

Massachusetts General Laws

Section 25. Garagekeeper's, effect of liens on motor vehicles obtained by fraud, etc. liens for charges paid by insurance company

Persons maintaining public garages for the storage and care of motor vehicles brought to their premises or placed in their care by or with the consent of the owners thereof and persons engaged in performing work upon or in connection with the inspection, reconditioning and repairing of motor vehicles shall have a lien upon such motor vehicles for proper charges due them for the storage, work and care of the same.

If the owner of such motor vehicle obtains possession of the same by fraud, trick or by check, draft or order upon any depository or bank which is not honored, the lien on said motor vehicle shall not be deemed to have been discharged and the lien holder may thereafter continue to enforce said lien until the proper charges due him have been paid.

In any instance where a lien arises under this section for charges due that are to be paid or reimbursed by an insurance company licensed in the commonwealth, upon written notice by the holder of such lien to the insurance company, the check or draft issued by such insurance company for such charges shall name the holder of the lien, together with the holder of a security interest as defined by ARTICLE 9 of chapter one hundred and six, as a loss payee, unless otherwise provided by law. The holder of a security interest that does not have priority over the lien established under this section shall be required to endorse any check or draft issued for payment of such charges by such insurance company over to the holder of such lien, whether or not such lien has then been released by the holder; provided, however, that the holder of a security interest other than the lien provided by this section, may, within two business days of notice of a request to endorse any such check require the owner of the vehicle to make said vehicle available for inspection at a time and place convenient to the owner and lienholder, to reinspect the repaired vehicle, and, as a prerequisite for such endorsement, the holder of such security interest may require the holder of the lien established under this section to provide it with an itemized list of repairs and other services which it certifies, in writing, have been completed or provided, and a copy of any repair certification form required by law to be provided to the insurance company.

Nothing in this section shall affect or modify the provisions of any direct payment plans implemented by an insurer pursuant to section thirty-four O of chapter ninety.

Section 26. Enforcement

A person who has a lien, which is not described in sections fourteen to twenty-two, inclusive, or in chapter two hundred and fifty-four, for money due to him on account of work and labor, storage, care and diligence, or money expended on or about personal property under a contract express or implied, if such money is not paid, in the case of a lien described in section twenty-four, twenty-five or twenty-five A within ten days, or in other cases within sixty days, after a demand in writing delivered to the debtor or left at his usual place of abode, if within the commonwealth, or mailed postpaid to him at his usual place of abode without the commonwealth, may bring a civil action in the superior court or in a district court within the jurisdiction of which the plaintiff resides or has his usual place of business to have the property sold to satisfy the debt.

Section 29. Order of Sale

If, upon a default or a trial it is found that a lien exists upon the property and that the property ought to be sold for the satisfaction of the debt, the court may make an order for such sale, determine and

record the amount then due and award costs to the prevailing party. Any proceeds of the sale remaining after satisfying the debt, costs and charges, shall be paid to the owner upon demand.

Section 33. Dissolution of liens on personal property, procedure

A person who owns or has an interest in any personal property upon which such a lien has been claimed may, at any time after a civil action is brought for its enforcement and before the property is lawfully sold to satisfy said lien, dissolve the lien upon his interest in the whole or any part of said property by giving bond to the person claiming the lien, with sufficient sureties, who shall be approved in writing by the claimant or by his attorney, or by a justice of a district court or master in chancery, conditioned to pay to such person within thirty days after the final judgment or order of sale of said property or the interest therein or part thereof for which said bond may be given, an amount fixed as the value of said interest or such part thereof as may be necessary to satisfy the amount for which said interest or part thereof may be subject to said lien. The property upon which the lien is to be dissolved shall be described in the bond. If the parties do not agree as to the value of the property or of the part to be released from said lien, the value may be determined in accordance with the provisions of sections one hundred and twenty-five and one hundred and twenty-six of chapter two hundred and twenty-three. If the said property, or the part to be released from said lien, consists of books, papers, documents or other similar property and the parties do not agree upon the amount for which said bond shall be given, it may be fixed in like manner at such amount as may be reasonable, giving due consideration to the amount for which said lien is claimed, and upon the delivery of the bond in accordance with the provisions hereof the lien upon the property described therein shall be dissolved. The person claiming a lien upon said personal property shall, upon demand therefor, furnish the person owning or having an interest in said property with a statement of the amount and reasons, or other considerations, for which the lien is claimed.

Section 39A. Vehicles; sale for storage, procedure

Any motor vehicle removed from the scene of an accident and placed for storage in the care of a garage, which in this section shall also include a parking lot or other place for the storage of motor vehicles, by a member of the state police force, by a member of the metropolitan district police, by a member of the police force of any city or town or by any inspector, supervisor, investigator, examiner or instructor appointed by the registrar of motor vehicles under section twenty-nine of chapter ninety, shall be so stored at the prevailing rates. At the time such motor vehicle is so placed the officer or person placing it shall furnish the owner or operator of such garage the name and address of the registered owner of said motor vehicle; and if such information is not then available, said officer or person shall obtain such information and forthwith notify in writing the said owner or operator.

Upon receipt of such information the owner of the garage shall notify the registered owner of the motor vehicle by registered mail, return receipt requested, that such motor vehicle has been placed in his care as provided by this section, and shall inform him of the storage rates therefor, and shall inquire if he is to continue to hold the motor vehicle subject to such storage rates.

If the registered owner of the motor vehicle assents to the continued storage of such motor vehicle, the owner of the garage shall continue to hold said motor vehicle in storage and shall have a lien thereon, as provided in section twenty-five.

If the registered owner of the motor vehicle fails to answer said notice within twenty-one days after receipt thereof, the motor vehicle shall continue to be stored at the prevailing rates.

If, after the expiration of sixty days from the date when the vehicle was brought to the garage or placed in the care of the owner of said garage, the owner of the motor vehicle has not claimed said vehicle, the owner of the garage may give notice to the owner by registered mail at his last known place of abode stating the amount of the storage charges and informing him that if the vehicle is not

claimed within twenty-one days the vehicle will be sold. If the owner does not claim the vehicle within said twenty-one days, the owner of the garage may sell said motor vehicle at public or private sale after publishing notice of such sale for three successive weeks in a newspaper published or having a circulation in the city or town in which the property is located; provided that he shall notify the chief of police in the city or town in which the garage is located at least five days prior to such sale that the vehicle is to be sold. Upon such sale the owner of the garage may deduct therefrom his charges for storage and the costs of sending notices and of holding the sale, and shall furnish the registered owner of such motor vehicle a statement of the amount received at such sale, together with the amount of his charges and costs, and the balance, if any. If the owner of the garage knows the address of the registered owner of said motor vehicle he shall pay such balance to him; if not, he shall deposit the same with the clerk of the district court who shall give him a receipt therefor and deposit said balance in a savings bank in the name of the justice of the district court in trust for said owner of the motor vehicle.