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SENATE BILL 793

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO LIENS; CLARIFYING ACTIONS WHEN AN AIRCRAFT IS TO BE  
DISMANTLED OR DESTROYED.

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 for an aircraft at the  
request or with the consent of the owner or ~~[his]~~ the owner's  
representative, agent or lessee, whether the owner is a  
conditional vendee or a mortgagor or in possession or not,

underscored material = new  
[bracketed material] = delete

1 shall have a lien upon the aircraft or any part thereof for the  
2 sum due for storing, maintaining or repairing the aircraft for  
3 labor furnished, for accessories or materials and for all costs  
4 incurred in enforcing the lien and may detain the aircraft  
5 until the sum due is paid. The possessory lien shall have  
6 priority over all other liens, including recorded liens on the  
7 aircraft, except liens for taxes, and the operator of the  
8 aircraft shall be deemed the agent of any owner, mortgagee,  
9 conditional vendor or other lienor of the aircraft for the  
10 establishment of that lien.

11 B. If the person who provides the services provided  
12 in Subsection A of this section relinquishes possession of the  
13 aircraft due to the acceptance or receipt of a check, draft or  
14 written order for payment of the indebtedness due on the  
15 aircraft, but the check, draft or written order for payment is  
16 returned because of insufficient funds, no account, closed  
17 account or issuance of a stop-payment order, or if possession  
18 is lost due to the illegal acts of the owner or [~~his~~] the  
19 owner's agent, the possessory lien on the aircraft shall  
20 continue for a period of thirty days from the date actual  
21 possession was relinquished or lost. At the expiration of the  
22 thirty days, the lien shall continue but shall be subordinate  
23 to prior recorded liens on the aircraft. The lien shall not be  
24 applicable to a bona fide purchaser for value without notice of  
25 an aircraft lien or to a bona fide encumbrancer for value

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1 without notice of the aircraft lien, if the sale or encumbrance  
2 occurs subsequent to the relinquishment or loss of possession.

3 C. At any time, the aircraft upon which a lien is  
4 claimed may be repossessed.

5 D. Any person entitled to a lien pursuant to  
6 Subsection A of this section shall, within ninety days after  
7 the date on which labor was last performed or materials,  
8 supplies or services last furnished, file in the office of the  
9 county clerk of the county in which the aircraft is based, or  
10 where the labor was performed or materials, supplies or  
11 services furnished, a statement verified by oath. The  
12 statement shall include the name of the person entitled to the  
13 lien, the name of the owner of the aircraft, a description of  
14 the aircraft and the sum due for labor performed or materials,  
15 supplies or services furnished.

16 E. The lien perfected pursuant to Subsection D of  
17 this section may be enforced against the aircraft, whether or  
18 not in the possession of the lienholder, by judgment of the  
19 court having jurisdiction in the county where the lien is filed  
20 and a writ of execution pursuant to that judgment. The court  
21 may, in its discretion, award reasonable ~~[attorney's]~~ attorney  
22 fees to the prevailing party.

23 F. When a record of aircraft registration with the  
24 federal aviation administration cannot be found or the aircraft  
25 is registered in a foreign country, aircraft liens pursuant to

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1 this section shall be enforced as provided in Subsection E of  
2 this section. In the event that an aircraft is to be  
3 dismantled or destroyed, it is not necessary, following  
4 execution of a judgment, to transfer the aircraft pursuant to  
5 the provisions of the federal aviation administration or the  
6 foreign country of registration to the purchaser at a sale  
7 enforcing the lien, but notice of the dismantling or  
8 destruction and the de-registration shall be provided by the  
9 purchaser to the federal aviation administration or the foreign  
10 country of registration. The bill of sale from a sale to  
11 enforce the lien shall be sufficient to transfer the aircraft  
12 for the purpose of dismantling or destruction."

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