

FIRST REGULAR SESSION

SENATE BILL NO. 319

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR LEMBKE.

Read 1st time February 5, 2009, and ordered printed.

TERRY L. SPIELER, Secretary.

1709L.011

AN ACT

To repeal section 430.082, RSMo, and to enact in lieu thereof one new section relating to liens on chattel.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 430.082, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 430.082, to read as follows:

430.082. 1. Every person expending labor, services, skill or material upon
2 any motor vehicle or trailer, as defined in chapter 301, RSMo, vessel, as defined
3 in chapter 306, RSMo, outboard motor or aircraft at a written request of its
4 owner, authorized agent of the owner, or person in lawful possession thereof, or
5 who provides storage for a motor vehicle, trailer, outboard motor or vessel, at the
6 written request of its owner, authorized agent of the owner, or person in lawful
7 possession thereof, or at the written request of a peace officer in lieu of the owner
8 or owner's agent, where such owner or agent is not available to request storage
9 thereof, shall, where the maximum amount to be charged for labor, services, skill
10 or material has been stated as part of the written request or the daily charge for
11 storage has been stated as part of the written request, have a lien upon the
12 chattel beginning upon the date of commencement of the expenditure of labor,
13 services, skill, materials or storage for the actual value of all the expenditure of
14 labor, services, skill, materials or storage until the possession of that chattel is
15 voluntarily relinquished to the owner, authorized agent, or one entitled to
16 possession thereof. The person furnishing labor, services, skill or material may
17 retain the lien after surrendering possession of the aircraft or part or equipment
18 thereof by filing a statement in the office of the county recorder of the county
19 where the owner of the aircraft or part or equipment thereof resides, if known to

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 the claimant, and in the office of the county recorder of the county where the
21 claimant performed the services. Such statement shall be filed within thirty days
22 after surrendering possession of the aircraft or part or equipment thereof and
23 shall state the claimant's name and address, the items on account, the name of
24 the owner and a description of the property, and shall not bind a bona fide
25 purchaser unless the lien has also been filed with the Federal Aviation
26 Administration Aircraft Registry.

27 2. If the chattel is not redeemed within three months of the completion
28 of the requested labor, services, skill or material, the lienholder may apply to the
29 director of revenue for a certificate of ownership or certificate of title.

30 3. If the charges are for storage or the service of towing the motor vehicle,
31 trailer, outboard motor or vessel, and the chattel has not been redeemed three
32 months after the charges for storage commenced, the lienholder shall notify by
33 certified mail, postage prepaid, the owner and any lienholders of record other
34 than the person making the notification, at the person's last known address that
35 application for a lien title will be made unless the owner or lienholder within
36 forty-five days makes satisfactory arrangements with the person holding the
37 chattel for payment of storage or service towing charges, if any, or makes
38 satisfactory arrangements with the lienholder for paying such charges or for
39 continued storage of the chattel if desired. Forty-five days after the notification
40 has been mailed and the chattel is unredeemed and no satisfactory arrangement
41 has been made with the lienholder for payment or continued storage, the
42 lienholder may apply to the director of revenue for a certificate of ownership or
43 certificate of title as provided in this section.

44 4. The application shall be accompanied by:

45 (1) The original or a conformed or photostatic copy of the written request
46 of the owner or the owner's agent or of a peace officer with the maximum amount
47 to be charged stated therein;

48 (2) An affidavit of the lienholder that the owner has defaulted on payment
49 of labor, services, skill or material and that payment is three months past due,
50 or that owner has defaulted on payment or has failed to make satisfactory
51 arrangements for continued storage of the chattel for forty-five days since
52 notification of intent to make application for a certificate of ownership or
53 certificate of title;

54 (3) A statement of the actual value of the expenditure of labor, services,
55 skill or material, or the amount of storage due on the date of application for a

56 certificate of ownership or certificate of title, and the amount which is unpaid;
57 and

58 (4) A fee of ten dollars.

59 5. [If the director is satisfied with the genuineness of the application and
60 supporting documents, the director shall notify by certified mail, postage prepaid,
61 the owner and any lienholders of record, other than the applicant, at their last
62 known address that application has been made for a lien title on the chattel.

63 6. Thirty days after notification of the owner and lienholders, if no
64 lienholder or the owner has redeemed the chattel or no satisfactory arrangement
65 has been made concerning payment or continuation of storage and the application
66 has not been withdrawn, and if no owner or lienholder has informed the director
67 that the owner or lienholder demands a hearing and enforcement of the lien as
68 provided in section 430.160] **Upon receipt of the application and**
69 **accompanying items under subsection 4 of this section**, the director shall
70 issue, in the same manner as a repossessed title is issued, a certificate of
71 ownership or certificate of title to the applicant which shall clearly be captioned
72 "Lien Title".

73 [7.] 6. Upon receipt of a lien title, the holder shall within ten days begin
74 proceedings to sell the chattel as prescribed in section 430.100.

75 [8.] 7. The provisions of section 430.110 shall apply to the disposition of
76 proceeds, and the lienholder shall also be entitled to any actual and necessary
77 expenses incurred in obtaining the lien title, including, but not limited to, court
78 costs and reasonable attorney's fees.

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