

By: Wentworth

S.B. No. 149

A BILL TO BE ENTITLED

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AN ACT

relating to the recording of certain aircraft repair and maintenance liens; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Section 70.303, Property Code, is amended to read as follows:

Sec. 70.303. RECORDING OF LIEN: AIRCRAFT REGISTERED IN UNITED STATES.

SECTION 2. Subchapter D, Chapter 70, Property Code, is amended by adding Section 70.3031 to read as follows:

Sec. 70.3031. RECORDING OF LIEN: AIRCRAFT NOT REGISTERED IN UNITED STATES. (a) A holder of a lien under this subchapter on an aircraft that is registered in a nation other than the United States or that is not registered in any national jurisdiction may record the lien on the aircraft by filing with the secretary of state not later than the 180th day after the date of the completion of the contractual storage period or the performance of the last repair, fueling, or maintenance an affidavit that states:

(1) the name, address, and telephone number of the holder of the lien under this subchapter;

(2) the amount due for storage, repairs, fuel, or maintenance;

(3) a complete description of the aircraft; and

(4) the name and last known address of the owner of the

1 aircraft and the number assigned the aircraft by the applicable  
2 jurisdiction, if known.

3 (b) An inaccurate address stated under Subsection (a)(4)  
4 does not invalidate the affidavit.

5 (c) The secretary of state shall maintain a record of  
6 information filed with the secretary of state under this section  
7 and index the records in the name of the owner of the aircraft.

8 (d) The fee for filing information with the secretary of  
9 state under this section is:

10 (1) \$15 if the information is communicated in writing  
11 and consists of one or two pages;

12 (2) \$30 if the information is communicated in writing  
13 and consists of more than two pages; and

14 (3) \$5 if the information is communicated by another  
15 medium authorized by the secretary of state by rule.

16 SECTION 3. Subsection (a), Section 70.304, Property Code,  
17 is amended to read as follows:

18 (a) Not later than the 60th [~~30th~~] day after the date of the  
19 completion of the contractual storage period or the performance of  
20 the last fueling, repair, or maintenance, a holder of a lien under  
21 this subchapter who retains possession of the aircraft shall notify  
22 the owner shown on the certificate of registration and each holder  
23 of a lien on the aircraft as shown by the records maintained for  
24 that purpose by the Federal Aviation Administration Aircraft  
25 Registry or the secretary of state. The notice must state:

26 (1) the name, address, and telephone number of the  
27 holder of the lien under this subchapter;

1           (2) the amount due for storage, fuel, repairs, or  
2 maintenance;

3           (3) a complete description of the aircraft; and

4           (4) the legal right of the holder of the lien under  
5 this subchapter to sell the aircraft at public auction and apply the  
6 proceeds to the amount due.

7           SECTION 4. Section 70.305, Property Code, is amended to  
8 read as follows:

9           Sec. 70.305. SALE OF AIRCRAFT. If the holder of a lien  
10 under this subchapter provides the notice required by Section  
11 70.304 and the amount due remains unpaid after the 90th [~~60th~~] day  
12 after the date of the completion of the contractual storage period  
13 or the performance of the last fueling, repair, or maintenance, the  
14 holder of the lien may sell the aircraft at a public sale and apply  
15 the proceeds to the amount due. The lienholder shall pay any excess  
16 proceeds to the person entitled to them.

17           SECTION 5. Subchapter D, Chapter 70, Property Code, is  
18 amended by adding Section 70.307 to read as follows:

19           Sec. 70.307. CRIMINAL OFFENSE: IMPROPERLY OBTAINING  
20 POSSESSION OF AIRCRAFT SUBJECT TO LIEN. (a) A person commits an  
21 offense if the person, through surreptitious removal or by trick,  
22 fraud, or device perpetrated on the holder of the lien, obtains  
23 possession of all or part of an aircraft that is subject to a lien  
24 under this subchapter.

25           (b) An offense under this section is a Class B misdemeanor.

26           (c) If conduct that constitutes an offense under this  
27 section also constitutes an offense under any other law, the actor

1 may be prosecuted under this section or the other law.

2           SECTION 6. The change in law made by this Act applies only  
3 to an aircraft repair and maintenance lien that arises under  
4 Subchapter D, Chapter 70, Property Code, on or after the effective  
5 date of this Act. A lien that arises before the effective date of  
6 this Act is governed by the law in effect immediately before that  
7 date, and that law is continued in effect for that purpose.

8           SECTION 7. This Act takes effect immediately if it receives  
9 a vote of two-thirds of all the members elected to each house, as  
10 provided by Section 39, Article III, Texas Constitution. If this  
11 Act does not receive the vote necessary for immediate effect, this  
12 Act takes effect September 1, 2005.