HOUSE BILL 800

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

M. MICHAEL OLGUIN

AN ACT

RELATING TO LIENS; AMENDING SECTION 48-3-29 NMSA 1978 (BEING LAWS 1985, CHAPTER 92, SECTION 1) TO ALLOW LIENS UPON AN AIRCRAFT FOR THE COST OF FUEL, OIL OR OXYGEN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 48-3-29 NMSA 1978 (being Laws 1985, Chapter 92, Section 1) is amended to read:

"48-3-29. LIEN FOR REPAIR OR SERVICE TO AIRCRAFT-- DETENTION--PRIORITY--ENFORCEMENT.--

A. Any person engaged in the business of operating an airport, hangar or place for maintenance or repair of aircraft who stores, maintains or repairs any aircraft accessories or furnishes materials, fuel, oil or oxygen for an aircraft at the request or with the consent of the owner or his representative, agent or lessee, whether the owner is a

.116261.1

1   conditional vendee or a mortgagor or in possession or not, shall

2   have a lien upon the aircraft or any part thereof for the sum

3   due for storing, maintaining or repairing the aircraft for labor

4   furnished, for accessories [or] materials, fuel, oil or oxygen

5   and for all costs incurred in enforcing the lien and may detain

6   the aircraft until the sum due is paid. The possessory lien

7   shall have priority over all other liens, including recorded

8   liens on the aircraft, except liens for taxes, and the operator

9   of the aircraft shall be deemed the agent of any owner,

10   mortgagee, conditional vendor or other lienor of the aircraft

11   for the establishment of that lien.

12   B.   If the person who provides the services provided

13   in Subsection A of this section relinquishes possession of the

14   aircraft due to the acceptance or receipt of a check, draft or

15   written order for payment of the indebtedness due on the

16   aircraft, but the check, draft or written order for payment is

17   returned because of insufficient funds, no account, closed

18   account or issuance of a stop-payment order, or if possession is

19   lost due to the illegal acts of the owner or his agent, the

20   possessory lien on the aircraft shall continue for a period of

21   thirty days from the date actual possession was relinquished or

22   lost. At the expiration of the thirty days, the lien shall

23   continue but shall be subordinate to prior recorded liens on the

24   aircraft.   The lien shall not be applicable to a bona fide

25   purchaser for value without notice of an aircraft lien or to a

.116261.1

1 bona fide encumbrancer for value without notice of the aircraft

2 lien, if the sale or encumbrance occurs subsequent to the

3 relinquishment or loss of possession.

4   C. At any time, the aircraft upon which a lien is

5 claimed may be repossessed.

6   D. Any person entitled to a lien pursuant to

7 Subsection A of this section shall, within ninety days after the

8 date on which labor was last performed or materials, <u>fuel, oil,</u>

9 <u>oxygen,</u> supplies or services last furnished, file in the office

10 of the county clerk of the county in which the aircraft is

11 based, or where the labor was performed or materials, <u>fuel, oil,</u>

12 <u>oxygen,</u> supplies or services furnished, a statement verified by

13 oath. The statement shall include the name of the person

14 entitled to the lien, the name of the owner of the aircraft, a

15 description of the aircraft and the sum due for labor performed

16 or materials, <u>fuel, oil, oxygen,</u> supplies or services furnished.

17   E. The lien perfected pursuant to Subsection D of

18 this section may be enforced against the aircraft, whether or

19 not in the possession of the lienholder, by judgment of the

20 court having jurisdiction in the county where the lien is filed

21 and a writ of execution pursuant to that judgment. The court

22 may, in its discretion, award reasonable [attorney's] <u>attorney</u>

23 fees to the prevailing party."

- 3 -

24

25

.116261.1

State of New Mexico

House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 24, 1997

Mr. Speaker:

Your **JUDICIARY COMMITTEE,** to whom has been referred

HOUSE BILL 800

has had it under consideration and reports same with
recommendation that it **DO PASS.**

Respectfully submitted,

_____

Thomas P. Foy, Chairman

.116261.1

Adopted _____   Not Adopted _____

        (Chief Clerk)   (Chief Clerk)

                Date _____

The roll call vote was_7_ For_0_ Against

Yes: 7

Excused: Alwin, King, Larranaga, Pederson, Rios, Sanchez

Absent: None

M:\H0800

.116261.1