

990410304

HOUSE BILL NO. 1902

Offered January 15, 1999

A BILL to amend and reenact §§ 43-32 and 43-33 of the Code of Virginia, relating to bailees' liens and mechanics' liens.

Patron—Joannou

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That §§ 43-32 and 43-33 of the Code of Virginia are amended and reenacted as follows:**

§ 43-32. Lien of keeper of livery stable, garage, marina, etc.

A. Every keeper of a livery stable, hangar, tie-down, marina, or garage, and every person pasturing or keeping any horses or other animals, vehicles, boats, aircraft, or harness, shall have a lien upon such horses and other animals, vehicles, boats, aircraft, and harness, for the amount which may be due him for the keeping, supporting, and care thereof, until such amount is paid.

B. In the case of any boat, aircraft, or vehicle subject to a chattel mortgage, security agreement, deed of trust, or other instrument securing money, the keeper of the marina, hangar, tie-down, or garage shall have a lien thereon for his reasonable charges for storage under this section not to exceed \$300 450 and for alteration and repair under § 43-33 not to exceed \$500 750. However, in the case of a storage lien, to obtain the priority for an amount in excess of \$150, the person asserting the lien shall give written notice by certified mail, return receipt requested, to any secured party of record at the Department of Motor Vehicles or the Department of Game and Inland Fisheries. If the secured party does not, within seven days of receipt of the notice, take or refuse redelivery to it or its designee, the lienor shall be entitled to priority for the full \$300 450. Notwithstanding a redelivery, the vehicle or watercraft shall be subject to subsection C D.

B-1C. In addition, any person furnishing services involving the towing and recovery of a boat, aircraft or vehicle, shall have a lien for all normal costs incident thereto, if the person asserting the lien gives written notice within seven days of receipt of the boat, aircraft or vehicle by certified mail, return receipt requested, to all secured parties of record at the Department of Motor Vehicles or the Department of Game and Inland Fisheries.

C D. In addition, any keeper shall be entitled to a lien against any proceeds remaining after the satisfaction of all prior security interests or liens, and may retain possession of such property until such charges are paid.

D E. Any lien created under this section shall not extend to any personal property which is not attached to or considered to be necessary for the proper operation of any motor vehicle, and it shall be the duty of any keeper of such personal property to promptly return it to the owner.

E F. For the purposes of this section, in the case of a truck or combination of vehicles, the owner or in the case of a rented or leased vehicle, the lessee of the truck or tractor truck shall be liable for the costs of the towing, recovery, and storage of the cargo and of any trailer or semitrailer in the combination. Nothing in this subsection, however, shall bar the owner of the truck or tractor truck from subsequently seeking to recover from the owner of any trailer, semitrailer, or cargo all or any portion of these towing, recovery, and storage costs.

§ 43-33. Lien of mechanic for repairs.

Every mechanic, who shall alter or repair any article of personal property at the request of the owner of such property, shall have a lien thereon for his just and reasonable charges therefor and may retain possession of such property until such charges are paid.

And every mechanic, who shall make necessary alterations or repairs on any article of personal property which from its character requires the making of ordinary repairs thereto as a reasonable incident to its reasonable and customary use, at the request of any person legally in possession thereof under a reservation of title contract, chattel mortgage, deed of trust, or other instrument securing money, the person so in possession having authority to use such property, shall have a lien thereon for his just and reasonable charges therefor to the extent of \$500 750. In addition, such mechanic shall be entitled to a lien against the proceeds, if any, remaining after the satisfaction of all prior security interests or liens, and may retain possession of such property until such charges are paid. In any action to enforce the lien hereby given all persons having an interest in the property sought to be subjected shall be made parties defendant.

If the owner of the property held by the mechanic shall desire to obtain possession thereof, he shall make the mechanic defendant in proceeding in the county or municipal court to recover the property.

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60 The owner may give a bond payable to the court, in a penalty of the amount equal to the lien
61 claimed by the mechanic and court costs, with security to be approved by the clerk, and conditioned for
62 the performance of the final judgment of the court on the trial of the proceeding, and with a further
63 condition to the effect that, if upon the hearing, the judgment of the court be that the lien of the
64 mechanic on such property, or any part thereof, be enforced, judgment may thereupon be entered against
65 the obligors on such bond for the amount due the mechanic and court costs, if assessed against the
66 owner, without further or other proceedings against them thereon. Upon giving of the bond, the property
67 shall be delivered to the owner.