

HOUSE BILL No. 6073

December 2, 2014, Introduced by Rep. Zemke and referred to the Committee on Local Government.

A bill to amend 1961 PA 236, entitled
 "Revised judicature act of 1961,"
 by amending section 8733 (MCL 600.8733), as amended by 2003 PA 95.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 8733. (1) An authorized local official may seize and
 2 impound a vehicle operated in the commission of a trailway
 3 municipal civil infraction. ~~Upon~~**ON** impoundment, the vehicle is
 4 subject to a lien, subordinate to a prior lien of record, in the
 5 amount of any fine, costs, or assessment that the defendant ~~may be~~
 6 **IS** ordered to pay under section 8727 and any expenses described in
 7 subsection (2) that the defendant ~~may be~~**IS** ordered to pay under
 8 section 8727. The defendant or a person with an ownership interest
 9 in the vehicle may post with the court a cash or surety bond in the
 10 amount of \$750.00. If such a bond is posted, the vehicle shall be

1 released from impoundment. The vehicle shall also be released ~~and~~
2 the lien ~~shall be discharged, upon~~ **ON** a judicial determination
3 that the defendant is not responsible for the trailway municipal
4 civil infraction or ~~upon~~ **ON** payment of the fine, costs, assessment,
5 and damages and expenses.

6 (2) In a trailway municipal civil infraction action, an order
7 under section 8727 may require the defendant to pay 1 or both of
8 the following:

9 (a) The amount of damages to any land, water, wildlife,
10 vegetation, or other natural resource or to any facility damaged by
11 the violation of the ordinance. Money collected under this
12 subdivision shall be distributed to the governmental entity that
13 has jurisdiction over the recreational trailway.

14 (b) The reasonable expense of impoundment under subsection
15 (1). Money collected under this subdivision shall be distributed to
16 the governmental entity employing the authorized local official who
17 impounded the vehicle involved in the trailway municipal civil
18 infraction.

19 (3) If the court **IN A TRAILWAY MUNICIPAL CIVIL INFRACTION**
20 **ACTION** determines that the defendant is responsible for the
21 ~~trailway municipal civil infraction~~ and the defendant defaults in
22 the payment of the fine, costs, assessment, or damages or expenses,
23 or in any installment, as ordered ~~pursuant to~~ **UNDER** section 8727,
24 any bond posted under subsection (1) shall be forfeited and applied
25 to the fine, costs, assessment, damages, expenses, or installment.
26 The court shall certify any remaining unpaid amount to the attorney
27 for the governmental entity whose ordinance was violated. The

1 attorney for the governmental entity may enforce the lien by a
2 foreclosure sale. The foreclosure sale shall be conducted in the
3 ~~SAME~~ manner ~~provided~~ ~~AS~~ and ~~IS~~ subject to the same rights ~~as~~ ~~THAT~~
4 apply ~~in the case of~~ ~~TO AN~~ execution sales ~~SALE~~ under sections
5 6031, 6032, 6041, 6042, and 6044 to 6047.

6 (4) Not less than 21 days before ~~the~~ ~~A~~ foreclosure sale **UNDER**
7 **SUBSECTION (3)**, the attorney for the governmental entity whose
8 ordinance was violated shall by certified mail send written notice
9 of the time and place of the foreclosure sale to each person with a
10 known ownership interest in or lien of record on the vehicle. In
11 addition, not less than 10 days before the foreclosure sale, the
12 attorney shall twice publish notice of the time and place of the
13 foreclosure sale ~~in~~ **AS FOLLOWS:**

14 (A) **BEFORE JANUARY 1, 2015, IN** a newspaper of general
15 circulation in the county in which the vehicle was seized.

16 (B) **AFTER DECEMBER 31, 2014, IN THE MANNER PROVIDED FOR TIER A**
17 **PUBLIC NOTICES UNDER THE LOCAL GOVERNMENT PUBLIC NOTICE ACT.**

18 (5) The proceeds of ~~the~~ ~~A~~ foreclosure sale **UNDER SUBSECTION**
19 **(3)** shall be distributed in the following order of priority:

20 (a) To discharge any lien on the vehicle that was recorded
21 ~~prior to~~ ~~BEFORE~~ the creation of the lien under subsection (1).

22 (b) To the clerk of the court for the payment of the fine,
23 costs, assessment, damages, and expenses that the defendant was
24 ordered to pay under section 8727.

25 (c) To discharge any lien on the vehicle that was recorded
26 after the creation of the lien under subsection (1).

27 (d) To the owner of the vehicle.

1 Enacting section 1. This amendatory act does not take effect
2 unless Senate Bill No. ____ or House Bill No. 5560 (request no.
3 03796'13) of the 97th Legislature is enacted into law.