

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 690

Short Title: Enforce Lien for Car Repairs.

(Public)

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Sponsors: Senator Sands.

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Referred to: Judiciary II.

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April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE FOR THE ENFORCEMENT OF A LIEN ON A MOTOR VEHICLE IN CONNECTION WITH REPAIRS, WHEN THE LIENOR DOES NOT HAVE POSSESSION OF THE MOTOR VEHICLE.

The General Assembly of North Carolina enacts:

Section 1. The catch line of G.S. 44A-4 reads as rewritten:

"§ 44A-4. **Enforcement of ~~lien~~-lien by sale.**"

Sec. 2. Article 1 of Chapter 44A of the General Statutes is amended by adding a new section to read:

"§ 44A-6.1. **Action to regain possession of a motor vehicle.**

(a) When the lienor involuntarily relinquishes possession of the property and the property upon which the lien is claimed is a motor vehicle, the lienor may institute an action to regain possession of the motor vehicle in small claims court any time following the lienor's involuntary loss of possession and following maturity of the obligation to pay charges. If in such action the owner or other party retains possession of the motor vehicle, he shall pay the amount of the lien asserted as bond into the clerk of the court in which such action is pending.

If within three days after service of the summons and complaint, as the number of days is computed in G.S. 1A-1, Rule 6, the defendant does not file a contrary statement of the amount of the lien at the time of the filing of the complaint, the amount set forth in the complaint shall be deemed to be the amount of the asserted lien. The clerk may at any time disburse to the lienor that portion of the cash bond which is not in dispute, upon application of the lienor. The magistrate shall:

1           (1) Direct appropriate disbursement of the disputed or undisbursed portion  
2           of the bond; and

3           (2) Direct appropriate possession of the motor vehicle if, in the judgment  
4           of the court, the plaintiff has a valid right to a lien.

5           (b) Either party to an action pursuant to subsection (a) of this section may appeal  
6 to district court for a trial **de novo**."

7           Sec. 3. G.S. 44A-3 reads as rewritten:

8 **"§ 44A-3. When lien arises and terminates.**

9           (a) Liens conferred under this Article arise only when the lienor acquires  
10 possession of the property and terminate and become unenforceable when the lienor  
11 voluntarily relinquishes the possession of the property upon which a lien might be  
12 claimed, or when an owner, his agent, a legal possessor, or any other person having a  
13 security or other interest in the property tenders prior to sale the amount secured by the  
14 lien plus reasonable storage, boarding and other expenses incurred by the lienor. The  
15 reacquisition of possession of property voluntarily relinquished shall not reinstate the  
16 lien.

17           (b) Notwithstanding the provisions of subsection (a) of this section, liens  
18 conferred under G.S. 44A-2(d) shall not terminate when the lienor involuntarily  
19 relinquishes the possession of the motor vehicle."

20           Sec. 4. This act is effective upon ratification.