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ATTORNEYS AND COUNSELORS

## *Protect Your Lien Rights Even During an Economic Boom*

by Peter Gojcaj

Now that the auto industry is roaring, special tool builders and mold builders should not rest on blind confidence that they will get paid for their materials and services. Michigan law provides added security to both special tool builders and mold builders that haven't been paid for their materials and services. Both the Michigan Special Tools Lien Act and the Molder's Lien Act provide similar benefits so long as certain steps are taken.

Special tool builders and mold builders should follow these steps to better protect their interests:

1. Permanently recording their name, street address, city and state on every special tool or mold they manufacture.
2. Filing a UCC-1 financing statement.

Although the best protection for special tool builders and mold

builders is to hold possession of the respective special tools or molds until invoices are paid, in most cases this is impracticable because the automotive manufacturing structure is based on credit terms. In other words, special tool builders and mold builders will release the respective special tools or molds to the end user or molder before receiving payment. In this case, special tool builders and mold builders should always follow the steps noted above.

If all the parties are located in Michigan or the operative contract documents provide that Michigan law controls, special tool builders and mold builders who exercise their lien rights should be well protected. But in most instances, it seems the parties are located in different states or a different state's law may control.

The law is less than clear as to whether the Michigan Special

Tools Lien Act and the Molder's Lien Act apply where not all of the parties are located in Michigan. Parties in other states would obviously complicate special tool builders' and mold builders' rights, but nonetheless having followed these steps provides some assurance—though the assurance is uncertain in other jurisdictions.

Although the automotive industry is producing staggering sales, economic downturns have, at times, almost crippled OEMs and other suppliers down the automotive chain. Thus, by permanently recording a special tool builders' and mold builders' name, address, city, and state on each mold or special tools manufactured, and by filing a UCC-1 financing statement, a special tool builder and mold builder will provide added assurance that they will get paid for their materials and services.◇

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