

[First Reprint]

**SENATE, No. 955**

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**STATE OF NEW JERSEY**

**208th LEGISLATURE**

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INTRODUCED MARCH 26, 1998

**Sponsored by:**

**Senator JOHN O. BENNETT**

**District 12 (Monmouth)**

**Co-Sponsored by:**

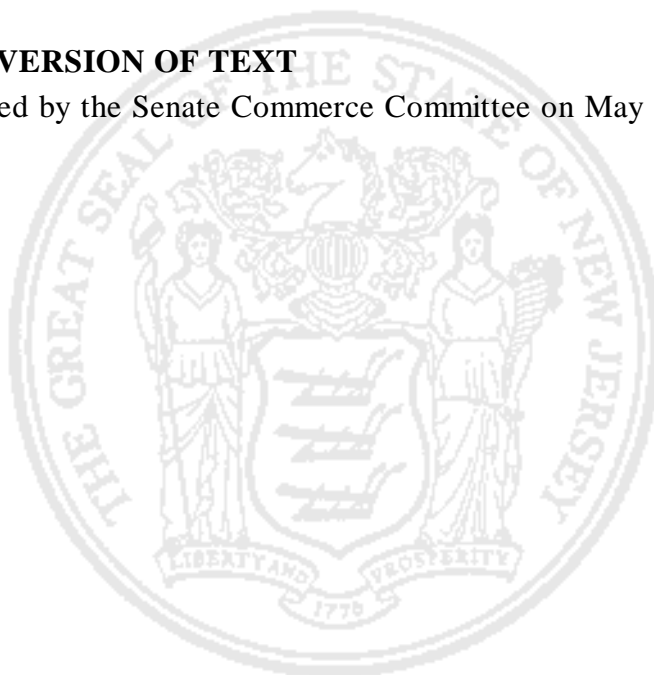
**Assemblymen Merkt, Carroll, Biondi, Bateman, Assemblywoman Murphy,  
Assemblymen Connors, Moran, Gregg, Weingarten, O'Toole, Thompson  
and Wisniewski**

**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:**

**<sup>1</sup> 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 <sup>1</sup>[possess in at] possession of<sup>1</sup> 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.