

1                   A bill to be entitled  
2           An act relating to molders; providing  
3           definitions; providing obligations of molders  
4           to customers; providing procedures and  
5           conditions for acquisition of title to  
6           unclaimed molds; creating s. 713.596, F.S.;  
7           creating a molder's lien and specifying rights  
8           of a molder; providing definitions; providing  
9           procedures; providing for application and  
10          repeal; providing an effective date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14           Section 1. Acquisition of title to unclaimed molds.--

15           (1) DEFINITIONS.--As used in this section, the term:

16           (a) "Customer" means any person who causes a molder to  
17 fabricate, cast, or otherwise make a mold, or who provides a  
18 molder with a mold with which to manufacture, assemble, cast,  
19 fabricate, or otherwise make a product for a customer.

20           (b) "Mold" means a die, mold, form, or pattern, but  
21 does not include computer software used to control or direct  
22 automatic machines in a manufacturing process, and does not  
23 include impressions, molds, models, or study casts used by a  
24 dentist, orthotist, or prosthetist within the scope of his or  
25 her practice.

26           (c) "Molder" means any person who fabricates, casts,  
27 or otherwise makes or uses a mold for the purpose of  
28 manufacturing, assembling, casting, fabricating, or otherwise  
29 making a product for a customer. The term includes a tool or  
30 die maker.

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1           (d) "Records" means documents created or held by a  
2 molder in its regular course of business.

3           (e) "Unclaimed mold" means a mold which is in the  
4 custody of a molder, title to which remains in the customer  
5 who ordered or provided the mold, and which has not been used  
6 to make a product for at least 3 years.

7           (2) OBLIGATIONS OF MOLDERS TO CUSTOMERS.--

8           (a) For molds placed in the custody of a molder on or  
9 after July 1, 1998, the molder shall:

10           1. Make and retain a written record containing, at a  
11 minimum, the customer's name, address, and telephone number, a  
12 description of the mold in sufficient detail for clear  
13 identification, the beginning date of the use of the mold, the  
14 last date on which a purchase order was received for the use  
15 of the mold, and the date on which the manufacture of the  
16 products for the purchase order was completed.

17           2. Inform the customer of the existence of the  
18 provisions of this section and provide the customer with a  
19 copy of the provisions of this section upon the customer's  
20 request.

21           3. Provide the customer with the following warning in  
22 conspicuous type and in substantially the following form:

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24 WARNING: YOUR FAILURE TO MAKE TIMELY ARRANGEMENTS FOR THE  
25 DISPOSITION OF A MOLD UPON COMPLETION OF ITS USE BY THE MOLDER  
26 WILL RESULT IN A TRANSFER OF YOUR RIGHTS IN THAT MOLD TO THE  
27 MOLDER AS PROVIDED BY LAW.

28           (b) Regardless of the date of placing the mold in the  
29 custody of the molder, the molder shall:

30           1. Update its records if a customer informs the molder  
31 of a change of address or if the molder receives a new

1 purchase order from the customer for additional use of the  
2 mold.

3 2. Inform the customer of the existence of the  
4 provisions of this section when renewing or updating the  
5 records relating to use of a mold ordered or provided by that  
6 customer and provide the customer with a copy of the  
7 provisions of this section upon the customer's request.

8 3. Provide the customer with the following warning in  
9 conspicuous type and in substantially the following form:

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11 WARNING: YOUR FAILURE TO MAKE TIMELY ARRANGEMENTS FOR THE  
12 DISPOSITION OF A MOLD UPON COMPLETION OF ITS USE BY THE MOLDER  
13 WILL RESULT IN A TRANSFER OF YOUR RIGHTS IN THAT MOLD TO THE  
14 MOLDER AS PROVIDED BY LAW.

15 (3) CUSTOMER'S NOTICE.--It is the responsibility of a  
16 customer as the owner of a mold in the custody of a molder to  
17 notify the molder promptly in writing of any change in the  
18 customer's address. Failure to notify the molder of this  
19 change may result in the customer's loss of rights to the  
20 property.

21 (4) ACQUISITION OF TITLE TO UNCLAIMED MOLDS.--

22 (a) To acquire title to an unclaimed mold, a molder  
23 must first give notice, to the customer who owns the mold and  
24 to any holder of a security interest in the mold which was  
25 perfected in this state, of the molder's intent to acquire the  
26 title to the mold. The molder must make a good-faith and  
27 reasonable search for the identity and last known address of  
28 the customer from the molder's records and other records  
29 reasonably available to the molder's staff. If the molder is  
30 able to identify the customer and the customer's last known  
31 address, the molder shall give notice to the customer pursuant

1 to paragraph (b). If the identity or last known address of  
2 the customer remains unknown after a good-faith and reasonable  
3 search, the molder shall give notice by publication pursuant  
4 to paragraph (c). Notice to a holder of a perfected security  
5 interest in the mold must be given pursuant to paragraph (d).

6 (b) If the molder is able to identify the customer and  
7 the customer's last known address, the molder shall provide  
8 notice of intent to acquire title to an unclaimed mold by  
9 sending a notice by certified mail, return receipt requested,  
10 to the customer at the customer's last known address. The  
11 notice shall include the date of mailing the notice, the name  
12 of the customer, a description of the mold in sufficient  
13 detail for clear identification, the beginning date of the use  
14 of the mold, the last date on which a purchase order was  
15 received for the use of the mold, the date on which the  
16 manufacture of the products for the purchase order was  
17 completed, the location of the mold, the name and address of  
18 the appropriate molder official to be contacted regarding the  
19 mold, and a statement that within 90 days after the date of  
20 receipt of the notice of intent to acquire title, the customer  
21 is required to remove the mold from the molder's premises or  
22 contact the designated official to make contractual  
23 arrangements for storage of the mold.

24 (c) If the molder is unable to identify sufficient  
25 information to send notice pursuant to paragraph (b), or if a  
26 signed return receipt of a notice sent by certified mail  
27 pursuant to paragraph (b) is not received by the molder within  
28 30 days after the notice is mailed, the molder shall publish  
29 the notice of intent to acquire title to the unclaimed mold at  
30 least twice, 60 or more days apart, in a publication of  
31 general circulation in the county in which the molder is

1 located and the county of the customer's last known address,  
2 if known. The published notice shall contain all the  
3 information required in paragraph (b) which is available to  
4 the molder.

5 (d) The molder must make a search of Uniform  
6 Commercial Code lien filings with the Florida Department of  
7 State, Division of Corporations, and, if the molder is able to  
8 identify a holder of a perfected security interest in the  
9 mold, the molder shall provide notice of intent to acquire  
10 title to the mold by sending a notice by certified mail,  
11 return receipt requested, to the lienholder at the  
12 lienholder's last address of record with the division. The  
13 notice shall contain all the information required by paragraph  
14 (b) which is available to the molder.

15 (5) MOLDER GAINING TITLE TO PROPERTY;  
16 CONDITIONS.--Beginning July 1, 1998, a molder acquires title  
17 to an unclaimed mold under any of the following circumstances:

18 (a) For an unclaimed mold for which a molder provides  
19 notice to a customer in accordance with paragraph (4)(b) and  
20 for which a signed receipt is received, if the customer or  
21 anyone having a legal interest in the mold does not contact  
22 the molder and either remove the mold from the molder's  
23 premises or make contractual arrangements with the molder for  
24 storage of the mold within 90 days after the date notice was  
25 received.

26 (b) For an unclaimed mold for which notice by  
27 publication is made pursuant to paragraph (4)(c), if the  
28 customer or anyone having a legal interest in the mold does  
29 not contact the molder and either remove the mold from the  
30 molder's premises or make contractual arrangements with the  
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1 molder for storage of the mold within 90 days after the date  
2 of the second publication.

3 (6) CONTRACTUAL OBLIGATIONS.--Notwithstanding the  
4 provisions of this section, a molder and a customer may bind  
5 themselves to different provisions by written contract.

6 (7) EFFECT ON OTHER RIGHTS.--This section does not  
7 affect the rights of a holder of a perfected security interest  
8 in a mold or any right of the customer under federal patent or  
9 copyright law or federal law relating to unfair competition.

10 (8) TITLE OF PROPERTY ACQUIRED FROM A MOLDER.--A  
11 molder who acquires title to a mold under this section passes  
12 good title to another when transferring the mold with the  
13 intent to pass title.

14 Section 2. Section 713.596, Florida Statutes, is  
15 created to read:

16 713.596 Molder's liens.--

17 (1) DEFINITIONS.--As used in this section, the term:

18 (a) "Customer" means any person who causes a molder to  
19 fabricate, cast, or otherwise make a mold, or who provides a  
20 molder with a mold with which to manufacture, assemble, cast,  
21 fabricate, or otherwise make a product for a customer.

22 (b) "Mold" means a die, mold, form, or pattern, but  
23 does not include computer software used to control or direct  
24 automatic machines in a manufacturing process, and does not  
25 include impressions, molds, models, or study casts used by a  
26 dentist, orthotist, or prosthetist within the scope of his or  
27 her practice.

28 (c) "Molder" means any person who fabricates, casts,  
29 or otherwise makes or uses a mold for the purpose of  
30 manufacturing, assembling, casting, fabricating, or otherwise  
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1 making a product for a customer. The term includes a tool or  
2 die maker.

3 (2) LIENS.--

4 (a) A molder that has not received payment from a  
5 customer in accordance with the terms of the contract between  
6 the two has a lien on a mold in the molder's possession which  
7 belongs to that customer. The lien is for the balance due the  
8 molder from the customer for any work that the molder has  
9 performed for the customer in manufacturing or fabricating  
10 products for the customer using the mold and for the value of  
11 all material related to such work. The molder may retain  
12 possession of the mold until the debts are paid.

13 (b) Before enforcing the lien, the molder must notify  
14 the customer in writing of the claim of lien. The notice must  
15 be either delivered personally or sent by certified mail,  
16 return receipt requested, to the last known address of the  
17 customer. The notice must state that the molder claims a lien  
18 for the balance due for work that the molder has performed in  
19 manufacturing or fabricating products for the customer using  
20 the mold and for the value of related materials as is  
21 specified in the notice. Additionally, the notice must include  
22 a statement of the amount of the balance owed, a demand for  
23 payment, and a statement of the location of the mold. Finally,  
24 the notice must include the following warning in conspicuous  
25 type and in substantially the following form:

26 WARNING: YOUR FAILURE TO PAY THE UNPAID BALANCE AS STATED  
27 HEREIN WILL RESULT IN THE IMPOSITION OF A LIEN ON THE MOLD  
28 DESCRIBED HEREIN AND IN THE SALE OF THAT MOLD AS PROVIDED BY  
29 LAW.

30 (c) If the customer does not pay the amount due as  
31 stated in the notice within 60 days after the date of receipt

1 of the notice, the molder may sell the mold at a public  
2 auction. However, the mold may not be sold if there is a  
3 good-faith dispute or litigation between the molder and the  
4 customer concerning either the quality of the products made or  
5 fabricated by use of the mold or the amount due.

6 (3) SALE.--

7 (a) Before a molder may sell a mold, the molder must  
8 notify the customer and any holder of a security interest  
9 perfected in this state of the intended sale. The notice must  
10 be by certified mail, return receipt requested, and must  
11 include:

12 1. Notice of the molder's intent to sell the mold 30  
13 days after the customer's receipt of the notice.

14 2. A description of the mold to be sold.

15 3. The time and place of the sale.

16 4. An itemized statement of the amount due.

17 (b) If there is no return of the receipt of the  
18 mailing or if the postal service returns the notice as being  
19 nondeliverable, the molder must publish notice, at least 30  
20 days before the date of sale in a newspaper of general  
21 circulation in the county of the customer's last known place  
22 of business, of the molder's intent to sell the mold. The  
23 notice must include a description of the mold to be sold and  
24 the time and place of the sale.<sup>2</sup>

25 (c)1. The proceeds of the sale must be paid first to  
26 any holder of a security interest perfected in this state. Any  
27 excess must be paid to the molder holding the lien created by  
28 this section. Any remaining amount is to be paid to the  
29 customer, if the customer's address is known, or to the State  
30 Treasurer for deposit in the General Revenue Fund if the

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1 customer's address is unknown to the molder at the time of the  
2 sale.

3 2. A sale may not be made under this section if it  
4 would be in violation of any right of a customer under federal  
5 patent or copyright law.

6 Section 3. Section 1 of this act applies only to  
7 contracts entered into before January 1, 1999, and is repealed  
8 effective January 1, 2001.

9 Section 4. This act shall take effect July 1, 1998.

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