

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005

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SENATE DRS55475-LDf-160A (05/08)

Short Title: Aircraft Mechanics' Lien.

(Public)

Sponsors: Senator Hagan.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ESTABLISH A STATUTORY LIEN FOR UNPAID LABOR, SKILL,  
OR MATERIALS ON AN AIRCRAFT AND FOR UNPAID STORAGE OF AN  
AIRCRAFT.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 44A of the General Statutes is amended by adding a  
new Article to read:

"Article 5.

"Aircraft Labor and Storage Liens.

**"§ 44A-50. Definitions.**

As used in this Article, the following definitions apply:

(1) 'Aircraft' means any aircraft, or any engine, part, component, or  
accessory, whether affixed to or separate from the aircraft.

(2) 'Owner' means an owner, operator, lessor, lessee, or lawful possessor  
of an aircraft, or any person authorized by any of the foregoing to  
perform, contract, or arrange for the provision of labor, skill, materials,  
or storage with respect to any aircraft.

(3) 'Person' means any individual, corporation, association, partnership,  
whether limited or general, limited liability company, or other entity.

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

Any person who has expended labor, skill, or materials on an aircraft or has  
furnished storage for an aircraft at the request of its owner has a lien on the aircraft  
beginning on the date the expenditure of labor, skill, or materials or the storage  
commenced, for the contract price for the expenditure of labor, skill, or materials or for  
the storage, or, in the absence of a contract price, for the reasonable worth of the  
expenditure of labor, skill, or materials, or of the storage. The lien under this section  
survives even if the possession of the aircraft is surrendered by the lien claimant.

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

The lien under G.S. 44A-55 ceases at the expiration of 90 days after the date the lien claimant voluntarily surrenders possession of the aircraft, unless the lien claimant, prior to the expiration of the 90-day period, files a notice of lien in the office of the register of deeds of the county in which the labor, skill, or materials were expended on the aircraft, or the storage was furnished for the aircraft, whichever applies. The notice of lien shall state the name of the claimant, the name of the registered owner of the aircraft if known, and if not known, the name of the person with whom the lien claimant entered into a contract, a description of the aircraft sufficient for identification, the amount for which the lien is claimed, and the date upon which the expenditure of labor, skill, materials, or storage was commenced and completed, or, if not completed, the date through which the claimed amount is calculated. The notice of lien shall be sworn to, or affirmed, and subscribed by the claimant, or by someone on the claimant's behalf having personal knowledge of the facts, and shall be in substantially the following form:

[Claimant] Claimant, v. [Owner] Owner

Notice is hereby given that [Claimant](name) claims a lien upon [aircraft](describe the aircraft) for labor, skill, or materials expended on, or for storage furnished for, this aircraft; that the name of the registered owner or reputed owner, if the aircraft is not registered or the registered owner is not known, is [Owner](name), that the labor, skill, or materials were expended, or storage was furnished on the aircraft commencing the \_\_\_ day of \_\_\_, and the labor, skill, or materials or the storage furnished by the claimant [was completed] [is ongoing] on the \_\_\_ day of \_\_\_; that 90 days have not elapsed since the aircraft was released by the claimant; that the amount claimant demands for the labor, skill, or materials, or for storage furnished, as of the date hereof is \$ \_\_\_ (amount); that no part thereof has been paid except \$ \_\_\_ (amount); and that there is now due and remaining unpaid, after deducting all credits and offsets, the sum of \$ \_\_\_ (amount), in which amount [Claimant](name) claims a lien upon the aircraft.

(Signed) \_\_\_\_\_ (Claimant)  
Address of Claimant \_\_\_\_\_

State of North Carolina  
County of \_\_\_\_\_

Sworn to (or affirmed) and subscribed before me this day by [name of principal].  
Date: \_\_\_\_\_ [Official Signature of Notary]  
\_\_\_\_\_ [Notary's printed or typed name], Notary Public  
\_\_\_\_\_ My Commission Expires:[Date]

[Official Seal]'

**"§ 44A-65. Notice of lien filed by the register of deeds.**

1        Upon presentation of a notice of lien pursuant to this Article, the register of deeds  
2 shall file the notice of lien and shall index the notice of lien in a book to be kept by the  
3 register of deeds for that purpose and called 'Index of Liens Upon Aircraft'.

4 **"§ 44A-70. Priority of a lien on an aircraft.**

5        The lien under this Article shall have priority over perfected and unperfected  
6 security interests.

7 **"§ 44A-75. Termination of a lien on an aircraft.**

8        Any lien under this Article shall be terminated upon receipt by the lien claimant of  
9 the full amount owed for the expenditure of labor, skill, or materials on the aircraft, or  
10 for storage of the aircraft, which amount shall not be limited to any amount shown on  
11 the notice of lien filed under G.S. 44A-60, if a notice of lien has been filed by the lien  
12 claimant. Upon receipt of the amount owed, the lien claimant or the claimant's agent  
13 shall release the aircraft to the owner, if the aircraft is in the possession of the lien  
14 claimant, and shall, within 20 days following a request in writing by the aircraft owner,  
15 file with the register of deeds a notice of satisfaction, if a notice of lien has been filed by  
16 the lien claimant. A notice of satisfaction shall state that the amount owed for the lien  
17 claimant's expenditure of labor, skill, or materials on the aircraft, or for the storage of  
18 the aircraft, has been paid and the lien against the aircraft has been terminated. The  
19 notice of satisfaction shall be sworn to or affirmed, and subscribed by the claimant or by  
20 someone on the claimant's behalf having personal knowledge of the facts. Upon the  
21 filing of a notice of satisfaction, the register of deeds shall make an entry of  
22 acknowledgment of satisfaction in the 'Index of Liens upon Aircraft'. The owner of the  
23 aircraft may also file with the register of deeds any written document that shows or  
24 tends to show the non-existence, satisfaction, or termination of the lien, which written  
25 document shall also be indexed by the register of deeds in the 'Index of Lien upon  
26 Aircraft.'

27 **"§ 44A-80. Fees.**

28        (a) The register of deeds may charge for filing any document under this section a  
29 fee of twelve dollars (\$12.00) for the first four pages, plus one dollar (\$1.00) for each  
30 additional page.

31        (b) The register of deeds may charge a fee for furnishing a certified copy of any  
32 document filed with the register of deeds under this section. The amount of the fee shall  
33 be the same as the fee received for furnishing certified copies of any other instruments  
34 recorded by the register of deeds.

35 **"§ 44A-85. Public sale of an aircraft to enforce a claim of lien.**

36        (a) When a lien claimant under this Article has possession of the aircraft  
37 continuously for 20 days after the charges accrue and remain unpaid, the lien claimant  
38 may sell the aircraft at public sale and apply the proceeds toward the payment of the  
39 charges. Not less than 20 days prior to sale by public sale the lien claimant shall do all  
40 of the following:

- 41            (1) Cause notice to be mailed to the person having legal title to the aircraft  
42 if reasonably ascertainable, to the person with whom the lien claimant  
43 dealt, if different, and to each secured party or other person claiming

1                   an interest in the aircraft who is actually known to the lien claimant or  
2                   can be reasonably ascertained.

3           (2)       Advertise the sale by posting a copy of the notice of sale at the  
4                   courthouse door in the county where the sale is to be held.

5           (3)       Publish notice of sale once a week for two consecutive weeks in a  
6                   newspaper of general circulation in the same county, the date of the  
7                   last publication being not less than five days prior to the sale.

8       (b)       A public sale shall be held on a day other than Sunday and between the hours  
9       of 10:00 A.M. and 4:00 P.M. in the county where the lien claimant expended labor,  
10       skills, or materials on the aircraft, or where the lien claimant stored the aircraft.

11       (c)       The notice of sale shall include all of the following information:

12           (1)       The name and address of the lien claimant.

13           (2)       The name of the person having legal title to the property if such  
14                   persons can be reasonably ascertained and the name of the person with  
15                   whom the lien claimant dealt.

16           (3)       A description of the aircraft.

17           (4)       The amount due for which the lien is claimed.

18           (5)       The place of the sale.

19           (6)       The date and hour when the sale is to be held.

20       (d)       The proceeds from any sale of an aircraft pursuant to this section shall be paid  
21       to the lien claimant up to the amount owed for the lien. The balance of the proceeds  
22       shall be paid to the person entitled to receive them. If the person legally entitled to  
23       receive the balance is not known or has removed from the county, the holder of the  
24       balance of the sales proceeds shall pay the balance to the Department of Revenue. If the  
25       person legally entitled to receive the balance at any time within two years from the date  
26       of payment to the Department of Revenue establishes his or her right to the money to  
27       the satisfaction of the Secretary of the Department of Administration, it shall be paid to  
28       that person. After two years from the date of payment to the Department of Revenue, all  
29       unclaimed monies shall be deposited in the State Public School Fund."

30           **SECTION 2.** This act becomes effective October 1, 2006, and applies to any  
31       lien that occurs on or after that date and also applies to any lien that occurred before that  
32       date if the aircraft was in the possession of a lien claimant on or after that date as well as  
33       any lien that occurred before that date if the aircraft was released from possession by a  
34       lien claimant no more than 90 days prior to that date.