



Ohio Revised Code

Section 1333.31 Molder's lien.

Effective: September 25, 1985

Legislation: House Bill 164 - 116th General Assembly

(A)(1) A molder has a lien on a die, mold, pattern, or form that is in his possession and that belongs to a customer, for the following:

(a) The amount due from the customer for plastic, metal, paper, china, ceramic, glass, or rubber fabrication work performed with the die, mold, pattern, or form, or for making or improving the die, mold, pattern, or form;

(b) The cost associated with the notification described in division (B) of this section;

(c) Costs and interest awarded in a judgment rendered pursuant to division (C) of this section.

(2) Except as provided in division (C) of this section, the molder may retain possession of the die, mold, pattern, or form until the customer pays all applicable monetary amounts described in division (A)(1) of this section or the die, mold, pattern, or form is sold in accordance with this section.

(B) If a customer does not pay the amount due for plastic, metal, paper, china, ceramic, glass, or rubber fabrication work performed with a die, mold, pattern, or form, or for making or improving a die, mold, pattern, or form, within sixty days from the date it becomes due, the molder may send, to the last known address of the customer, by certified mail, return receipt requested, a final notice. This notice shall contain an itemized statement of the amount due, a description of the die, mold, pattern, or form being held, and a statement that, unless the amount due and the cost of the notification are paid within thirty days from the date that the notice is sent, the molder will do one of the following:

(1) Continue to retain possession of the die, mold, pattern, or form, and commence a civil action in a court of common pleas pursuant to division (C) of this section to enforce the lien provided by division (A) of this section by obtaining a judgment for the monetary amounts described in division (A)(1) of this section and a judgment permitting the die, mold, pattern, or form to be sold at an



execution sale;

(2) Continue to retain possession of the die, mold, pattern, or form until the amount due and the cost of the notification are paid.

(C)(1) If the amount due for plastic, metal, paper, china, ceramic, glass, or rubber fabrication work performed with a die, mold, pattern, or form, or for making or improving a die, mold, pattern, or form, and the cost of the notification described in division (B) of this section, are not paid within the thirty-day period provided in that division, the molder may continue to retain possession of the die, mold, pattern, or form until the amount due and the cost of the notification are paid. Alternatively, the molder may continue to retain possession of the die, mold, pattern, or form and may commence a civil action in the court of common pleas to enforce the lien by obtaining a judgment for the monetary amounts described in division (A)(1) of this section and a judgment permitting the die, mold, pattern, or form to be sold at an execution sale.

(2) If a civil action as described in division (C)(1) of this section is commenced by a molder, the customer may present in the trial any defense that he possesses, including, but not limited to, a defense that the amount the molder claims is due has already been paid or is incorrect, and a defense that the plastic, metal, paper, china, ceramic, glass, or rubber fabrication work performed, or the making or improving of the die, mold, pattern, or form, was not in compliance with the contract entered into between the customer and the molder.

The customer may obtain possession of the die, mold, pattern, or form during the pendency of the civil action by doing one of the following:

(a) The customer may deposit with the clerk of the court the amount due claimed by the molder and the cost of the notification provided by the molder pursuant to division (B) of this section, together with an amount that the court considers sufficient to cover the probable amount of the costs and interest that could be awarded to the molder if he prevails in the civil action;

(b) The customer may deposit with the clerk of the court a bond as described in this division. The bond shall be in an amount equal to the amount due claimed by the molder, the cost of the notification provided by the molder pursuant to division (B) of this section, and an amount that the



court considers sufficient to cover the probable amount of the costs and interest that could be awarded to the molder if he prevails in the civil action. At least two sureties shall be required on the bond, which sureties shall be approved by the court. The bond shall be conditioned that, if the molder prevails in the judgment, the customer and the sureties are liable for the monetary amounts described in division (A)(1) of this section.

(D) If a molder prevails in a civil action commenced pursuant to division (C) of this section, the judgment is not satisfied by the customer within one week from its entry, and the customer did not obtain possession of the die, mold, pattern, or form pursuant to division (C)(2) of this section, the die, mold, pattern, or form may be sold at an execution sale pursuant to the judgment of the court. If a customer obtained possession of the die, mold, pattern, or form pursuant to division (C)(2) of this section, the money deposited pursuant to division (C)(2)(a) of this section or the bond deposited pursuant to division (C)(2)(b) of this section shall inure to the benefit of the molder.

(E) Except as otherwise provided in this division, if a die, mold, pattern, or form is sold pursuant to the judgment of a court of common pleas and the proceeds of the sale are in excess of the amount due from the customer, the cost of the notification provided by the molder pursuant to division (B) of this section, the costs and interest awarded the molder, and the costs of the execution sale, the excess proceeds shall be remitted to the customer. If a person holds a prior lien on or a perfected security interest in the die, mold, pattern, or form, the excess proceeds shall be placed instead in escrow, and the excess proceeds shall be subject to the claims of the prior lienholders and perfected security interest holders against the customer. If the proceeds of a sale are insufficient to satisfy the amount due from the customer, the cost of the notification provided by the molder pursuant to division (B) of this section, the costs and interest awarded the molder, and the costs of the execution sale, the customer is liable for any deficiency.

(F) An execution sale is not authorized pursuant to this section, and a court shall not enter a judgment permitting such an execution sale, if the sale would violate federal patent or copyright law or any applicable state or federal law pertaining to unfair competition.

(G) This section does not affect the availability of any civil action or other legal remedy that a customer may have against a molder, including, but not limited to, a contract action or a replevin action pursuant to Chapter 2737. of the Revised Code.