

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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SENATE BILL 690  
Second Edition Engrossed 5/9/91  
House Committee Substitute Favorable 5/28/91  
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Short Title: Enforce Lien for Car Repairs.

(Public)

Sponsors:

Referred to:

April 18, 1991

A BILL TO BE ENTITLED

1 AN ACT TO PROVIDE FOR THE ENFORCEMENT OF A LIEN ON A MOTOR  
2 VEHICLE, MOTORBOAT, WATERCRAFT OF ANY KIND, OR BOAT  
3 TRAILER IN CONNECTION WITH REPAIRS, WHEN THE LIENOR DOES  
4 NOT HAVE POSSESSION OF THE MOTOR VEHICLE, BOAT, WATERCRAFT  
5 OF ANY KIND, OR BOAT TRAILER.  
6

7 The General Assembly of North Carolina enacts:

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

9 "**§ 44A-4. Enforcement of ~~lien.~~ lien by sale.**"

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

12 "**§ 44A-6.1. Action to regain possession of a motor vehicle, motorboat, watercraft**  
13 **of any kind, or boat trailer.**

14 (a) When the lienor involuntarily relinquishes possession of the property and the  
15 property upon which the lien is claimed is a motor vehicle, the lienor may institute an  
16 action to regain possession of the motor vehicle, motorboat, watercraft of any kind, or  
17 boat trailer in small claims court any time following the lienor's involuntary loss of  
18 possession and following maturity of the obligation to pay charges. For purposes of this  
19 section, involuntary relinquishment of possession includes only those situations where  
20 the owner or other party takes possession of the motor vehicle, motorboat, watercraft of  
21 any kind, or boat trailer without the lienor's permission or without judicial process. If in

1 such action the owner or other party retains possession of the motor vehicle, motorboat,  
2 watercraft of any kind, or boat trailer, he shall pay the amount of the lien asserted as  
3 bond into the clerk of the court in which such action is pending.

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

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

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

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

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

17 "**§ 44A-3. When lien arises and terminates.**

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

26 (b) Notwithstanding the provisions of subsection (a) of this section, liens  
27 conferred under G.S. 44A-2(d) shall not terminate when the lienor involuntarily  
28 relinquishes the possession of the motor vehicle, motorboat, watercraft of any kind, or  
29 boat trailer."

30 Sec. 4. This act becomes effective October 1, 1991.