

ASSEMBLY, No. 243

STATE OF NEW JERSEY

INTRODUCED FEBRUARY 19, 1934

By Mr. WAUGH

Referred to Committee on Ways and Means

AN ACT to provide for the better protection of hangar operators, airport operators and aircraft mechanics.

1 BE IT ENACTED *by the Senate and General Assembly of the State of New*
2 *Jersey:*

1 1. For the purposes of this act the following words and terms shall be
2 deemed to have the meaning herein given to them:

3 (a) The word aircraft in this act means any contrivance now known or
4 hereafter invented, used or designed for navigation or flight in the air ex-
5 cept a parachute or other contrivance designed for such navigation, but used
6 primarily as safety equipment.

7 (b) The term "hangar operator" as used in this act means any person
8 or corporation operating a hangar according to regulations of the United
9 States Department of Commerce and the laws of the State of New Jersey,
10 now in effect or hereafter to be enacted.

11 (c) The term "airport operator" as used in this act means any per-
12 son or corporation operating an airport according to regulations of the
13 United States Department of Commerce and of the laws of the State of
14 New Jersey.

15 (d) The term "aircraft mechanic" as used in this act means any per-
16 son or corporation licensed to repair or maintain aircraft according to the
17 provisions of the regulations of the United States Department of Commerce
18 and the laws of the State of New Jersey.

1 2. Any person or corporation licensed to engage in the business of oper-
2 ating a hangar or place for the storage, maintenance, keeping or repairing of
3 aircraft and in connection therewith stores, maintains, keeps or repairs any
4 aircraft or furnishes gasoline, accessories, materials or other supplies there-
5 for at the request or with the consent of the owner or his representative,
6 agent or lessee, whether such owner be a conditional vendee or a mortgagor
7 remaining in possession or otherwise, has a lien upon such aircraft or any
8 part thereof for the sum due for such storing, maintaining, keeping or re-
9 pairing of such aircraft or for furnishing gasoline, accessories, materials or
10 other supplies therefor, and may without process of law detain such aircraft
11 at any time it is lawfully in his or its possession until such sum is paid. The
12 lien provided for in this section shall be superior to all other liens, except
13 liens of State, county and city for taxes, and the operator of such aircraft
14 shall be deemed the agent of any owner, mortgagee, conditional vendor or
15 other lienor thereof for the creation of such superior lien.

1 3. Any person or corporation acquiring a lien under the provision of this
2 act shall not lose such lien by reason of allowing the aircraft, or part or
3 parts of the aircraft, to be removed from the control of the person or corpora-
4 tion having such a lien, and in case any aircraft, or part or parts, are so re-
5 moved the person or corporation having the said lien may, without further
6 process of law, but after demand of payment of claim either personally or
7 by registered mail if owner's address is known, seize the aircraft, or part
8 or parts thereof, whenever the same is or are found within the State of
9 New Jersey; *provided, however,* that such seizure can be made without the
10 use of force and in a peaceable manner. A charge of ten dollars (\$10.00) as
11 costs for such seizure shall be paid by the owner of the aircraft or parts
12 thereof. The owner or the person entitled to the immediate possession of the
13 aircraft, or part or parts thereof, so detained as in this act provided, on
14-15 learning that said aircraft or parts are being so detained may immediately
16 demand from the operator of the hangar or place where said aircraft is be-
17 ing detained, or the person in charge thereof, a statement showing the true
18 amount claimed to be due and owing for the storing, maintaining, keeping

19 or repairing of such aircraft, or for furnishing gasoline, fuel, accessories,
20 materials or other supplies therefor, and if upon receiving such statement
21 he considers the amount thereof excessive he may offer what he considers
22 to be reasonably due and demand possession of said aircraft or parts there-
23 of so detained. Should possession of said aircraft or parts thereof be re-
24 fused him he may obtain possession thereof by depositing the amount claimed
25 by said statement with the clerk of any court of competent jurisdiction in the
26 county where the aircraft or parts may be situated, together with the sum of
27 ten dollars (\$10.00) to cover the costs of court in actions commenced in dis-
28 trict or small cause courts, and fifty dollars (\$50.00) in all other courts.
29 Whereupon, a writ of replevin shall immediately issue out of and under the
30 seal of said court commanding the sheriff, or any constable or sergeant-at-
31 arms, to take the possession of said aircraft or parts thereof and deliver the
32 same, without delay, to the owner or his legal representative claiming the
33 same. In lieu of depositing the amount claimed, in cash, a bond in double
34 the amount claimed, and double the amount required to be deposited as costs
35 as hereinbefore provided, with at least one sufficient surety, and approved in
36 the manner similar bonds are now approved in the court from which the writ
37 of replevin is to issue, may be filed with the clerk of said court. The said
38 bond shall be written in favor of the sheriff, constable or sergeant-at-arms,
39 to whom the writ is directed. The owner or keeper of the hangar or place of
40 storage or repair shall within thirty days after the issue of the writ of replevin
41 as aforesaid, file his state of demand or complaint with the said clerk, show-
42 ing the amount claimed by him. The court shall thereupon, at the request
43 of either party, fix a date for the trial of said claim and give judgment ac-
44 cording to the facts. The judgment, if any, is to be satisfied out of deposit
45 made, or action may be brought on bond filed. If no action is brought by
46 said operator of the hangar or place of storage, repair or supplies within
47 thirty days, as aforesaid, or judgment should go for the defendant, the
48 court may order the return of the money or the discharge of the bond and
49 may also fix and determine the amount of damages suffered by said owner
50 of the aircraft or parts thereof for the seizure and detention of said aircraft

51 or parts and render a judgment for such amount against the said owner
52 or keeper of the hangar or place of storage, repair and supplies. If a judg-
53 ment is obtained and satisfied, the balance of the cash deposit, if any, shall
54 be ordered returned to the depositor. The filing of bond or depositing of
55 cash as aforesaid by the owner of aircraft or parts thereof shall be con-
56 sidered as the entry of a written appearance on his part in the action which
57 the operator of the hangar or place of storage, repair or supplies may bring
58 within thirty days and not later, as aforesaid.

1 4. If no proceedings are taken for the repossession of the aircraft or the
2 parts thereof by the owner or his legal representative as provided for in
3 section two hereof, then all such property so held by any operator of a
4 hangar or place of storage, repair or supplies for aircraft or aircraft
5 mechanic may, after the expiration of thirty days from the date of such
6 detention, be sold at public auction, upon notice of said sale being first
7 published for the space of two weeks, at least once in each week, in some
8 newspaper circulating in the city, borough, town, township or other munici-
9 pality, in which said aircraft mechanic, hangar or place of storage, repair or
10 supplies for aircraft is situated, also after five days notice of said sale set
11 up in five of the most public places in said city or township, and the pro-
12 ceeds of said sale shall be applied to the payment of such lien and the
13 expenses of seizure, if any, and of such sale; and the balance if any remain-
14 ing, shall be paid to the owner of such property or his representatives; and if
15 the said balance is not claimed by said owner within sixty days after said
16 sale, then the balance to be paid over to the overseer of the poor of the said
17 city or township for the support of the poor.

1 5. The provisions of this act shall be severable and if any of its provi-
2 sions shall be held to be unconstitutional or the applications thereof to any
3 person or circumstance invalid, the decision of the court respecting such
4 provision shall not affect the constitutionality or validity of any other provi-
5 sions which can be given effect without such unconstitutional or invalid
6 provisions. It is hereby declared as the legislative intent that this act would

7 have been adopted by the Senate and General Assembly had such unconstitu-
8 tional or invalid provisions not been included herein.

1 6. All acts or parts of acts inconsistent with the provisions of this act
2 are hereby repealed. This act shall take effect immediately.

STATEMENT

The purpose of this act is to provide protection for the aviation industry in New Jersey and to assist aircraft mechanics and persons and corporations engaged in the business of storing, repairing or furnishing materials, fuel and other supplies to aircraft, in receiving payment for space, services and supplies furnished, by giving them a lien on the aircraft benefited and providing for a means of receiving payment out of the proceeds of a sale of such aircraft after thirty days within which the owner or his agent may pay the amount due or take legal steps to repossess the aircraft on which the lien is allowed.

The priority of this lien over others, except State, county or city liens is necessary due to the fact that aircraft is easily and readily taken out of the jurisdiction of the State and in view of the fact that in the frequent cases where aircraft are put up for repair such aircraft has but a nominal value and the repairmen after rendering their services and furnishing materials are responsible for substantial value attaching to the aircraft. It is inequitable to permit a conditional vendor or mortgagor to benefit by this enhancement of value at the expense of those whose labor and supplies provide the enhancement of value.