

SECOND REGULAR SESSION

SENATE BILL NO. 485

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

Pre-filed December 1, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4504S.011

AN ACT

To repeal sections 430.020 and 430.082, RSMo, and to enact in lieu thereof two new sections relating to statutory liens against personalty.

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

Section A. Sections 430.020 and 430.082, RSMo, are repealed and two
2 new sections enacted in lieu thereof, to be known as sections 430.020 and
3 430.082, to read as follows:

430.020. Every person who shall keep or store any vehicle, part or
2 equipment thereof, shall, for the amount due therefor, have a lien; and every
3 person who furnishes labor or material on any vehicle or aircraft, or part or
4 equipment thereof, who shall obtain a written memorandum of the work or
5 material furnished, or to be furnished, signed by the owner, **authorized agent**
6 **of the owner, or person in lawful possession** of the vehicle or aircraft, or
7 part or equipment thereof, shall have a lien for the amount of such work or
8 material as is ordered or stated in such written memorandum. Such liens shall
9 be on the vehicle or aircraft, or part or equipment thereof, as shall be kept or
10 stored, or be placed in the possession of the person furnishing the labor or
11 material; provided, however, the person furnishing the labor or material may
12 retain the lien after surrendering possession of the aircraft or part or equipment
13 thereof by filing a statement in the office of the county recorder of the county
14 where the owner of the aircraft or part or equipment thereof resides, if known to
15 the claimant, and in the office of the county recorder of the county where the
16 labor or material was furnished. Such statement shall be filed within [thirty]
17 **one hundred eighty** days after surrendering possession of the aircraft or part
18 or equipment thereof and shall state the claimant's name and address, the items

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

19 on account, the name of the owner and a description of the property, and shall not
20 bind a bona fide purchaser unless said lien has also been filed with the Federal
21 Aviation Administration Aircraft Registry.

430.082. 1. Every person expending labor, services, skill or material upon
2 any motor vehicle or trailer, as defined in chapter 301, vessel, as defined in
3 chapter 306, outboard motor [or], aircraft, **or parts thereof** at a written request
4 of its owner, authorized agent of the owner, or person in lawful possession
5 thereof, or who provides storage for a motor vehicle, trailer, outboard motor or
6 vessel, at the written request of its owner, authorized agent of the owner, or
7 person in lawful possession thereof, or at the written request of a peace officer in
8 lieu of the owner or owner's agent, where such owner or agent is not available to
9 request storage thereof, shall, where the maximum amount to be charged for
10 labor, services, skill or material has been stated as part of the written request or
11 the daily charge for storage has been stated as part of the written request, have
12 a lien upon the chattel beginning upon the date of commencement of the
13 expenditure of labor, services, skill, materials or storage for the actual value of
14 all the expenditure of labor, services, skill, materials or storage until the
15 possession of that chattel is voluntarily relinquished to the owner, authorized
16 agent, or one entitled to possession thereof. The person furnishing labor,
17 services, skill or material may retain the lien after surrendering possession of the
18 aircraft or part or equipment thereof by filing a statement in the office of the
19 county recorder of the county where the owner of the aircraft or part or
20 equipment thereof resides, if known to the claimant, and in the office of the
21 county recorder of the county where the claimant performed the services. Such
22 statement shall be filed within [thirty] **one hundred eighty** days after
23 surrendering possession of the aircraft or part or equipment thereof and shall
24 state the claimant's name and address, the items on account, the name of the
25 owner and a description of the property, and shall not bind a bona fide purchaser
26 unless the lien has also been filed with the Federal Aviation Administration
27 Aircraft Registry.

28 2. If the chattel is not redeemed within forty-five days of the completion
29 of the requested labor, services, skill or material, the lienholder may apply to the
30 director of revenue for a certificate of ownership or certificate of title.

31 3. If the charges are for storage or the service of towing the motor vehicle,
32 trailer, outboard motor or vessel, and the chattel has not been redeemed within
33 forty-five days after the charges for storage commenced, the lienholder shall

34 notify by certified mail, postage prepaid, the owner and any lienholders of record
35 other than the person making the notification, at the person's last known address
36 that application for a lien title will be made unless the owner or lienholder within
37 thirty days makes satisfactory arrangements with the person holding the chattel
38 for payment of storage or service towing charges, if any, or makes satisfactory
39 arrangements with the lienholder for paying such charges or for continued
40 storage of the chattel if desired. Thirty days after the notification has been
41 mailed and the chattel is unredeemed, or the notice has been returned marked
42 "not forwardable" or "addressee unknown", and no satisfactory arrangement has
43 been made with the lienholder for payment or continued storage, the lienholder
44 may apply to the director of revenue for a certificate of ownership or certificate
45 of title as provided in this section.

46 4. The application shall be accompanied by:

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

50 (2) An affidavit from the lienholder that written notice was provided to
51 all owners and lienholders of the applicants' intent to apply for a certificate of
52 ownership and the owner has defaulted on payment of labor, services, skill or
53 material and that payment is forty-five days past due, or that owner has
54 defaulted on payment or has failed to make satisfactory arrangements for
55 continued storage of the chattel for thirty days since notification of intent to make
56 application for a certificate of ownership or certificate of title. The affidavit shall
57 be accompanied by a copy of the thirty-day notice given by certified mail to any
58 owner and person holding a valid security interest and a copy of the certified mail
59 receipt indicating that the owner and lienholder of record was sent a notice as
60 required in this section;

61 (3) A statement of the actual value of the expenditure of labor, services,
62 skill or material, or the amount of storage due on the date of application for a
63 certificate of ownership or certificate of title, and the amount which is unpaid;
64 and

65 (4) A fee of ten dollars.

66 5. If the director is satisfied with the genuineness of the application, proof
67 of lienholder notification in the form of a certified mail receipt, and supporting
68 documents, and if no lienholder or the owner has redeemed the chattel or no
69 satisfactory arrangement has been made concerning payment or continuation of

70 storage, and if no owner or lienholder has informed the director that the owner
71 or lienholder demands a hearing as provided in this section, the director shall
72 issue, in the same manner as a repossessed title is issued, a certificate of
73 ownership or certificate of title to the applicant which shall clearly be captioned
74 "Lien Title".

75 6. Upon receipt of a lien title, the holder shall within ten days begin
76 proceedings to sell the chattel as prescribed in section 430.100.

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

✓

Bill

Copy