

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 2010

Short Title: Aircraft Mechanics' Lien.

(Public)

Sponsors: Senator Hagan.

Referred to: Judiciary I.

May 26, 2006

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH A STATUTORY LIEN FOR UNPAID LABOR, SKILL,
3 OR MATERIALS ON AN AIRCRAFT AND FOR UNPAID STORAGE OF AN
4 AIRCRAFT.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Chapter 44A of the General Statutes is amended by adding a
7 new Article to read:

8 "Article 5.

9 "Aircraft Labor and Storage Liens.

10 **"§ 44A-50. Definitions.**

11 As used in this Article, the following definitions apply:

- 12 (1) 'Aircraft' means any aircraft, or any engine, part, component, or
13 accessory, whether affixed to or separate from the aircraft.
14 (2) 'Owner' means an owner, operator, lessor, lessee, or lawful possessor
15 of an aircraft, or any person authorized by any of the foregoing to
16 perform, contract, or arrange for the provision of labor, skill, materials,
17 or storage with respect to any aircraft.
18 (3) 'Person' means any individual, corporation, association, partnership,
19 whether limited or general, limited liability company, or other entity.

20 **"§ 44A-55. Persons entitled to a lien on an aircraft.**

21 Any person who has expended labor, skill, or materials on an aircraft or has
22 furnished storage for an aircraft at the request of its owner has a lien on the aircraft
23 beginning on the date the expenditure of labor, skill, or materials or the storage
24 commenced, for the contract price for the expenditure of labor, skill, or materials or for
25 the storage, or, in the absence of a contract price, for the reasonable worth of the
26 expenditure of labor, skill, or materials, or of the storage. The lien under this section
27 survives even if the possession of the aircraft is surrendered by the lien claimant.

28 **"§ 44A-60. Notice of lien on an aircraft.**

1 The lien under G.S. 44A-55 ceases at the expiration of 90 days after the date the lien
 2 claimant voluntarily surrenders possession of the aircraft, unless the lien claimant, prior
 3 to the expiration of the 90-day period, files a notice of lien in the office of the register of
 4 deeds of the county in which the labor, skill, or materials were expended on the aircraft,
 5 or the storage was furnished for the aircraft, whichever applies. The notice of lien shall
 6 state the name of the claimant, the name of the registered owner of the aircraft if known,
 7 and if not known, the name of the person with whom the lien claimant entered into a
 8 contract, a description of the aircraft sufficient for identification, the amount for which
 9 the lien is claimed, and the date upon which the expenditure of labor, skill, materials, or
 10 storage was commenced and completed, or, if not completed, the date through which the
 11 claimed amount is calculated. The notice of lien shall be sworn to, or affirmed, and
 12 subscribed by the claimant, or by someone on the claimant's behalf having personal
 13 knowledge of the facts, and shall be in substantially the following form:

14 '[Claimant] Claimant, v. [Owner] Owner

15 Notice is hereby given that [Claimant](name) claims a lien upon
 16 _____ [aircraft](describe the aircraft) for labor, skill, or materials expended on, or for
 17 storage furnished for, this aircraft; that the name of the registered owner or reputed
 18 owner, if the aircraft is not registered or the registered owner is not known, is
 19 [Owner](name), that the labor, skill, or materials were expended, or storage was
 20 furnished on the aircraft commencing the ___ day of ___, and the labor, skill, or
 21 materials or the storage furnished by the claimant [was completed] [is ongoing] on the
 22 ___ day of ___; that 90 days have not elapsed since the aircraft was released by the
 23 claimant; that the amount claimant demands for the labor, skill, or materials, or for
 24 storage furnished, as of the date hereof is \$ _____ (amount); that no part thereof has been
 25 paid except \$ _____ (amount); and that there is now due and remaining unpaid, after
 26 deducting all credits and offsets, the sum of \$ _____ (amount), in which amount
 27 [Claimant](name) claims a lien upon the aircraft.

28
 29
 30 (Signed) _____ (Claimant)
 31 Address of Claimant _____

32
 33 State of North Carolina
 34 County of _____

35
 36 Sworn to (or affirmed) and subscribed before me this day by [name of principal].
 37 Date: _____ [Official Signature of Notary]
 38 _____ [Notary's printed or typed name], Notary Public
 39 _____ My Commission Expires:[Date]

40 [Official Seal]'

41 **"§ 44A-65. Notice of lien filed by the register of deeds.**

42 Upon presentation of a notice of lien pursuant to this Article, the register of deeds
 43 shall file the notice of lien and shall index the notice of lien in a book to be kept by the
 44 register of deeds for that purpose and called 'Index of Liens Upon Aircraft'.

1 **"§ 44A-70. Priority of a lien on an aircraft.**

2 The lien under this Article shall have priority over perfected and unperfected
3 security interests.

4 **"§ 44A-75. Termination of a lien on an aircraft.**

5 Any lien under this Article shall be terminated upon receipt by the lien claimant of
6 the full amount owed for the expenditure of labor, skill, or materials on the aircraft, or
7 for storage of the aircraft, which amount shall not be limited to any amount shown on
8 the notice of lien filed under G.S. 44A-60, if a notice of lien has been filed by the lien
9 claimant. Upon receipt of the amount owed, the lien claimant or the claimant's agent
10 shall release the aircraft to the owner, if the aircraft is in the possession of the lien
11 claimant, and shall, within 20 days following a request in writing by the aircraft owner,
12 file with the register of deeds a notice of satisfaction, if a notice of lien has been filed by
13 the lien claimant. A notice of satisfaction shall state that the amount owed for the lien
14 claimant's expenditure of labor, skill, or materials on the aircraft, or for the storage of
15 the aircraft, has been paid and the lien against the aircraft has been terminated. The
16 notice of satisfaction shall be sworn to or affirmed, and subscribed by the claimant or by
17 someone on the claimant's behalf having personal knowledge of the facts. Upon the
18 filing of a notice of satisfaction, the register of deeds shall make an entry of
19 acknowledgment of satisfaction in the 'Index of Liens upon Aircraft'. The owner of the
20 aircraft may also file with the register of deeds any written document that shows or
21 tends to show the non-existence, satisfaction, or termination of the lien, which written
22 document shall also be indexed by the register of deeds in the 'Index of Lien upon
23 Aircraft.'

24 **"§ 44A-80. Fees.**

25 (a) The register of deeds may charge for filing any document under this section a
26 fee of twelve dollars (\$12.00) for the first four pages, plus one dollar (\$1.00) for each
27 additional page.

28 (b) The register of deeds may charge a fee for furnishing a certified copy of any
29 document filed with the register of deeds under this section. The amount of the fee shall
30 be the same as the fee received for furnishing certified copies of any other instruments
31 recorded by the register of deeds.

32 **"§ 44A-85. Public sale of an aircraft to enforce a claim of lien.**

33 (a) When a lien claimant under this Article has possession of the aircraft
34 continuously for 20 days after the charges accrue and remain unpaid, the lien claimant
35 may sell the aircraft at public sale and apply the proceeds toward the payment of the
36 charges. Not less than 20 days prior to sale by public sale the lien claimant shall do all
37 of the following:

38 (1) Cause notice to be mailed to the person having legal title to the aircraft
39 if reasonably ascertainable, to the person with whom the lien claimant
40 dealt, if different, and to each secured party or other person claiming
41 an interest in the aircraft who is actually known to the lien claimant or
42 can be reasonably ascertained.

43 (2) Advertise the sale by posting a copy of the notice of sale at the
44 courthouse door in the county where the sale is to be held.

1 (3) Publish notice of sale once a week for two consecutive weeks in a
2 newspaper of general circulation in the same county, the date of the
3 last publication being not less than five days prior to the sale.

4 (b) A public sale shall be held on a day other than Sunday and between the hours
5 of 10:00 A.M. and 4:00 P.M. in the county where the lien claimant expended labor,
6 skills, or materials on the aircraft, or where the lien claimant stored the aircraft.

7 (c) The notice of sale shall include all of the following information:

8 (1) The name and address of the lien claimant.

9 (2) The name of the person having legal title to the property if such
10 persons can be reasonably ascertained and the name of the person with
11 whom the lien claimant dealt.

12 (3) A description of the aircraft.

13 (4) The amount due for which the lien is claimed.

14 (5) The place of the sale.

15 (6) The date and hour when the sale is to be held.

16 (d) The proceeds from any sale of an aircraft pursuant to this section shall be paid
17 to the lien claimant up to the amount owed for the lien. The balance of the proceeds
18 shall be paid to the person entitled to receive them. If the person legally entitled to
19 receive the balance is not known or has removed from the county, the holder of the
20 balance of the sales proceeds shall pay the balance to the Department of Revenue. If the
21 person legally entitled to receive the balance at any time within two years from the date
22 of payment to the Department of Revenue establishes his or her right to the money to
23 the satisfaction of the Secretary of the Department of Administration, it shall be paid to
24 that person. After two years from the date of payment to the Department of Revenue, all
25 unclaimed monies shall be deposited in the State Public School Fund."

26 **SECTION 2.** This act becomes effective October 1, 2006, and applies to any
27 lien that occurs on or after that date and also applies to any lien that occurred before that
28 date if the aircraft was in the possession of a lien claimant on or after that date as well as
29 any lien that occurred before that date if the aircraft was released from possession by a
30 lien claimant no more than 90 days prior to that date.