

SUBJECT: Revised procedures for filing aircraft service liens

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 5 ayes — Giddings, Martinez, Solomons, Taylor, Zedler
0 nays
1 present not voting — Elkins
3 absent — Bailey, Bohac, Vo

SENATE VOTE: On final passage, April 7 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — David W. Marshall
Against — None

BACKGROUND: Property Code, ch. 70, subch. D, provides for aircraft repair and maintenance liens. Persons who store, fuel, or repair an aircraft may place a lien on the aircraft if not paid for their services. The lien holder may record the lien by filing a document with the Federal Aviation Administration (FAA). Such a lien holder may retain possession of the aircraft until receiving payment. A lien holder must notify the aircraft owner within 30 days after completing service that the lien holder intends to retain possession of the aircraft. If the lien holder provides notice and the owner still has not paid the balance due within 60 days after the completion of service, the lien holder may sell the aircraft at a public sale and apply the proceeds toward the amount he is owed.

DIGEST: SB 149 would increase from 30 to 60 the number of days in which a lien holder had after completing service to notify the owner of the aircraft that the lien holder had retained possession. It would increase from 60 to 90 the number of days in which an owner had to pay for services rendered on the aircraft before a lien holder could sell the aircraft at a public auction.

The bill also would authorize a lien holder of an aircraft that was not

registered in the United States or not registered at all to file, within 180 days of the completion of service, an affidavit with the Texas secretary of state to record the lien. The affidavit would have to contain the following information:

- the name, address, and telephone number of the lien holder;
- the name and last known address of the aircraft owner;
- a description of the aircraft, including its assigned number, if known; and
- the amount due for storage, repairs, fuel, or maintenance.

The filing fee would be \$15 for a document of two pages or less, \$30 for a document of longer than two pages, or \$5 if the information was communicated by another medium authorized by the secretary of state.

The bill would make it a class B misdemeanor (up to 180 days in jail and/or a maximum fine of \$2,000) to obtain possession of an aircraft subject to a lien under subch. D by removing the aircraft without the lien holder's knowledge or by using deceit to gain possession.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2005. The bill would apply to a lien that arose under subch. D on or after the effective date of the bill.

**SUPPORTERS
SAY:**

SB 149 would protect aircraft mechanics by making it easier for them to collect for services rendered when an owner did not pay. Mechanics in Texas frequently perform service work on foreign aircraft, but they have no easy way to collect for their services if the owner does not pay. This is because, under current law, a person may not place a lien on an aircraft that is not registered in the United States because the FAA is authorized to place liens only on aircraft that are registered domestically. The bill would allow a person to place a lien on such an aircraft by filing documentation with the Texas secretary of state.

The bill would allow a person to record a lien with the Texas secretary of state only if the aircraft was not registered in the United States or was not registered at all. It would not affect aircraft registered in this country. The criminal offense created by the bill would not be overly harsh because it would be only a class B misdemeanor. Service liens take precedence over most other liens, and thus the interests of mechanics in retaining

possession of the aircraft should be protected by deterring those with competing but lesser legal interests from attempting to gain possession.

OPPONENTS
SAY:

This bill would be overly harsh in imposing a criminal penalty upon a person who took possession of an aircraft to which the person had legal rights.

SB 149 would force a person who wished to buy an aircraft not registered in the United States to run title checks with both the FAA and with numerous states, Texas included. This would create an excessive burden for a person who simply sought to buy an aircraft.