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SENATE BILL 828

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

INTRODUCED BY

Timothy Z. Jennings

AN ACT

RELATING TO AIRCRAFT LIENS; PROVIDING ENFORCEMENT OF LIENS ON AIRCRAFT TO BE DISMANTLED OR DESTROYED THAT HAVE NO CURRENT REGISTRATION OR ARE UNDER FOREIGN REGISTRY; DECLARING AN EMERGENCY.

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

underscored material = new
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1 representative, agent or lessee, whether the owner is a
2 conditional vendee or a mortgagor or in possession or not,
3 shall have a lien upon the aircraft or any part thereof for
4 the sum due for storing, maintaining or repairing the aircraft
5 for labor furnished, for accessories or materials and for all
6 costs incurred in enforcing the lien and may detain the
7 aircraft until the sum due is paid. The possessory lien shall
8 have priority over all other liens, including recorded liens
9 on the aircraft, except liens for taxes, and the operator of
10 the aircraft shall be deemed the agent of any owner,
11 mortgagee, conditional vendor or other lienor of the aircraft
12 for the establishment of that lien.

13 B. If the person who provides the services
14 provided in Subsection A of this section relinquishes
15 possession of the aircraft due to the acceptance or receipt of
16 a check, draft or written order for payment of the
17 indebtedness due on the aircraft, but the check, draft or
18 written order for payment is returned because of insufficient
19 funds, no account, closed account or issuance of a stop-
20 payment order, or if possession is lost due to the illegal
21 acts of the owner or ~~[his]~~ the owner's agent, the possessory
22 lien on the aircraft shall continue for a period of thirty
23 days from the date actual possession was relinquished or lost.
24 At the expiration of the thirty days, the lien shall continue
25 but shall be subordinate to prior recorded liens on the

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1 aircraft. The lien shall not be applicable to a bona fide
2 purchaser for value without notice of an aircraft lien or to a
3 bona fide encumbrancer for value without notice of the
4 aircraft lien, if the sale or encumbrance occurs subsequent to
5 the relinquishment or loss of possession.

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

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

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

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1 F. Aircraft liens perfected pursuant to this
2 section for a sum due for storing, maintaining or repairing an
3 aircraft for labor furnished, for accessories or materials and
4 for all costs incurred in enforcing the lien, where a record
5 of the registration with the federal aviation administration
6 cannot be found or the aircraft is of foreign registry, shall
7 be enforced as provided in Subsection E of this section. In
8 the event that the aircraft is to be dismantled or destroyed
9 it shall not be necessary, following execution of a judgment,
10 to transfer title to the aircraft under the provisions of the
11 foreign registry or the federal aviation administration to the
12 purchaser at a sheriff's sale; provided, that notice of the
13 destruction or dismantling and of termination of the
14 registration shall be provided by the purchaser to the federal
15 aviation administration or the seat of the foreign registry.
16 The sheriff's bill of sale shall be sufficient to transfer the
17 aircraft for the purpose of dismantling and destruction."

18 Section 2. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect
20 immediately.