short title.

 This chapter is known and may be cited as the “South Carolina Mold Lien and Retention Act”.

HISTORY: 1997 Act No. 7, Section 1, eff March 31, 1997.

**SECTION 39‑69‑20.** Definitions.

 As used in this chapter:

 (1) “Customer” means any individual or entity who causes 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 for a customer.

 (2) “Molder” means an 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 for a customer. A “molder” includes, but is not limited to, a tool or die maker.

 (3) “Within three years following the last use” must be construed to include any period following the last use of a die, mold, form, or pattern regardless of whether or not that period precedes the effective date of this chapter.

HISTORY: 1997 Act No. 7, Section 1, eff March 31, 1997.

**SECTION 39‑69‑30.** Customer’s rights and title to dies, molds, forms and patterns; failure to claim possession; written notice of intent to transfer rights and title to molder.

 (A) In the absence of any agreement to the contrary, the customer has 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 years following the last use, all rights and title to any die, mold, form, or pattern are transferred by operation of law to the molder for the purpose of destroying or otherwise disposing of the 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 officer 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. The notice must 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, or does not make other contractual arrangements with the molder for storage of the die, mold, form, or pattern, within sixty days following the date the notice was sent pursuant to subsection (C), the molder must send a second written notice, in the same manner described in subsection (C). If a customer does not respond in person or by mail to claim possession of the particular die, mold, form, or pattern, or does not make other contractual arrangements with the molder for storage of the die, mold, form, or pattern, within sixty days following the date the second notice was sent, all rights and title of the customer, except patents and copyrights, are transferred 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 section must 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.

HISTORY: 1997 Act No. 7, Section 1, eff March 31, 1997.

LIBRARY REFERENCES

1 C.J.S., Abandonment Sections 4‑7, 12.

**SECTION 39‑69‑40.** Molders’ liens; written notice of lien; failure to pay amount due.

 (A) Molders 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 the customer for any manufacturing or fabrication work, and in the value of all material related to the work. The molder may retain possession of the die, mold, form, or pattern until the charges are paid.

 (B) Before enforcing the lien, notice in writing must be given to the customer, whether delivered personally or sent by registered mail to the last‑known address of the customer. This notice must state that a lien is claimed for the damages set forth in or attached to the writing for manufacturing or fabrication work contracted or performed for the customer. This notice also must include a demand for payment.

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

HISTORY: 1997 Act No. 7, Section 1, eff March 31, 1997.

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53 C.J.S., Liens Sections 9, 11, 13.

**SECTION 39‑69‑50.** Sale of dies, molds, forms, or patterns; written notice; publication; sale in excess of lien.

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

 (1) the molder’s intention to sell the die, mold, form, or pattern thirty 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;

 (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 customer’s last known place of business. The notice must include a description of the die, mold, form, or pattern.

 (C)(1) If the sale is for a sum greater than the amount of the lien, the excess must be paid to a 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 the State Treasurer for deposit in the general fund if the customer’s address is unknown to the molder at the time of the sale.

 (2) A sale must not be made under this section if it would be in violation of any right of a customer under federal patent or copyright law.

HISTORY: 1997 Act No. 7, Section 1, eff March 31, 1997.

LIBRARY REFERENCES

53 C.J.S., Liens Sections 29, 38.

Attorney General’s Opinions

Absent amendment of notice statutes requiring notice in a newspaper of general circulation by the General Assembly, the term newspaper of general circulation cannot be extended to include online newspapers. S.C. Op.Atty.Gen. (October 21, 2015) 2015 WL 6745997.

**SECTION 39‑69‑60.** Enforcement of chapter; regulations.

 The Department of Labor, Licensing and Regulation shall enforce the provisions of this chapter and promulgate regulations necessary and appropriate for this purpose.

HISTORY: 1997 Act No. 7, Section 1, eff March 31, 1997.