

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 995 Session of 2013

INTRODUCED BY VOGEL, RAFFERTY, SOLOBAY, BREWSTER, WAUGH, TARTAGLIONE AND YUDICHAK, JUNE 5, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, NOVEMBER 12, 2013

AN ACT

1 Establishing the requirements for livery provider liens.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Short title.

5 This act shall be known and may be cited as the Livery  
6 Providers Fair Lien Act.

7 Section 2. Definitions.

8 The following words and phrases when used in this act shall  
9 have the meanings given to them in this section unless the  
10 context clearly indicates otherwise:

11 "Boarding stable owner." A person who owns or operates a  
12 livery or other similar operation engaging in the sheltering,  
13 boarding, keeping, grooming, care, exercising or feeding of  
14 horses on behalf of horse owners for price, fee or reward.

15 Section 3. Livery providers lien.

16 (a) Liens.--A boarding stable owner who performs labor upon,  
17 boards, furnishes services, supplies or provides materials for a

1 horse, at the request or with the consent of the owner, shall  
2 have a lien upon the horse and the right to detain the horse to  
3 secure the payment of the price or reward.

4 (b) Horse attachment.--A boarding stable owner's lien  
5 attaches to a horse on the day the horse is placed in the  
6 owner's care for boarding or other labor by writing a statement  
7 of the amount due to the owner for the care of the horse and a  
8 description of the horse on which the lien is claimed.

9 (C) GOVERNING LAW.--A LIEN ARISING UNDER THIS ACT SHALL <--  
10 CONSTITUTE AN AGRICULTURAL LIEN SUBJECT TO 13 PA.C.S. DIV. 9  
11 (RELATING TO SECURED TRANSACTIONS).

12 ~~Section 4. Enforcement of lien.~~ <--

13 ~~(a) Sale. If a lienholder is not paid the amount due for~~  
14 ~~which the lien is given within 30 days after demand has been~~  
15 ~~made in writing, the lienholder may proceed to sell the horse to~~  
16 ~~satisfy the lien and costs of sale under section 5 if any of the~~  
17 ~~following applies:~~

18 ~~(1) An authorization to conduct a lien sale has been~~  
19 ~~issued under this section.~~

20 ~~(2) A judgment has been entered in favor of the~~  
21 ~~lienholder on the claim which gave rise to the lien.~~

22 ~~(3) The owners and any secured parties of record or~~  
23 ~~known lienholders of the horse have signed, after the lien~~  
24 ~~has arisen, a release of any interest in the horse.~~

25 ~~(b) Application. A lienholder may apply to a magisterial~~  
26 ~~district judge or municipal court judge, whichever is~~  
27 ~~appropriate, in the county in which the lienholder's business~~  
28 ~~establishment is physically located for the issuance of an~~  
29 ~~authorization to conduct a lien sale under subsection (c). The~~  
30 ~~application shall be executed under penalty of perjury and shall~~

1 ~~include all of the following:~~

2 ~~(1) A description of the horse.~~

3 ~~(2) The names and addresses of the owners of the horse~~  
4 ~~and the names and addresses of any other persons who the~~  
5 ~~lienholder knows claim an interest in the horse.~~

6 ~~(3) A statement of the amount of the lien and facts~~  
7 ~~concerning the claim which gives rise to the lien. If~~  
8 ~~compensation for storage is claimed, the per diem rate of~~  
9 ~~storage shall be shown.~~

10 ~~(4) The date, time and place that the horse will be sold~~  
11 ~~if the authorization to conduct a lien sale is issued.~~

12 ~~(5) A statement that the lienholder has no information~~  
13 ~~or belief that there is a valid defense to the claim which~~  
14 ~~gives rise to the lien.~~

15 ~~(6) A statement that the lienholder will not offer for~~  
16 ~~sale or sell the horse for the purposes of slaughter.~~

17 ~~(c) Receipt. Upon receipt of a lien sale application under~~  
18 ~~subsection (b), the magisterial district judge or municipal~~  
19 ~~court judge shall send all of the following:~~

20 ~~(1) Notice of the filing of the lien sale application~~  
21 ~~within five business days following the receipt of the~~  
22 ~~application to all persons known to the lienholder claiming~~  
23 ~~an interest in the horse.~~

24 ~~(2) Notice and a copy of the application by certified~~  
25 ~~mail or registered mail, return receipt requested, to each~~  
26 ~~owner, and any known lienholders and any other persons whose~~  
27 ~~names and addresses are listed in the application. If the~~  
28 ~~identity of an owner or party with an interest cannot be~~  
29 ~~determined with reasonable certainty, section 6 shall have~~  
30 ~~the same effect as if notice were sent by certified or~~

1 ~~registered mail. The notice shall include all the following:~~

2 ~~(i) A statement that a lien sale application has~~  
3 ~~been made with the magisterial district judge or~~  
4 ~~municipal court judge for the issuance of an~~  
5 ~~authorization to conduct a lien sale.~~

6 ~~(ii) A statement that the person has a legal right~~  
7 ~~to a hearing in court. If a hearing in court is desired,~~  
8 ~~the enclosed declaration under penalty of perjury shall~~  
9 ~~be signed and returned and if the declaration is signed~~  
10 ~~and returned, the lienholder shall be allowed to sell the~~  
11 ~~horse, motor vehicle or accessory only if the lienholder~~  
12 ~~obtains a judgment in court or obtains a release from the~~  
13 ~~owners and any known lienholders.~~

14 ~~(iii) A statement that if the declaration is signed~~  
15 ~~and returned, a hearing shall be promptly scheduled and~~  
16 ~~the owners may then appear to contest the claim of the~~  
17 ~~lienholder.~~

18 ~~(iv) A statement of the date, time and place that~~  
19 ~~the horse will be sold if the authorization to conduct a~~  
20 ~~lien sale is issued.~~

21 ~~(v) A statement that the magisterial district judge~~  
22 ~~and municipal court judge shall issue the authorization~~  
23 ~~to conduct a lien sale unless the person signs and~~  
24 ~~returns, within 20 days after the date on which the~~  
25 ~~notice was mailed, the enclosed declaration stating that~~  
26 ~~the person desires to contest the claim which gives rise~~  
27 ~~to the lien.~~

28 ~~(vi) A statement that the person shall be liable for~~  
29 ~~costs if a judgment is entered in favor of the lienholder~~  
30 ~~on the claim which gives rise to the lien.~~

1           ~~(vii) A declaration that shall be executed by the~~  
2           ~~person under penalty of perjury stating that the person~~  
3           ~~desires to contest the claim which gives rise to the lien~~  
4           ~~and that the person has a valid defense to the claim and~~  
5           ~~shall furnish names and addresses where official notice~~  
6           ~~may be received of any persons, including the person~~  
7           ~~desiring to contest the claim, known to claim an interest~~  
8           ~~in the horse on the hearing date.~~

9           ~~(3) If a magisterial district judge or a municipal court~~  
10          ~~judge receives a declaration described in paragraph (2) (ii),~~  
11          ~~which is mailed within 20 days after the date upon which the~~  
12          ~~notice described in this subsection is mailed, the~~  
13          ~~magisterial district judge or a municipal court judge shall~~  
14          ~~notify the lienholder and owners and any other person listed~~  
15          ~~in the application or declaration of the hearing date, unless~~  
16          ~~the owners of the horse and any known lienholders have~~  
17          ~~signed, after the lien has arisen, a release of any interest~~  
18          ~~in the horse.~~

19          ~~(4) In any hearing, the lienholder may have the amount~~  
20          ~~of the indebtedness and right to sale determined and the~~  
21          ~~person requesting the hearing may present and have determined~~  
22          ~~any defenses, setoffs, counterclaims, cross claims or third~~  
23          ~~party actions.~~

24          ~~(5) Any fees shall be recoverable as a cost by the~~  
25          ~~lienholder if a sale is conducted.~~

26   ~~Section 5. Release of owner's interest.~~

27          ~~(a) Release. An owner of a horse subject to a lien under~~  
28          ~~section 3 may release any interest in the horse after the lien~~  
29          ~~has risen. The release shall be dated when signed and a copy~~  
30          ~~shall be given at the time the release is signed to the person~~

1 ~~releasing the interest.~~

2 ~~(b) Information. The release shall contain all of the~~  
3 ~~following information:~~

4 ~~(1) A description of the horse.~~

5 ~~(2) The names and addresses of the owners.~~

6 ~~(3) A statement of the amount of the lien and the facts~~  
7 ~~concerning the claim which gives rise to the lien.~~

8 ~~(4) A statement that the person releasing the interest~~  
9 ~~understands that the person has a legal right to a hearing in~~  
10 ~~court before any sale of the horse to satisfy the lien and~~  
11 ~~the person is giving up the right to appear to contest the~~  
12 ~~claim of the lienholder.~~

13 ~~(5) A statement that the person releasing the interest~~  
14 ~~gives up any interest the person may have in the horse and~~  
15 ~~the person is giving the lienholder permission to sell the~~  
16 ~~horse.~~

17 ~~(6) A statement that there is no other persons or~~  
18 ~~lienholders who have an outstanding interest in the horse.~~

19 ~~Section 6. Notice of lien sale, disposition of proceeds.~~

20 ~~(a) Horse sale notice. Before the sale of a horse to~~  
21 ~~satisfy a lien, to the lienholder shall give no less than 15~~  
22 ~~days notice of the sale by posting notice of the sale in two~~  
23 ~~newspapers of general circulation within the county of the horse~~  
24 ~~owner's residence and the county of the boarding stable owner's~~  
25 ~~place of business.~~

26 ~~(b) Proceeds. The proceeds of the sale shall be applied to~~  
27 ~~the discharge of the lien and the cost of keeping and selling~~  
28 ~~the horse. The balance, if any, of the proceeds of the sale~~  
29 ~~shall be deposited no later than ten days from the date of the~~  
30 ~~sale with the court to be applied by the magisterial district~~

1 ~~judge or municipal court judge to the payment of any lien or~~  
2 ~~security interest to which the horse may be subject in the order~~  
3 ~~of their priority, with any remaining proceeds to be paid to the~~  
4 ~~owners of the horse sold, but in case the owners cannot be~~  
5 ~~found, the balance shall be turned over no later than 60 days~~  
6 ~~from the date of the sale to the State Treasurer, who shall~~  
7 ~~create a special fund and who shall pay to the owner the moneys~~  
8 ~~left if a claim is made within one year of the sale, or deposit~~  
9 ~~the moneys in the General Fund if no claim is made within one~~  
10 ~~year of the sale.~~

11 ~~Section 7. Priority of lien.~~

12 ~~All liens created under this act shall be superior to any~~  
13 ~~lien, title or interest of any person who has a security~~  
14 ~~interest by virtue of a conditional sale contract or a prior~~  
15 ~~perfected security interest in accordance with the laws of this~~  
16 ~~Commonwealth.~~

17 ~~Section 8 10. Effective date.~~

<--

18 ~~This act shall take effect in 60 days.~~