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SENATE BILL NO. 1342

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend and reenact §§ 46.2-644.01 and 46.2-644.02 of the Code of Virginia, relating to garage and mechanics' liens; amount of lien.*

Patron—DeSteph

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 46.2-644.01 and 46.2-644.02 of the Code of Virginia are amended and reenacted as follows:

§ 46.2-644.01. Lien of keeper of garage.

A. Every keeper of a garage and every person keeping any vehicles shall have a lien upon such vehicles for the amount that may be due him for the towing, storage, recovery, and care thereof, until such amount is paid.

B. In the case of any vehicle subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the garage shall have a lien thereon for his reasonable charges for storage under this section ~~not to exceed \$500~~ and for alteration and repair under § 46.2-644.02, ~~not to exceed \$1,000~~ *the value of the vehicle as determined by the provisions of § 8.01-419.1*. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$300, the person asserting the lien shall make a reasonable attempt to notify any secured party of record at the Department of Motor Vehicles by telephonic means and shall give written notice by certified mail, return receipt requested, to any secured party of record at the Department of Motor Vehicles within seven business days of taking possession of the vehicle. If the secured party does not, within seven business days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full amount of storage charges, ~~not to exceed \$500~~ *recoverable as provided in this section*. Notwithstanding a redelivery, the vehicle shall be subject to subsection D.

C. In addition, any person furnishing services involving the towing and recovery of a vehicle shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the vehicle by certified mail, return receipt requested, to all secured parties of record at the Department of Motor Vehicles.

D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid.

E. Any lien created under this section shall not extend to any personal property that is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to return it to the owner if the owner claims the items prior to auction.

F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner, or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck, shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

§ 46.2-644.02. Lien of mechanic for repairs.

Every mechanic who shall alter or repair any article of personal property at the request of the owner of such property shall have a lien thereon for his just and reasonable charges therefor and may retain possession of such property until such charges are paid.

~~And every~~ Every mechanic who shall make necessary alterations or repairs on any article of personal property which from its character requires the making of ordinary repairs thereto as a reasonable incident to its reasonable and customary use, at the request of any person legally in possession thereof under a reservation of title contract, chattel mortgage, deed of trust, or other instrument securing money, the person so in possession having authority to use such property, shall have a lien thereon for his just and reasonable charges therefor to the extent of \$1,000 *or, if the property is a motor vehicle, an amount not to exceed the value of the vehicle as determined by the provisions of § 8.01-419.1*. In addition, such mechanic shall be entitled to a lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens and may retain possession of such property until such charges are paid.

59 In any action to enforce the lien hereby given all persons having an interest in the property sought to be
60 subjected shall be made parties defendant.

61 If the owner of the property held by the mechanic shall desire to obtain possession thereof, he shall
62 make the mechanic defendant in proceeding in the county or municipal court to recover the property.

63 The owner may give a bond payable to the court, in a penalty of the amount equal to the lien
64 claimed by the mechanic and court costs, with security to be approved by the clerk, and conditioned for
65 the performance of the final judgment of the court on the trial of the proceeding, and with a further
66 condition to the effect that, if upon the hearing, the judgment of the court be that the lien of the
67 mechanic on such property, or any part thereof, be enforced, judgment may thereupon be entered against
68 the obligors on such bond for the amount due the mechanic and court costs, if assessed against the
69 owner, without further or other proceedings against them thereon. Upon giving of the bond, the property
70 shall be delivered to the owner.