POLICY DIRECTIVE 10-236

TO: **ALL JUSTICES OF THE PEACE**
ALL CIVIL COURT MANAGERS
ALL JUSTICE OF THE PEACE COURT CONSTABLES

FROM: **ALAN G. DAVIS**
CHIEF MAGISTRATE

DATE: **MAY 20, 2010**

RE: **GARAGEKEEPER LIENS**

SCOPE

This policy directive establishes that the process for seeking a right to sell goods held under a garagekeeper's lien shall be orderly, efficient and fair to both property owners and holders of the lien. It incorporates a procedural memorandum setting out the procedures the Justice of the Peace Court shall follow to accomplish this policy, providing uniformity and clarity for litigants and the Court. A procedural flowchart is included. In addition, this policy directive includes amended Justice of the Peace Court Civil Rule 69(g), pertaining to the execution of a garagekeeper's lien,[1] and amended Justice of the Peace Court Civil Forms to process a garagekeeper's lien case.[2]

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[1] The rules specified in this policy directive are promulgated pursuant to the authority granted to the Justice of the Peace Court to establish rules to effectuate the intent and purpose of Chapter 39 of Title 25. 25 *Del. C.* § 3910.
[2] The forms specified in this policy directive are promulgated pursuant to the authority granted to the Justice of the Peace Court to prescribe applications, notices and declarations in simple and nontechnical language. 25 *Del. C.* § 3903(g).

POLICY DIRECTIVES AFFECTED

No other policy directives address garagekeeper liens. As a result, none are directly affected by this policy directive.

EFFECTIVE DATE

This policy shall become effective on June 1, 2010.

JUSTICE OF THE PEACE COURT POLICY

A justice of the peace shall issue an authorization to satisfy a garagekeeper's lien with the sale of the property that is subject of the lien, pursuant to Chapter 39 of Title 25 of the Delaware Code, only after all statutory and procedural requirements have been met. This policy shall be executed in such a manner to ensure both the protection of the property rights of the owner of goods and chattels subject to the lien and the fair and timely execution of the statutory rights of the garagekeeper.

DISCUSSION

A garagekeeper lien is a statutory creation allowing for the automatic application of a lien on goods and chattels held by a person who has performed work upon or stored such item as a result of an agreement or by operation of law. Items subject to a lien include such things as automobiles, other vehicles and conveyances, and stabled horses. While the range of items upon which a lien may be enforced is quite broad, the most common application on the lien in today's society is on an automobile as a result of work performed or for storage charges after towing.

While the lien is perfected automatically, the holder of the lien must apply to the Justice of the Peace Court for authorization to sell the goods being held under the lien. This Court has exclusive jurisdiction over such matters. As the lien is a statutory deviation from the common law, it is incumbent upon the garagekeeper and the Court to follow and enforce, respectively, the technical requirements of the statutes governing this lien type. Only after all of the procedural requirements have been met is the Court permitted to allow a sale of the goods and chattels to go forward.

This adherence to the technical requirements preserves the property rights of the owner. For the sake of efficiency, the Court must balance those rights with the need to establish a process for authorizing a sale that is not unduly cumbersome on the garagekeeper. This policy directive, the associated Legal Memorandum, the procedural memorandum and the modified rule and forms seek to strike that balance.

CONCLUSION

This policy directive lays the groundwork for a fair and efficient procedure for handling garagekeeper applications. Only after all procedural requirements have been met may a Justice of the Peace authorize a sale of goods and chattels subject to a garagekeeper lien.

cc: Honorable Myron T. Steele
Honorable William B. Chandler, III
Honorable James T. Vaughn, Jr.
Honorable Alex J. Smalls
Honorable Chandlee Johnson Kuhn
Patricia Griffin, State Court Administrator
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Marianne Kennedy, Justice of the Peace Court Administrator
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