

1-1 By: Wentworth S.B. No. 149
1-2 (In the Senate - Filed December 28, 2004; February 1, 2005,
1-3 read first time and referred to Committee on Jurisprudence;
1-4 March 29, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; March 29, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 149 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the recording of certain aircraft repair and
1-11 maintenance liens; providing a criminal penalty.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. The heading to Section 70.303, Property Code, is
1-14 amended to read as follows:

1-15 Sec. 70.303. RECORDING OF LIEN: AIRCRAFT REGISTERED IN
1-16 UNITED STATES.

1-17 SECTION 2. Subchapter D, Chapter 70, Property Code, is
1-18 amended by adding Section 70.3031 to read as follows:

1-19 Sec. 70.3031. RECORDING OF LIEN: AIRCRAFT NOT REGISTERED
1-20 IN UNITED STATES. (a) A holder of a lien under this subchapter on
1-21 an aircraft that is registered in a nation other than the United
1-22 States or that is not registered in any national jurisdiction may
1-23 record the lien on the aircraft by filing with the secretary of
1-24 state not later than the 180th day after the date of the completion
1-25 of the contractual storage period or the performance of the last
1-26 repair, fueling, or maintenance an affidavit that states:

1-27 (1) the name, address, and telephone number of the
1-28 holder of the lien under this subchapter;

1-29 (2) the amount due for storage, repairs, fuel, or
1-30 maintenance;

1-31 (3) a complete description of the aircraft; and

1-32 (4) the name and last known address of the owner of the
1-33 aircraft and the number assigned the aircraft by the applicable
1-34 jurisdiction, if known.

1-35 (b) An inaccurate address stated under Subsection (a)(4)
1-36 does not invalidate the affidavit.

1-37 (c) The secretary of state shall maintain a record of
1-38 information filed with the secretary of state under this section
1-39 and index the records in the name of the owner of the aircraft.

1-40 (d) The fee for filing information with the secretary of
1-41 state under this section is:

1-42 (1) \$15 if the information is communicated in writing
1-43 and consists of one or two pages;

1-44 (2) \$30 if the information is communicated in writing
1-45 and consists of more than two pages; and

1-46 (3) \$5 if the information is communicated by another
1-47 medium authorized by the secretary of state by rule.

1-48 SECTION 3. Subsection (a), Section 70.304, Property Code,
1-49 is amended to read as follows:

1-50 (a) Not later than the 60th [~~30th~~] day after the date of the
1-51 completion of the contractual storage period or the performance of
1-52 the last fueling, repair, or maintenance, a holder of a lien under
1-53 this subchapter who retains possession of the aircraft shall notify
1-54 the owner shown on the certificate of registration and each holder
1-55 of a lien on the aircraft as shown by the records maintained for
1-56 that purpose by the Federal Aviation Administration Aircraft
1-57 Registry or the secretary of state. The notice must state:

1-58 (1) the name, address, and telephone number of the
1-59 holder of the lien under this subchapter;

1-60 (2) the amount due for storage, fuel, repairs, or
1-61 maintenance;

1-62 (3) a complete description of the aircraft; and

1-63 (4) the legal right of the holder of the lien under

2-1 this subchapter to sell the aircraft at public auction and apply the
2-2 proceeds to the amount due.

2-3 SECTION 4. Section 70.305, Property Code, is amended to
2-4 read as follows:

2-5 Sec. 70.305. SALE OF AIRCRAFT. If the holder of a lien
2-6 under this subchapter provides the notice required by Section
2-7 70.304 and the amount due remains unpaid after the 90th [~~60th~~] day
2-8 after the date of the completion of the contractual storage period
2-9 or the performance of the last fueling, repair, or maintenance, the
2-10 holder of the lien may sell the aircraft at a public sale and apply
2-11 the proceeds to the amount due. The lienholder shall pay any excess
2-12 proceeds to the person entitled to them.

2-13 SECTION 5. Subchapter D, Chapter 70, Property Code, is
2-14 amended by adding Section 70.307 to read as follows:

2-15 Sec. 70.307. CRIMINAL OFFENSE: IMPROPERLY OBTAINING
2-16 POSSESSION OF AIRCRAFT SUBJECT TO LIEN. (a) A person commits an
2-17 offense if the person, through surreptitious removal or by trick,
2-18 fraud, or device perpetrated on the holder of the lien, obtains
2-19 possession of all or part of an aircraft that is subject to a lien
2-20 under this subchapter.

2-21 (b) An offense under this section is a Class B misdemeanor.

2-22 (c) If conduct that constitutes an offense under this
2-23 section also constitutes an offense under any other law, the actor
2-24 may be prosecuted under this section or the other law.

2-25 SECTION 6. The change in law made by this Act applies only
2-26 to an aircraft repair and maintenance lien that arises under
2-27 Subchapter D, Chapter 70, Property Code, on or after the effective
2-28 date of this Act. A lien that arises before the effective date of
2-29 this Act is governed by the law in effect immediately before that
2-30 date, and that law is continued in effect for that purpose.

2-31 SECTION 7. This Act takes effect immediately if it receives
2-32 a vote of two-thirds of all the members elected to each house, as
2-33 provided by Section 39, Article III, Texas Constitution. If this
2-34 Act does not receive the vote necessary for immediate effect, this
2-35 Act takes effect September 1, 2005.

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