

GENERAL ASSEMBLY OF NORTH CAROLINA
1991 SESSION

CHAPTER 344
SENATE BILL 690

AN ACT TO PROVIDE FOR THE ENFORCEMENT OF A LIEN ON A MOTOR VEHICLE, MOTORBOAT, WATERCRAFT OF ANY KIND, OR BOAT TRAILER IN CONNECTION WITH REPAIRS, WHEN THE LIENOR DOES NOT HAVE POSSESSION OF THE MOTOR VEHICLE, BOAT, WATERCRAFT OF ANY KIND, OR BOAT TRAILER.

The General Assembly of North Carolina enacts:

Section 1. The catch line of G.S. 44A-4 reads as rewritten:

"§ 44A-4. **Enforcement of ~~lien~~-lien by sale.**"

Sec. 2. Article 1 of Chapter 44A of the General Statutes is amended by adding a new section to read:

"§ 44A-6.1. **Action to regain possession of a motor vehicle, motorboat, watercraft of any kind, or boat trailer.**

(a) When the lienor involuntarily relinquishes possession of the property and the property upon which the lien is claimed is a motor vehicle, the lienor may institute an action to regain possession of the motor vehicle, motorboat, watercraft of any kind, or boat trailer in small claims court any time following the lienor's involuntary loss of possession and following maturity of the obligation to pay charges. For purposes of this section, involuntary relinquishment of possession includes only those situations where the owner or other party takes possession of the motor vehicle, motorboat, watercraft of any kind, or boat trailer without the lienor's permission or without judicial process. If in such action the owner or other party retains possession of the motor vehicle, motorboat, watercraft of any kind, or boat trailer, he shall pay the amount of the lien asserted as bond into the clerk of the court in which such action is pending.

If within three days after service of the summons and complaint, as the number of days is computed in G.S. 1A-1, Rule 6, the defendant does not file a contrary statement of the amount of the lien at the time of the filing of the complaint, the amount set forth in the complaint shall be deemed to be the amount of the asserted lien. The clerk may at any time disburse to the lienor that portion of the cash bond which is not in dispute, upon application of the lienor. The magistrate shall:

- (1) Direct appropriate disbursement of the disputed or undisbursed portion of the bond; and
- (2) Direct appropriate possession of the motor vehicle if, in the judgment of the court, the plaintiff has a valid right to a lien.

(b) Either party to an action pursuant to subsection (a) of this section may appeal to district court for a trial **de novo**."

Sec. 3. G.S. 44A-3 reads as rewritten:

"§ 44A-3. When lien arises and terminates.

(a) Liens conferred under this Article arise only when the lienor acquires possession of the property and terminate and become unenforceable when the lienor voluntarily relinquishes the possession of the property upon which a lien might be claimed, or when an owner, his agent, a legal possessor, or any other person having a security or other interest in the property tenders prior to sale the amount secured by the lien plus reasonable storage, boarding and other expenses incurred by the lienor. The reacquisition of possession of property voluntarily relinquished shall not reinstate the lien.

(b) Notwithstanding the provisions of subsection (a) of this section, liens conferred under G.S. 44A-2(d) shall not terminate when the lienor involuntarily relinquishes the possession of the motor vehicle, motorboat, watercraft of any kind, or boat trailer."

Sec. 4. This act becomes effective October 1, 1991.

In the General Assembly read three times and ratified this the 20th day of June, 1991.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives