



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:122

NJSA:2A:44-21

"Garagekeepers Lien Act -- Public Sales"

BILL NO: S955 (Substituted for A1883)

SPONSOR(S):Bennett

DATE INTRODUCED: March 26, 1998

COMMITTEE:

ASSEMBLY: Conservation

SENATE: Commerce

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: September 28, 1998

SENATE: July 30, 1998

DATE OF APPROVAL: November 9, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 1st Reprint Enacted
(Amendments during passage denoted by superscript numbers)

S955

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY:*Yes*

SENATE:*Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A1883

SPONSORS STATEMENT: *Yes* (Begins on page 5 of original bill)
(Bill and Sponsors Statement identical to S955)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

(Identical to Assembly statement for S955)

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *Yes*

THE FOLLOWING WERE PRINTED:

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REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES: *No*

[First Reprint]

SENATE, No. 955

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MARCH 26, 1998

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Monmouth)

Co-Sponsored by:

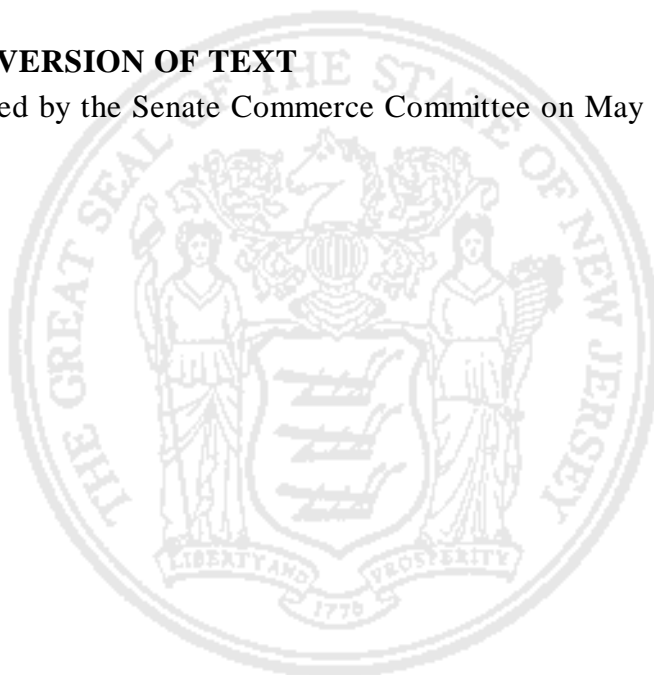
**Assemblymen Merkt, Carroll, Biondi, Bateman, Assemblywoman Murphy,
Assemblymen Connors, Moran, Gregg, Weingarten, O'Toole, Thompson
and Wisniewski**

SYNOPSIS

Revises public sale provisions of Garage Keepers Lien Act.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on May 14, 1998, with amendments.



(Sponsorship Updated As Of: 9/29/1998)

S955 [1R] BENNETT

2

1 AN ACT concerning garage keeper liens and amending and repealing
2 various sections of the New Jersey Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. N.J.S.2A:44-21 is amended to read as follows:

8 2A:44-21. A garage keeper who shall store, maintain, keep or
9 repair a motor vehicle or furnish gasoline, accessories or other
10 supplies therefor, at the request or with the consent of the owner or
11 his representative, shall have a lien upon the motor vehicle or any part
12 thereof for the sum due for such storing, maintaining, keeping or
13 repairing of such motor vehicle or for furnishing gasoline or other fuel,
14 accessories or other supplies therefor, and may, without process of
15 law, detain the same at any time it is lawfully in his possession until the
16 sum is paid. A motor vehicle is considered detained when the owner
17 or person entitled to possession of the motor vehicle is advised by the
18 garage keeper, by a writing sent by certified mail return receipt
19 requested to the address supplied by the owner or person entitled to
20 possession of the motor vehicle, that goods or services have been
21 supplied or performed, and that there is a sum due for those goods or
22 services.

23 The lien shall not be superior to, nor affect a lien, title or interest
24 of a person held by virtue of a prior conditional sale or a prior chattel
25 mortgage properly recorded or a prior security interest perfected in
26 accordance with chapter 9 of Title 12A of the New Jersey Statutes.
27 (cf: P.L.1961, c.121, s.4)

28
29 2. N.J.S.2A:44-23 is amended to read as follows:

30 2A:44-23. The owner or the person entitled to the immediate
31 possession of the motor vehicle or part thereof so detained, may, on
32 learning of the detention of the same, immediately demand from the
33 garage keeper or the person in charge thereof, a statement of the true
34 amount claimed to be due for the storing, maintaining, keeping or
35 repairing of such motor vehicle, or for furnishing gasoline or other
36 fuel, accessories or other supplies therefor. If upon receiving such
37 statement he considers the amount thereof excessive, he may offer
38 what he considers to be reasonably due and demand possession of the
39 motor vehicle or part thereof so detained. If possession is refused, he
40 may [obtain possession thereof by depositing the amount claimed in
41 the statement with the clerk of a court of competent jurisdiction in the

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SCM committee amendments adopted May 14, 1998.

1 county where the motor vehicle or part thereof may be, together with
2 \$10 to cover the costs of court in] immediately bring an action for
3 possession thereof in the Superior Court, Law Division, Special Civil
4 Part [and \$50] or in any other court. The owner or person entitled to
5 immediate possession thereof shall pay the appropriate court fees and
6 costs prior to the hearing; except that the owner or the person may
7 seek relief from the payment of court fees and costs as provided in the
8 Rules Governing the Courts of the State of New Jersey . The
9 application for the waiver of fees shall be determined prior to or in
10 conjunction with the summary hearing for possession of the motor
11 vehicle.

12 (cf: P.L.1991, c.91, s.92)

13

14 3. N.J.S.2A:44-24 is amended to read as follows:

15 2A:44-24. When the amount [claimed] determined by the court to
16 be due to the garage keeper is paid in cash or by certified or cashier's
17 check to the garage keeper and the court costs, if any, are deposited
18 with the clerk of the court [as provided in section 2A:44-23 of this
19 title,] the [claimant] owner or person entitled to possession of the
20 motor vehicle or part thereof shall be entitled to possession of the
21 motor vehicle or part thereof, pursuant to process out of said court.

22 (cf: N.J.S.2A:44-24)

23

24 4. N.J.S.2A:44-26 is amended to read as follows:

25 2A:44-26. [The] In an action brought for possession by the motor
26 vehicle owner or person entitled to possession of the motor vehicle,
27 the garage keeper shall assert his claim for a lien in the court [within
28 the time and] in the manner prescribed by the [rules governing the
29 practice of the court] Rules Governing the Courts of the State of New
30 Jersey. The court may hear and determine the matter in a summary
31 manner, and shall determine the amount due to the garage keeper, if
32 any, and the amount of court costs, if any, due to the court clerk. [The
33 judgment, if any, may be satisfied out of the deposit made or an action
34 may be brought on the bond filed.]

35 (cf: N.J.S.2A:44-26)

36

37 5. N.J.S.2A:44-27 is amended to read as follows:

38 2A:44-27. If [no claim is made by the garage keeper, or if]
39 judgment [shall be] is rendered for the [defendant] motor vehicle
40 owner or person entitled to ¹[possess in at] possession of¹ the motor
41 vehicle, the court may [order the return of the money deposited or the
42 discharge of the bond and may also] fix and determine the amount of
43 damages suffered by the motor vehicle owner or person entitled to
44 possession of the motor vehicle for the seizure and detention of the

1 motor vehicle or part thereof, and render a judgment for such amount
2 against the garage keeper.

3 (cf: N.J.S.2A:44-27)

4

5 6. N.J.S.2A:44-29 is amended to read as follows:

6 2A:44-29. If no proceedings are taken for the repossession of the
7 motor vehicle or part thereof by the motor vehicle owner or person
8 entitled to possession of the motor vehicle, such property so held by
9 the garage keeper shall, after the expiration of not less than 30 days
10 from the date of the detention, be sold at public auction, subject to any
11 prior lien, title or interest held by virtue of a prior conditional sale or
12 a prior chattel mortgage properly recorded. If an action has been
13 brought under N.J.S.2A:44-26 and the court has ordered payment of
14 money to the garage keeper, the garage keeper shall, upon payment to
15 the garage keeper in cash or by certified or cashier's check of the
16 amount ordered by the court, surrender the motor vehicle or part
17 thereof immediately. If the amount in the court order has not been
18 paid in accordance with this act within 15 days from the date of the
19 order, the property held by the garage keeper may then be sold at
20 public auction, subject to any prior lien, title or interest held by virtue
21 of a prior conditional sale or a prior chattel mortgage properly
22 recorded.

23 (cf: N.J.S.2A:44-29)

24

25 7. N.J.S.2A:44-30 is amended to read as follows:

26 2A:44-30. Notice of the sale, under section 2A:44-29 of this title
27 shall be published for 2 weeks at least once in each week, in some
28 newspaper circulating in the municipality in which the garage is situate
29 and not less than 5 days' notice of such sale shall be given by posting
30 the notice **【in 5 public places in said municipality】** at the garage
31 keeper's place of business.

32 (cf: N.J.S.2A:49-30)

33

34 8. N.J.S.2A:44-31 is amended to read as follows:

35 N.J.S.2A:44-31. The proceeds of the sale shall be applied to the
36 payment of the lien or the amount specified in the order of court and
37 the expenses of the sale. The balance, if any, shall be paid to the
38 owner of the motor vehicle, or part thereof. The balance, if not
39 claimed by the owner within 60 days after sale, shall be paid to the
40 municipality, in which the garage is situated, **【for the support of the**
41 **poor】** to provide financial support for social programs for the indigent.

42 (cf: N.J.S.2A:44-31)

43

44 9. N.J.S.2A:44-25 and N.J.S.2A:44-28 are repealed.

45

46 10. This act shall take effect immediately.

SENATE, No. 955

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MARCH 26, 1998

Sponsored by:

Senator JOHN O. BENNETT

District 12 (Monmouth)

SYNOPSIS

Revises public sale provisions of Garage Keepers Lien Act.

CURRENT VERSION OF TEXT

As introduced.



S955 BENNETT

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9 repair a motor vehicle or furnish gasoline, accessories or other
10 supplies therefor, at the request or with the consent of the owner or
11 his representative, shall have a lien upon the motor vehicle or any part
12 thereof for the sum due for such storing, maintaining, keeping or
13 repairing of such motor vehicle or for furnishing gasoline or other fuel,
14 accessories or other supplies therefor, and may, without process of
15 law, detain the same at any time it is lawfully in his possession until the
16 sum is paid. A motor vehicle is considered detained when the owner
17 or person entitled to possession of the motor vehicle is advised by the
18 garage keeper, by a writing sent by certified mail return receipt
19 requested to the address supplied by the owner or person entitled to
20 possession of the motor vehicle, that goods or services have been
21 supplied or performed, and that there is a sum due for those goods or
22 services.

23 The lien shall not be superior to, nor affect a lien, title or interest
24 of a person held by virtue of a prior conditional sale or a prior chattel
25 mortgage properly recorded or a prior security interest perfected in
26 accordance with chapter 9 of Title 12A of the New Jersey Statutes.
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29 2. N.J.S.2A:44-23 is amended to read as follows:

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31 possession of the motor vehicle or part thereof so detained, may, on
32 learning of the detention of the same, immediately demand from the
33 garage keeper or the person in charge thereof, a statement of the true
34 amount claimed to be due for the storing, maintaining, keeping or
35 repairing of such motor vehicle, or for furnishing gasoline or other
36 fuel, accessories or other supplies therefor. If upon receiving such
37 statement he considers the amount thereof excessive, he may offer
38 what he considers to be reasonably due and demand possession of the
39 motor vehicle or part thereof so detained. If possession is refused, he
40 may **[obtain possession thereof by depositing the amount claimed in**
41 **the statement with the clerk of a court of competent jurisdiction in the**
42 **county where the motor vehicle or part thereof may be, together with**
43 **\$10 to cover the costs of court in]** immediately bring an action for

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Matter underlined thus is new matter.

1 possession thereof in the Superior Court, Law Division, Special Civil
2 Part **【and \$50】** or in any other court. The owner or person entitled to
3 immediate possession thereof shall pay the appropriate court fees and
4 costs prior to the hearing; except that the owner or the person may
5 seek relief from the payment of court fees and costs as provided in the
6 Rules Governing the Courts of the State of New Jersey . The
7 application for the waiver of fees shall be determined prior to or in
8 conjunction with the summary hearing for possession of the motor
9 vehicle.

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13 2A:44-24. When the amount **【claimed】** determined by the court to
14 be due to the garage keeper is paid in cash or by certified or cashier's
15 check to the garage keeper and the court costs, if any, are deposited
16 with the clerk of the court 【as provided in section 2A:44-23 of this
17 title,】 the 【claimant】 owner or person entitled to possession of the
18 motor vehicle or part thereof shall be entitled to possession of the
19 motor vehicle or part thereof, pursuant to process out of said court.

20 (cf: N.J.S.2A:44-24)

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22 4. N.J.S.2A:44-26 is amended to read as follows:

23 2A:44-26. **【The】** In an action brought for possession by the motor
24 vehicle owner or person entitled to possession of the motor vehicle,
25 the garage keeper shall assert his claim for a lien in the court 【within
26 the time and】 in the manner prescribed by the 【rules governing the
27 practice of the court】 Rules Governing the Courts of the State of New
28 Jersey. The court may hear and determine the matter in a summary
29 manner, and shall determine the amount due to the garage keeper, if
30 any, and the amount of court costs, if any, due to the court clerk. 【The
31 judgment, if any, may be satisfied out of the deposit made or an action
32 may be brought on the bond filed.】

33 (cf: N.J.S.2A:44-26)

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35 5. N.J.S.2A:44-27 is amended to read as follows:

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37 judgment 【shall be】 is rendered for the 【defendant】 motor vehicle
38 owner or person entitled to possess in at the motor vehicle, the court
39 may 【order the return of the money deposited or the discharge of the
40 bond and may also】 fix and determine the amount of damages
41 suffered by the motor vehicle owner or person entitled to possession
42 of the motor vehicle for the seizure and detention of the motor vehicle
43 or part thereof, and render a judgment for such amount against the
44 garage keeper.

45 (cf: N.J.S.2A:44-27)

S955 BENNETT

1 6. N.J.S.2A:44-29 is amended to read as follows:

2 2A:44-29. If no proceedings are taken for the repossession of the
3 motor vehicle or part thereof by the motor vehicle owner or person
4 entitled to possession of the motor vehicle, such property so held by
5 the garage keeper shall, after the expiration of not less than 30 days
6 from the date of the detention, be sold at public auction, subject to any
7 prior lien, title or interest held by virtue of a prior conditional sale or
8 a prior chattel mortgage properly recorded. If an action has been
9 brought under N.J.S.2A:44-26 and the court has ordered payment of
10 money to the garage keeper, the garage keeper shall, upon payment to
11 the garage keeper in cash or by certified or cashier's check of the
12 amount ordered by the court, surrender the motor vehicle or part
13 thereof immediately. If the amount in the court order has not been
14 paid in accordance with this act within 15 days from the date of the
15 order, the property held by the garage keeper may then be sold at
16 public auction, subject to any prior lien, title or interest held by virtue
17 of a prior conditional sale or a prior chattel mortgage properly
18 recorded.

19 (cf: N.J.S.2A:44-29)

20

21 7. N.J.S.2A:44-30 is amended to read as follows:

22 2A:44-30. Notice of the sale, under section 2A:44-29 of this title
23 shall be published for 2 weeks at least once in each week, in some
24 newspaper circulating in the municipality in which the garage is situate
25 and not less than 5 days' notice of such sale shall be given by posting
26 the notice **【in 5 public places in said municipality】** at the garage
27 keeper's place of business.

28 (cf: N.J.S.2A:49-30)

29

30 8. N.J.S.2A:44-31 is amended to read as follows:

31 N.J.S.2A:44-31. The proceeds of the sale shall be applied to the
32 payment of the lien or the amount specified in the order of court and
33 the expenses of the sale. The balance, if any, shall be paid to the
34 owner of the motor vehicle, or part thereof. The balance, if not
35 claimed by the owner within 60 days after sale, shall be paid to the
36 municipality, in which the garage is situated, **【for the support of the**
37 **poor】** to provide financial support for social programs for the indigent.

38 (cf: N.J.S.2A:44-31)

39

40 9. N.J.S.2A:44-25 and N.J.S.2A:44-28 are repealed.

41

42 10. This act shall take effect immediately.

STATEMENT

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This bill revises the public sale provisions of the Garage Keepers Lien Act, N.J.S.A.2A:44-20 et seq. Currently, under the act, a motor vehicle owner who disputes a car repair bill can only regain possession of his car if he posts the full amount of the disputed bill or a double bond including court costs. In Whitmore v. New Jersey Division of Motor Vehicles, 137 N.J. Super. 492 (Ch. Div. 1975), the Superior Court concluded that this requirement violated the Fourteenth Amendment to the United States Constitution because it effectively denied indigent motor vehicle owners the constitutional right to a pre-sale judicial hearing.

This bill attempts to correct the constitutional infirmities of the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of the disputed bill or a double bond before a pre-sale hearing. Under this bill, a motor vehicle owner would not need to post court costs to obtain a pre-sale hearing. If the owner demonstrated financial difficulty that prevented him from paying court fees and costs, the court could not assess those fees unless and until a hearing was held and a determination was made by the court that such costs should be paid. This hearing would occur either prior to or at the summary hearing in which the court determines what amount, if any, is due to the garage keeper.

Under the bill, if no court action is initiated by the owner, the motor vehicle could be sold at auction not less than 30 days after being detained. If the owner has initiated a court action, the motor vehicle could be sold at public auction not less than 15 days after entry of a court order specifying the amount due to the garage keeper. The bill also retains remedies for the vehicle owner if the garage owner wrongfully detains the vehicle.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 955

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1998

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably Senate Bill No. 955 (1R).

This bill revises the public sale provisions of the Garage Keepers Lien Act, N.J.S.2A:44-20 et seq. Currently, under the act, a motor vehicle owner who disputes a car repair bill can only regain possession of his car prior to the public sale by a garage keeper if he posts the full amount of the disputed bill or a double bond including court costs. In Whitmore v. New Jersey Division of Motor Vehicles, 137 N.J. Super. 492 (Ch. Div. 1975), the Superior Court concluded that this requirement violated the Fourteenth Amendment to the United States Constitution because it effectively denied motor vehicle owners the constitutional right to a pre-sale judicial hearing prior to divestment of title.

This bill corrects the constitutional infirmities of the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of the disputed bill or a double bond before a pre-sale hearing. If possession of a vehicle is refused because of a dispute over the amount owed or nonpayment, the owner may immediately bring an action for possession thereof and shall pay the appropriate court fees and costs prior to the hearing, except that if the owner demonstrates financial difficulty that prevents him from paying court fees and costs, the court may not assess those fees unless and until a hearing is held and a determination is made by the court that those costs should be paid.

Under the bill, if no court action is initiated by the owner for repossession of the vehicle, the motor vehicle can be sold at auction not less than 30 days after being detained. A motor vehicle is considered detained when the owner is advised by the garage keeper, by certified mail, return receipt requested, that goods or services have been supplied or performed, and that there is a sum due for those goods or services. If the owner has initiated a court action and the court has ordered payment of money to the garage keeper, the garage keeper shall, upon payment, surrender the vehicle. If the amount in

the court order is not paid within 15 days from the date of the order, the vehicle may be sold at public auction. The bill also retains the remedies of civil damages for a vehicle owner if the garage owner wrongfully detains the vehicle.

This bill repeals N.J.S.2A:44-25 and N.J.S.2A:44-28, which concern the bond in lieu of a cash deposit to bring an action to take possession of a motor vehicle. These sections are no longer needed with the changes made by the bill to the current law.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 955

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 14, 1998

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 955.

This bill, as amended by the committee, revises the public sale provisions of the Garage Keepers Lien Act, N.J.S.2A:44-20 et seq. Currently, under the act, a motor vehicle owner who disputes a car repair bill can only regain possession of his car prior to the public sale by a garage keeper if he posts the full amount of the disputed bill or a double bond including court costs. In Whitmore v. New Jersey Division of Motor Vehicles, 137 N.J. Super. 492 (Ch. Div. 1975), the Superior Court concluded that this requirement violated the Fourteenth Amendment to the United States Constitution because it effectively denied motor vehicle owners the constitutional right to a pre-sale judicial hearing prior to divestment of title.

This bill corrects the constitutional infirmities of the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of the disputed bill or a double bond before a pre-sale hearing. If possession of a vehicle is refused because of a dispute on the amount owed or nonpayment, the owner may immediately bring an action for possession thereof and shall pay the appropriate court fees and costs prior to the hearing, except that if the owner demonstrates financial difficulty that prevents him from paying court fees and costs, the court may not assess those fees unless and until a hearing is held and a determination is made by the court that those costs should be paid.

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This bill repeals N.J.S. 2A:44-25 and N.J.S. 2A:44-28, which concern the bond in lieu of a cash deposit to bring an action to take possession of a motor vehicle. These sections are no longer needed with the changes made by the bill to the current law.

The committee made a technical amendment to the bill.

ASSEMBLY, No. 1883

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MARCH 30, 1998

Sponsored by:

Assemblyman RICHARD A. MERKT

District 25 (Morris)

Assemblyman MICHAEL PATRICK CARROLL

District 25 (Morris)

Co-Sponsored by:

**Assemblymen Biondi, Bateman, Assemblywoman Murphy, Assemblymen
Connors, Moran, Gregg, Weingarten, O'Toole and Thompson**

SYNOPSIS

Revises public sale provisions of Garage Keepers Lien Act.

CURRENT VERSION OF TEXT

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A1883 MERKT, CARROLL

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39 motor vehicle or part thereof so detained. If possession is refused, he
40 may [obtain possession thereof by depositing the amount claimed in
41 the statement with the clerk of a court of competent jurisdiction in the
42 county where the motor vehicle or part thereof may be, together with
43 \$10 to cover the costs of court in] immediately bring an action for

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10 (cf: P.L.1991, c.91, s.92)

11

12 3. N.J.S.2A:44-24 is amended to read as follows:

13 N.J.S.2A:44-24. When the amount **【claimed】** determined by the
14 court to be due to the garage keeper is paid in cash or by certified or
15 cashier's check to the garage keeper and the court costs, if any, are
16 deposited with the clerk of the court **【as provided in section 2A:44-23**
17 **of this title,】** the **【claimant】** owner or person entitled to possession of
18 the motor vehicle or part thereof shall be entitled to possession of the
19 motor vehicle or part thereof, pursuant to process out of said court.

20 (cf: N.J.S.2A:44-24)

21

22 4. N.J.S.2A:44-26 is amended to read as follows:

23 N.J.S.2A:44-26. **【The】** In an action brought for possession by the
24 motor vehicle owner or person entitled to possession of the motor
25 vehicle, the garage keeper shall assert his claim for a lien in the court
26 **【within the time and】** in the manner prescribed by the **【rules governing**
27 **the practice of the court】** Rules Governing the Courts of the State of
28 New Jersey. The court may hear and determine the matter in a
29 summary manner, and shall determine the amount due to the garage
30 keeper, if any, and the amount of court costs, if any, due to the court
31 clerk. 【The judgment, if any, may be satisfied out of the deposit
32 made or an action may be brought on the bond filed.】

33 (cf: N.J.S.2A:44-26)

34

35 5. N.J.S.2A:44-27 is amended to read as follows:

36 N.J.S.2A:44-27. If **【no claim is made by the garage keeper, or if】**
37 judgment shall be rendered for the **【defendant】** motor vehicle owner
38 or person entitled to possession of the motor vehicle, the court may
39 **【order the return of the money deposited or the discharge of the bond**
40 **and may also】** fix and determine the amount of damages suffered by
41 the motor vehicle owner or person entitled to possession of the motor
42 vehicle for the seizure and detention of the motor vehicle or part
43 thereof, and render a judgment for such amount against the garage
44 keeper.

45 (cf: N.J.S.2A:44-27)

A1883 MERKT, CARROLL

1 6. N.J.S.2A:44-29 is amended to read as follows:

2 N.J.S.2A:44-29. If no proceedings are taken for the repossession
3 of the motor vehicle or part thereof by the motor vehicle owner or
4 person entitled to the possession of the motor vehicle, such property
5 so held by the garage keeper shall, after the expiration of not less than
6 30 days from the date of the detention, be sold at public auction,
7 subject to any prior lien, title or interest held by virtue of a prior
8 conditional sale or a prior chattel mortgage properly recorded. If an
9 action has been brought under N.J.S.2A:44-26 and the court has
10 ordered payment of money to the garage keeper, the garage keeper
11 shall, upon payment to the garage keeper in cash or by certified or
12 cashier's check of the amount ordered by the court, surrender the
13 motor vehicle or part thereof immediately. If the amount ordered to
14 be paid by the court has not been paid as is specified in this act within
15 15 days from the date of the order, the property held by the garage
16 keeper may then be sold at public auction, subject to any prior lien,
17 title or interest held by virtue of a prior conditional sale or a prior
18 chattel mortgage properly recorded.

19 (cf: N.J.S.2A:44-29)

20

21 7. N.J.S.2A:44-30 is amended to read as follows:

22 N.J.S.2A:44-30. Notice of the sale, under section 2A:44-29 of this
23 title shall be published for 2 weeks at least once in each week, in some
24 newspaper circulating in the municipality in which the garage is situate
25 and not less than 5 days' notice of such sale shall be given by posting
26 the notice **[in 5 public places in said municipality]** at the garage
27 keeper's place of business.

28 (cf: N.J.S.2A:49-30)

29

30 8. N.J.S.2A:44-31 is amended to read as follows:

31 N.J.S.2A:44-31. The proceeds of the sale shall be applied to the
32 payment of the lien or the amount specified in the order of court and
33 the expenses of the sale. The balance, if any, shall be paid to the
34 owner of the motor vehicle, or part thereof. The balance, if not
35 claimed by the owner within 60 days after sale, shall be paid to the
36 municipality, in which the garage is situated, **[for the support of the**
37 **poor]** to provide financial support for social programs for the indigent.

38 (cf: N.J.S.2A:44-31)

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40 9. N.J.S.2A:44-25 and N.J.S.2A:44-28 are repealed.

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42 10. This act shall take effect immediately.

STATEMENT

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This bill revises the public sale provisions of the Garage Keepers Lien Act, N.J.S.A. 2A:44-20 et seq. Currently, under the act, a motor vehicle owner who disputes a car repair bill can only regain possession of his car if he posts the full amount of the disputed bill or a double bond including court costs. In Whitmore v. New Jersey Division of Motor Vehicles, 137 N.J. Super. 492 (Ch. Div. 1975), the Superior Court concluded that this requirement violated the Fourteenth Amendment to the United States Constitution because it effectively denied indigent motor vehicle owners the constitutional right to a pre-sale judicial hearing.

This bill attempts to correct the constitutional infirmities of the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of the disputed bill or a double bond before a pre-sale hearing. Under this bill, a motor vehicle owner would not need to post court costs to obtain a pre-sale hearing. If the owner demonstrated financial difficulty that prevented him from paying court fees or costs, the court could not assess those fees, unless and until, a hearing was held and a determination made by the court that such costs should be paid. This hearing would occur either prior to or at the summary hearing in which the court determines what amount, if any, is due to the garage keeper.

Under the bill, if no court action is initiated by the owner, the motor vehicle could be sold at auction not less than 30 days after being detained. If the owner has initiated a court action, the motor vehicle could be sold at public auction not less than 15 days after a court order specifying an amount due to the garage keeper. The bill also retains remedies for the vehicle owner if the garage owner wrongfully withholds the vehicle.

ASSEMBLY CONSUMER AFFAIRS AND REGULATED
PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1883

with committee amendments

STATE OF NEW JERSEY

DATED: SEPTEMBER 17, 1998

The Assembly Consumer Affairs and Regulated Professions Committee reports favorably and with committee amendments Assembly Bill No. 1883.

As amended, this bill revises the public sale provisions of the Garage Keepers Lien Act, N.J.S.2A:44-20 et seq. Currently, under the act, a motor vehicle owner who disputes a car repair bill can only regain possession of his car prior to the public sale by a garage keeper if he posts the full amount of the disputed bill or a double bond including court costs. In Whitmore v. New Jersey Division of Motor Vehicles, 137 N.J. Super. 492 (Ch. Div. 1975), the Superior Court concluded that this requirement violated the Fourteenth Amendment to the United States Constitution because it effectively denied motor vehicle owners the constitutional right to a pre-sale judicial hearing prior to divestment of title.

This bill corrects the constitutional infirmities of the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of the disputed bill or a double bond before a pre-sale hearing. If possession of a vehicle is refused because of a dispute over the amount owed or nonpayment, the owner may immediately bring an action for possession thereof and shall pay the appropriate court fees and costs prior to the hearing, except that if the owner demonstrates financial difficulty that prevents him from paying court fees and costs, the court may not assess those fees unless and until a hearing is held and a determination is made by the court that those costs should be paid.

Under the bill, if no court action is initiated by the owner for repossession of the vehicle, the motor vehicle can be sold at auction not less than 30 days after being detained. A motor vehicle is considered detained when the owner is advised by the garage keeper, by certified mail, return receipt requested, that goods or services have been supplied or performed, and that there is a sum due for those goods or services. If the owner has initiated a court action and the court has ordered payment of money to the garage keeper, the garage

keeper shall, upon payment, surrender the vehicle. If the amount in the court order is not paid within 15 days from the date of the order, the vehicle may be sold at public auction. The bill also retains the remedies of civil damages for a vehicle owner if the garage owner wrongfully detains the vehicle.

This bill repeals N.J.S.2A:44-25 and N.J.S.2A:44-28, which concern the bond in lieu of a cash deposit to bring an action to take possession of a motor vehicle. These sections are no longer needed with the changes made by the bill to the current law.

As amended, this bill is identical to Senate Bill No. 955(1R).

Office of the Governor
NEWS RELEASE

PO BOX 004
TRENTON, NJ 08625

CONTACT: Jayne O'Connor
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RELEASE: November 10, 1998

Gov. Christie Whitman today signed the following legislation:

A-63 allows beneficiaries of the Pharmaceutical Assistance for the Aged and Disabled (PAAD) program to receive the longer of 100 pills or a 34-day supply of medication for both the initial prescription and refills. Changes in the Fiscal Year 1999 Appropriations bill had limited to a 34-day maximum supply.

The bill was sponsored by Assembly Members Francis J. Blee (R-Atlantic), John C. Gibson (R-Cape May/Atlantic/Cumberland) and Kenneth C. LeFevre (R-Atlantic) and Guy F. Talarico (R-Bergen) and Senators Norman M. Robertson (R-Essex/Passaic) and Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-809, sponsored by Assembly Member Charlotte Vandervalk (R-Bergen) and Senator Jack Sinagra (R-Middlesex), permits physician assistant to order or prescribe drugs, excluding controlled dangerous substances, both outpatient and inpatient settings. The bill requires that a supervising physician countersign and order or prescription for drugs within 48 hours of its entry by a physician assistant in an outpatient setting. The bill changes current law, which permits physician assistants to order or prescribe drugs only in an inpatient setting.

A-1332, sponsored by Assembly Members Rose Marie Heck (R-Bergen) and Guy F. Talarico (R-Bergen) and Senators Anthony R. Bucco (R-Morris) and Joseph M. Kyrillos, Jr. (R-Middlesex/Morris), clarifies that the depiction and dissemination of child pornography on the Internet is a crime under the endangering the welfare of a child statute. Endangering the welfare of a child is a second-degree crime when, among other things, a person causes or permits a child under 16 to engage in a sexual act knowing the act will be photographed or otherwise reproduced; photographs or reproduces a child engaged in a sexual act; or receives for the purpose of selling, sells or transfers a photograph of a child engaged in a sexual act.

The bill also upgrades to a crime of the first degree the offense of causing or permitting a child to engage in a sexual act knowing the act will be photographed, filmed or otherwise reproduced when the defendant is the child's parent or guardian. A first-degree crime is punishable by a prison term of between 10 and 20 years, a fine of \$200,000 or both, while a second-degree crime is punishable by a prison term of between five and 10 years and a fine of up to \$150,000 or both.

A-1511 amends current law to require that certain parents undergo substance abuse assessment when a court makes a finding of abuse or neglect and orders out-of-home

placement for a child. If the law reveals positive evidence of substance abuse, the parent must demonstrate that he or she is receiving treatment and complying with the treatment program before the child is returned to the parental home. Under previous law, a parent was required to demonstrate progress in reaching the goals that Division of Youth and Family Services established as part of a treatment program in order for a child to be returned to the home. The bill also appropriates \$50,000 for substance abuse treatment.

The bill was sponsored by Assembly Members Joseph R. Malone, 3d (R-Burlington/Monmouth/Ocean and Melvin Cottrell (R-Burlington/Monmouth/Ocean) and Senator Robert W. Singer (R-Burlington/Monmouth/Ocean).

A-1632, sponsored by Assembly Members Gerald J. Luongo (R-Camden/Gloucester) and Peter J. Biondi (R-Morris/Somerset) and Senators Diane B. Allen (R-Burlington/Camden) and Norman M. Robertson (R-Essex/Passaic), establishes the Senior and Disabled Cooperative Housing Finance Incentive Program. The bill assists non-profit corporations in providing cooperative living opportunities for low and moderate-income senior citizens and citizens with disabilities.

The bill authorizes the New Jersey Housing and Mortgage Finance Agency to set aside some portion of its bonding capacity in order to provide mortgage loans to eligible purchasers and to assist qualified non-profit corporations in creating eligible projects.

A-1976, sponsored by Assembly Members Joseph V. Doria, Jr. (D-Hudson) and Alex DeCroce (R-Essex/Morris/Passaic), provides that surcharges levied by the Division of Motor Vehicles (DMV) are extinguished upon an individual's death once the DMV obtains a copy of the driver's death certificate. The bill also requires that the DMV obtain a death certificate when the decedent's family or estate representative does not provide the DMV with a copy of the document. Under previous practice, the DMV extinguished a decedent's surcharges when a death certificate was provided by the family of the deceased. If the certificate was not received from the family, the DMV continued to mail surcharge notices to the decedent's family

A-2077 rectifies a problem created by a previous law, A-2323, which inadvertently changed the definitions regarding modifications of open-ended and close-ended loans.

The bill clarifies that an advance of principal made with respect to any mortgage (open-ended or close-ended) other than a line of credit does not have the lien priority of the original mortgage and is not a mortgage modification.

The bill was sponsored by Assembly Members Christopher "Kip" Bateman (R-Morris/Somerset) and Peter J. Biondi (R-Morris/Somerset) and Senators Walter J. Kavanaugh (R-Morris/Somerset) and Peter A. Inverso (R-Mercer/Middlesex).

A-2223, expands the number of persons eligible to receive the New Jersey Distinguished Service Medal (DSM) from the Governor to include any state resident who was a resident of the state at the time of entry into active military service and saw active military service in a combat theater and received an honorable discharge. The expansion would also apply to deceased persons. The bill also gives the Governor the

authority to issue the DSM to residents who saw active combat service and were officially listed as a POW/MIA by the United States Department of Defense. The Department of Military and Veterans' Affairs will establish regulatory standards requiring a finding of distinguished service prior to its recommendation to the Governor to award the medal.

Under previous law, the Governor, on behalf of the state, could issue a DSM to persons who distinguished themselves by especially meritorious service and who had been cited or were expected to be cited in orders for distinguished service by the Governor or appropriate federal authority.

The legislation was sponsored by Assembly Members Louis D. Greenwald (D-Camden) and Joseph Azzolina (R-Middlesex/Morris) and Senators Diane B. Allen (R-Burlington/Camden) and John J. Mattheusen (R-Camden/Gloucester).

S-158, sponsored by Senators Joseph M. Kyrillos, Jr. (R-Middlesex/Monmouth) and Andrew R. Ciesla (R-Monmouth/Ocean) and Assembly Members Joseph Azzolina (R-Middlesex/Monmouth) and Michael J. Arnone (R-Monmouth), exempts certain shops operated to raise money for charity from state sales and use tax. The bill applies to shops run in support of organizations that are already exempt from paying the sales tax. The exemption includes any organization operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes. It also exempts any organizations operated for the prevention of cruelty to children or animals; any voluntary fire, rescue, ambulance, first aid or emergency company or squad, and any parent-teachers association.

S-700, sponsored by Senator Diane B. Allen (R-Burlington/Camden), allows Burlington Island to enter into a long-term lease to promote development designed only for recreational, conservational, educational and cultural purposes. The island's charter, established in 1852, limited to five the number of years island property could be leased for any purpose.

S-877, sponsored by Senator Shirley K. Turner (D-Mercer), requires the State Board of Education, in consultation with the Commissioner of the Department of Health and Senior Services (DHSS) to promulgate rules and regulations for the certification of persons employed by boards of education to teach swimming in public schools. The bill requires that the regulations include appropriate swimming and first aid skills necessary to protect the health and safety of students. Currently, safety standards specified in DHSS regulations require the presence of at least one person currently certified in standard first aid and cardiopulmonary resuscitation (CPR). That person must be available and readily accessible when the pool is in use. Additionally, the regulations require that at least one lifeguard be on duty for 60 or less swimmers or 2,000 square feet of surface space at all times when the pool is in use. Additional lifeguards are required based on a variety of specified factors.

S-888, sponsored by Senator Norman M. Robertson (R-Essex/Passaic) and Assembly Members Kenneth C. LeFevre (R-Atlantic) and Francis J. Blee (R-Atlantic), permits the release of certain account information by a financial institution under certain

circumstances. The bill allows the release of account information to a law enforcement agency or a county protective adult services provider if the customer account is held by a senior citizen or "vulnerable" person -- defined in the bill as a person over 18 that appears to have a physical or mental illness, disability or deficiency, etc. The bill parallels federal law allowing financial institutions to release account information to certain federal law enforcement officials.

S-955, revises the Garage Keepers Lien Act by eliminating the requirement that a motor vehicle owner post the full amount of a disputed bill or a double bond before a pre-sale hearing. The bill provides that if possession of a vehicle is refused because of a dispute over the amount owned or nonpayment, the owner may immediately bring an action in court for possession of the vehicle. The bill was sponsored by Senator John Q. Bennett (R-Monmouth) and Assembly Members Richard A. Merkt (R-Morris) and Michael Patrick Carroll (R-Morris).

S-1055, sponsored by Senator Leonard T. Connors, Jr. (R-Atlantic/Burlington/Ocean) and Gerald Cardinale (R-Bergen), prohibits charitable organizations from misleading contributors to believe their donations are to be used for charitable purposes when, in fact, the donations are used to fund legal costs and other administrative costs of the charitable organization. The bill also prohibits organizations from presenting truthful information, statements and communications in such a way that the contributor is misled into making a contribution.

AJR-21, sponsored by Assembly Member Alex DeCroce (R-Essex/Morris/Passaic), establishes an 18-member Regional Intergovernmental Transportation Coordinating Study Commission to increase regional transportation decision-making among various levels of government and to identify incentives to promote cooperation. The commission will consist of 12 public members to be appointed by the Governor; two members of both the Senate and the General Assembly; Commissioner of the Department of Transportation and the Director of the Office of State Planning.

AJR-30, sponsored by Assembly Members Marion Crecco (R-Essex/Passaic) and Gerald J. Luongo (R-Camden/Gloucester), designates November 20 of each year as "Bill of Rights Day" in New Jersey. The first ten amendments of the U. S. Constitution, known as the Bill of Rights, were ratified by the State of New Jersey on November 20, 1789.