

# 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.

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.

The committee made a technical amendment to the bill.