



**House
Legislative
Analysis
Section**

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AIRCRAFT LIENS: FAA CRITERIA

House Bill 4878 (Substitute H-2)
First Analysis (1-30-90)

Sponsor: Rep. Michael E. Nye
Committee: State Affairs

THE APPARENT PROBLEM:

Transportation officials say that Michigan's garage keepers lien act, which applies to airfield hangars as well as facilities where other kinds of vehicles are housed for repairs or other services, does not meet the criteria of the Federal Aviation Administration for such laws. Because of this, the FAA will not record Michigan liens filed by aircraft businesses against the aircraft of people who have not paid their bills. This means, among other things, that an aircraft owner could refuse to pay a repair bill and sell the plane to someone who would not be notified of a mechanic's lien when checking with the federal registry. (The garage lien act, in general, allows people who repair, maintain, service, or store vehicles to protect themselves against unpaid bills, and in certain circumstances allows a vehicle to be sold to cover repair costs.) According to transportation officials, the FAA operates an aircraft registry much as the secretary of state does for automobiles in Michigan, and all aircraft are registered by the FAA. The FAA registry will record liens against aircraft for states with lien laws that meet federal requirements. (Liens by banks that finance planes are not a problem, only the garage keepers' or artisans' liens.) To protect the interests of Michigan aircraft service businesses, the state law should be made to conform to federal standards.

THE CONTENT OF THE BILL:

The bill would amend the garage keepers lien act (Public Act 312 of 1915) to put in place a separate set of provisions for the sale of aircraft at public auction by a "garage keeper." It would specifically refer to the recording of liens with the Federal Aviation Administration.

Under the bill, a garage keeper (e.g., a hangar operator) could sell an aircraft at public auction if certain charges, such as for storage and repairs, had not been paid within 60 days after a claim of lien together with an itemized statement of the account had been delivered to the registered owner of the aircraft and a record of the lien had been filed with the Federal Aviation Administration Aircraft Registry. Notice to the owner of the lien and the charges would have to be by personal service or by registered or certified mail. The sale would have to be held not less than 20 days nor more than 60 days after the expiration of the 60-day period.

No later than 20 days before a sale is held, the garage keeper would have to give written notice of the time and the place of the sale to the FAA aircraft registry, to any lienholder, as shown by the records of the registry, and to the registered owner of the aircraft. Notice of the time and place of the sale would also have to be posted conspicuously at the place of the sale and at every airport within a 25-mile radius of the place of the sale. Notice to the FAA and lienholders would be by first class mail, and notice to the registered owner would have to be given personally or by certified mail.

The bill would allow the garage keeper to bid for and purchase the aircraft at the sale. If he or she does so, the proceeds of the sale would be either the amount paid by the garage keeper or the fair cash market value of the aircraft as determined by a neutral aircraft appraiser immediately before the time of sale, whichever was greater.

Any surplus from the sale, after the garage keeper's charges had been paid and satisfied and the costs of the sale deducted, would be returned to any lienholder with a properly recorded security interest who notified the garage keeper of the lien before distribution of the proceeds of the sale was complete. The balance would be returned to the registered owner of the aircraft.

MCL 570.301 and 302

FISCAL IMPLICATIONS:

The bill has no fiscal implications, according to the Department of Transportation. (10-25-89)

ARGUMENTS:

For:

Transportation officials say that Michigan's garage keepers lien act does not meet the criteria of the Federal Aviation Administration, and as a result, businesses providing services to aircraft cannot record a lien against an aircraft when bills go unpaid. The provisions of this bill, transportation officials say, meet FAA criteria and would permit the recording of a Michigan garage keeper lien against an aircraft with the FAA aircraft registry. This would mean, among other things, that when a person checked with the FAA before purchasing a plane, he or she would discover if a garage keeper's lien existed on the aircraft. The bill also specifies how a sale of a plane by a hangar operator to recover money owed would be conducted and how the proceeds would be distributed.

POSITIONS:

The Department of Transportation supports the bill, which it says was introduced at its request. (10-25-89)

The Michigan Bankers Association supports the bill as reported from committee. (1-24-90)

The Michigan Owners and Pilots Association supports the bill. (1-26-90)

H.B. 4878 (1-30-90)