

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005

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SENATE BILL 2010
Judiciary I Committee Substitute Adopted 6/19/06
Finance Committee Substitute Adopted 6/22/06

Short Title: Aircraft Mechanics' Lien.

(Public)

Sponsors:

Referred to:

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 terms mean:

- 12 (1) Aircraft. – As the term is defined in G.S. 63-1(3), or any engine, part,
13 component, or accessory, whether affixed to or separate from the
14 aircraft.
- 15 (2) Lienor. – A person entitled to a lien under this Article.
- 16 (3) Owner. – As the term is defined in G.S. 44A-1(3) for an aircraft, or
17 any person authorized by an owner, as defined in G.S. 44A-1(3), to
18 perform, contract, or arrange for the provision of labor, skill, materials,
19 or storage with respect to any aircraft.
- 20 (4) Person. – Any individual, corporation, association, partnership,
21 whether limited or general, limited liability company, or other entity.

22 "**§ 44A-55. Persons entitled to a lien on an aircraft.**

23 Any person who has expended labor, skill, or materials on an aircraft or has
24 furnished storage for an aircraft at the request of its owner has a perfected lien on the
25 aircraft beginning on the date the expenditure of labor, skill, or materials or the storage
26 commenced, for the contract price for the expenditure of labor, skill, or materials or for
27 the storage, or, in the absence of a contract price, for the reasonable worth of the

1 expenditure of labor, skill, or materials, or of the storage. The lien under this section
 2 survives even if the possession of the aircraft is surrendered by the lienor.

3 **"§ 44A-60. Notice of lien on an aircraft.**

4 (a) The lien under G.S. 44A-55 expires 120 days after the date the lienor
 5 voluntarily surrenders possession of the aircraft, unless the lienor, prior to the expiration
 6 of the 120-day period, files a notice of lien in the office of the clerk of court of the
 7 county in which the labor, skill, or materials were expended on the aircraft, or the
 8 storage was furnished for the aircraft.

9 (b) The notice of lien shall state all of the following:

- 10 (1) The name of the lienor.
- 11 (2) The name of the registered owner of the aircraft, if known.
- 12 (3) The name of the person with whom the lienor entered into a contract
 13 for labor, skill, or materials on the aircraft, or storage of the aircraft.
- 14 (4) A description of the aircraft sufficient for identification.
- 15 (5) The amount for which the lien is claimed.
- 16 (6) The dates upon which the expenditure of labor, skill, materials, or
 17 storage was commenced and completed, or, if not completed, the date
 18 through which the claimed amount is calculated.

19 (c) The notice of lien shall be sworn to or affirmed, and subscribed by the lienor,
 20 or by someone on the lienor's behalf having personal knowledge of the facts.

21 (d) The notice of lien shall be in substantially the following form:

22 NOTICE OF LIEN ON AIRCRAFT

23
 24 [Lienor] Lienor, v. [Owner] Owner

25 Notice is hereby given that [Lienor](name) claims a lien upon
 26 [aircraft](describe the aircraft) for labor, skill, or materials expended on, and for
 27 storage furnished for, this aircraft; that the name of the registered owner or reputed
 28 owner, if the aircraft is not registered or the registered owner is not known, is
 29 [Owner](name), that the labor, skill, or materials were expended on the aircraft
 30 commencing the ___ day of ___, and storage was furnished on the aircraft
 31 commencing the ___ day of ___, and the labor, skill, materials, and storage furnished by
 32 the lienor [was completed] [is ongoing] on the ___ day of ___; that 120 days have not
 33 elapsed since the aircraft was released by the lienor; that the amount the lienor demands
 34 for the labor, skill, materials, and storage furnished, as of the date hereof is
 35 \$_____ (amount); that no part thereof has been paid except \$_____ (amount); and that
 36 there is now due and remaining unpaid, after deducting all credits and offsets, the sum
 37 of \$_____ (amount), in which amount [Lienor](name) claims a lien upon the aircraft.

38
 39
 40 (Signed) _____ (Lienor)
 41 Address of Lienor _____

42
 43 State of North Carolina
 44 County of _____

1
2 Sworn to (or affirmed) and subscribed before me this day by [name of principal].

3 Date: _____ [Official Signature of Notary]

4 _____ [Notary's printed or typed name], Notary Public

5 _____ My Commission Expires:[Date]

6 [Official Seal]'

7 **"§ 44A-65. Notice of lien filed by the clerk of court.**

8 Upon presentation of a notice of lien pursuant to this Article, the clerk of court shall
9 file the notice of lien and shall index the notice of lien in a record maintained by the
10 clerk for that purpose.

11 **"§ 44A-70. Priority of a lien on an aircraft.**

12 The lien under this Article shall have priority over perfected and unperfected
13 security interests.

14 **"§ 44A-75. Termination of a lien on an aircraft.**

15 Any lien under this Article shall be terminated upon receipt by the lienor of the full
16 amount owed for the labor, skill, or materials on the aircraft, and for storage of the
17 aircraft, which amount shall not be limited to any amount shown on the notice of lien
18 filed under G.S. 44A-60, if a notice of lien has been filed by the lienor. Upon receipt of
19 the amount owed, the lienor or the lienor's agent shall release the aircraft to the owner, if
20 the aircraft is in the possession of the lienor, and shall, within 20 days following a
21 request in writing by the aircraft owner, file with the clerk of court a notice of
22 satisfaction of lien, if a notice of lien has been filed by the lienor. A notice of
23 satisfaction of lien shall state that the amount owed for the lienor's expenditure of labor,
24 skill, or materials on the aircraft, and for the storage of the aircraft, has been paid and
25 the lien against the aircraft has been terminated. The notice of satisfaction of lien shall
26 be sworn to or affirmed, and subscribed by the lienor or by someone on the lienor's
27 behalf having personal knowledge of the facts. Upon the filing of a notice of satisfaction
28 of lien, the clerk of court shall make an entry of acknowledgment of satisfaction in the
29 index.

30 **"§ 44A-80. Fees.**

31 The clerk of court shall collect fees for filing, copying, and certifying any document
32 under this Article as set forth in G.S. 7A-308.

33 **"§ 44A-85. Enforcement of lien by sale.**

34 A lien filed under this Article may be enforced in accordance with G.S. 44A-4, and
35 the proceeds of sale shall be applied as set forth in G.S. 44A-5, except that the three-day
36 time period set forth in G.S. 44A-4(a) for the lienor to file a contrary statement of the
37 amount of the lien at the time of the filing of a complaint by the owner shall be extended
38 to 30 days. An owner may seek immediate possession of an aircraft in accordance with
39 G.S. 44A-4.

40 **"§ 44A-90. Title of purchaser.**

41 (a) A purchaser for value at a properly conducted sale under this Article, and a
42 purchaser for value without constructive notice of a defect in the sale, whether or not the
43 purchaser is the lienor or an agent of the lienor, acquires title to the property free of any
44 interests over which the lienor was entitled to priority.

1 (b) Upon the completion of a sale conducted under this Article, the lienor or a
2 person acting on behalf of the lienor, who conducted the sale shall furnish to the
3 purchaser for value a bill of sale for the aircraft signed by the person who conducted the
4 sale that includes a statement that the sale was conducted in accordance with this
5 Article."

6 **SECTION 2.** G.S. 44A-2(a) reads as rewritten:

7 "(a) Any person who tows, alters, repairs, stores, services, treats, or improves
8 personal property other than a motor vehicle or an aircraft in the ordinary course of his
9 business pursuant to an express or implied contract with an owner or legal possessor of
10 the personal property has a lien upon the property. The amount of the lien shall be the
11 lesser of

- 12 (1) The reasonable charges for the services and materials; or
13 (2) The contract price; or
14 (3) One hundred dollars (\$100.00) if the lienor has dealt with a legal
15 possessor who is not an owner.

16 This lien shall have priority over perfected and unperfected security interests."

17 **SECTION 3.** This act becomes effective October 1, 2006, and applies to
18 labor, skills, or materials furnished on an aircraft, or storage provided for an aircraft, on
19 or after that date.