

**38-13-204 Selling the aircraft.**

- (1) A repairman may sell an aircraft subject to a lien under this chapter if:
  - (a) the repairman receives a judgment in the foreclosure action filed under Section 38-13-202;
  - (b) the repairman gives notice to:
    - (i) the owner of the aircraft;
    - (ii) the customer as indicated on the work order for the making, altering, repairing, or performing of labor; and
    - (iii) all other persons claiming an interest in or lien on the aircraft:
      - (A) as disclosed by the records of the Federal Aviation Administration or of corresponding agencies of any state in which the aircraft appears registered; and
      - (B) that is known by the repairman;
  - (c) the notice required by Subsection (1)(b) is sent by certified mail at least 30 days before the proposed or scheduled date of any sale; and
  - (d) the notice required by Subsection (1)(b) contains:
    - (i) a description of the aircraft and its location;
    - (ii) the name and address of each person described in Subsection (1)(b);
    - (iii) the name, address, and telephone number of the repairman;
    - (iv) notice:
      - (A) that the repairman has a foreclosure judgment against the aircraft for the amount stated in the judgment;
      - (B) of the cash sum which, if paid to the repairman would be sufficient to redeem the aircraft from the lien claimed by the repairman;
      - (C) that the lien claimed by the repairman is subject to enforcement under this chapter; and
      - (D) that the aircraft may be sold to satisfy the lien;
    - (v) the date, time, and location of any proposed or scheduled sale of the aircraft;
    - (vi) notice as to whether the sale is private or public; and
    - (vii) notice that the owner of the aircraft or other person entitled to possession of the aircraft has a right to recover possession of the aircraft without instituting judicial proceedings by posting a bond in accordance with Section 38-13-206.
- (2)
  - (a) The repairman shall at least 20 days before the proposed or scheduled date of sale of the aircraft publish the notice required by this section if:
    - (i) the owner of the aircraft is unknown;
    - (ii) the whereabouts of the owner of the aircraft cannot be determined; or
    - (iii) the owner of the aircraft or any person notified under Subsection (1)(b) fails to acknowledge receipt of the notice.
  - (b) The notice described in Subsection (2)(a) shall be:
    - (i) published once at least 20 days before the proposed or scheduled date of sale of the aircraft in a newspaper circulated in the county where the aircraft is held; and
    - (ii) published, in accordance with Section 45-1-101, at least 20 days before the proposed or scheduled date of sale of the aircraft.
- (3)
  - (a) An aircraft subject to lien enforcement under this chapter may be sold by the repairman at public or private sale.
  - (b) Notwithstanding Subsection (3)(a), in the case of a private sale, every aspect of the sale, including the method, manner, time, place, and terms shall be commercially reasonable.
- (4) This section may not be construed to affect an owner's right to redeem the owner's aircraft from the lien at any time prior to sale by paying the amount claimed by the repairman for:

- (a) work performed;
  - (b) materials;
  - (c) interest;
  - (d) storage fees charged; and
  - (e) any costs incurred by the repairman for using enforcement procedures under this chapter, including attorney fees.
- (5) The proceeds of a sale under this section shall be distributed as follows:
- (a) amounts owed persons having a security interest or lien on the aircraft shall be paid in the order that they have priority in accordance with Section 38-13-205; and
  - (b) the amount remaining after the amount described in Subsection (5)(a) is paid shall be paid to the owner of the aircraft before the sale of the aircraft under this section.
- (6) An aircraft against which a lien is filed may not be sold earlier than the later of:
- (a) 45 days after the last day on which the repairman makes, alters, repairs, or performs labor on the aircraft; or
  - (b) 30 days from the date on which the repairman sends notice of the lien in accordance with Section 38-12-102.

Amended by Chapter 388, 2009 General Session