

ACT 25

H.B. NO. 1885

A Bill for an Act Relating to Aeronautics.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Chapter 261, Hawaii Revised Statutes, is amended by adding new sections to be appropriately designated and to read:

“§261- Custody and disposal of abandoned aircraft. (a) Any aircraft:

- (1) Which has been left unattended for a continuous period of more than thirty days, and
- (2) Which is located upon an airport, as defined in section 261-1(3), under the jurisdiction or control of the State,

may be deemed abandoned and taken into custody and disposed of by the director of transportation pursuant to this chapter.

(b) Upon taking custody of any such aircraft a written notice shall immediately be posted on the aircraft and a duplicate original thereof shall be sent by certified mail, with a return receipt, to the registered owner of the aircraft at the last address shown on the records of the Federal Aviation Administration or to such other address known to the department of transportation which is more current; to all lien holders who have filed a financing statement indexed in the name of the registered owner in the state bureau of conveyances or who are shown on the records of the Federal Aviation Administration; and to any other person known to have any

interest in the aircraft whose address is known to the department of transportation. The notice shall contain a brief description of the aircraft, the location of custody, and the intended disposition of the aircraft if not repossessed within twenty days after the mailing of the notice. A notice need not be sent to any purported owner or any other person whose interest in the aircraft is not recorded with the Federal Aviation Administration or not known to the department of transportation.

(c) The department may assess and recover as against the owner of the aircraft, all airport use charges, landing fees, holding room use charges, towing, handling, aircraft storage charges, appraisal, advertising and other reasonable expenses incurred by the department in connection with the aircraft.

(d) If the aircraft is not repossessed within twenty days after the mailing of the notice, the aircraft shall be disposed of by public auction, through oral tenders, or by sealed bids, after public advertisement has been made once in a newspaper of general circulation; provided that the public auction shall not be held less than five days after the publication of the advertisement. Where no bid is received, the aircraft may be sold by negotiation, disposed of as junk or donated to any governmental agency.

(e) Any person having an interest in the aircraft may take possession of the aircraft prior to the date of public auction upon payment to the department of transportation of all airport use charges, landing fees, holding room use charges, towing, handling, aircraft storage charges, appraisal, advertising and other expenses chargeable to the aircraft or incurred by the department in connection with the aircraft. If the person taking possession of the aircraft is not the registered owner, that person shall, prior to taking possession of the aircraft, pay the foregoing fees, charges and expenses and post adequate security which shall not exceed the value of the aircraft. The security, if not forfeited, shall be returned two years after receipt.

(f) Public auction shall not be required when the appraised value of any aircraft, as determined by an independent appraiser who has had at least one year of experience in the sale or purchase of aircraft, is less than \$100. Upon that determination and after public advertisement has been made once in a newspaper of general circulation, the director of transportation may sell the aircraft by negotiation, dispose of it as junk or donate the aircraft to any governmental agency.

(g) The transfer hereunder shall be evidenced by a bill of sale from the department of transportation, shall be considered a transfer by operation of law and shall be governed by provisions applicable thereto.

§261- Disposition of proceeds of sale. The department of transportation shall deposit into the airport revenue fund, that portion of the proceeds of the sale of an aircraft as shall represent the storage and other airport fees and charges due the department, the expenses of the auction, and any other expense incurred by the department in taking into custody and disposing of an aircraft. The balance, if any, shall be deposited into the general fund of the State. The owner may recover any such balance of the proceeds from the State only if he files a claim therefor with the department of budget and finance within five years after the execution of the bill of sale. A lien holder shall receive priority of payment from the balance of the proceeds to the extent of his lien on the aircraft. If the proceed of the sale are insufficient to cover the storage and other airport fees and charges, the expenses of the auction and other expenses of the department in taking into custody and disposing of the aircraft, the department of transportation may, within five years, bring an action for the

deficiency in a court of appropriate jurisdiction against the person who was the owner of the aircraft at the time custody was taken by the department.

§261- Custody and disposal of derelict aircraft. (a) An aircraft which has been left unattended for a continuous period of more than twenty-four hours is a derelict, if:

- (1) The aircraft is obstructing a taxiway, runway or ramp parking area, or is endangering life or property; or
- (2) The aircraft has been parked or otherwise left at a State airport or on public property contrary to law or rules having the force and effect of law, or the aircraft has been left on private property without authorization of the owner or occupant of the property and if:
 - (A) The aircraft's certificate of registration or aviation document is no longer effective and the registered owner no longer resides at the address listed in the aircraft registration document records of the Federal Aviation Administration; or
 - (B) The last registered owner disclaims ownership and the current owner's name or address cannot be determined; or
 - (C) The aircraft identification numbers and other means of identification have been removed so as to nullify efforts to locate or identify the owner; or
 - (D) The aircraft registration records of the Federal Aviation Administration contain no record that the aircraft has ever been registered and the owner's name or address cannot be determined.

(b) The director of transportation may cause a derelict aircraft to be immediately taken into custody. Upon taking custody of a derelict aircraft the director shall concurrently:

- (1) Publish a notice of intended disposition, once, in a newspaper of general circulation in the State;
- (2) When possible, post a notice of intended disposition on the aircraft; and
- (3) Serve a duplicate original of the notice of intended disposition by certified mail, return receipt requested:
 - (A) On the registered owner of the aircraft at the last address shown on records in the Federal Aviation Administration,
 - (B) On all lien holders who have filed a financing statement indexed in the name of the registered owner in the bureau of conveyances or who are shown in the records of the Federal Aviation Administration, and
 - (C) On any other person known to have an interest in the aircraft whose address is known to the department of transportation. If the aircraft is not repossessed within twenty days after the publication and mailing of the notice, whichever occurs later, the aircraft may be disposed of by negotiated sale, except that, when two or more purchasers indicate an interest in purchasing the aircraft, the aircraft will be sold at public auction to the highest bidder. If no purchaser expresses a desire to purchase the aircraft, the aircraft may be destroyed or disposed of by any other method authorized for abandoned aircraft.

§261- Aircraft or property taken into legal custody; unauthorized control. No person shall exercise control over an aircraft or other property that is under legal custody, seizure, or detention by the department of transportation.

§261- Disposal of aircraft by persons in aircraft repair business. (a) When any person abandons an aircraft upon the premises of an aircraft repair business, the owner of the business or the authorized representative of the owner may sell or dispose of the aircraft in accordance with this section.

(b) An aircraft shall be deemed to be abandoned upon satisfaction of all the following conditions:

- (1) The service requested or required by a person whose aircraft is towed or brought to an aircraft repair business, such as towing and rendering estimates of the cost of repairs, has been performed; and
- (2) No authorization is given to perform any further service respecting the aircraft but the aircraft is left on the repair business premises; and
- (3) The owner of the repair business or his authorized representative has given notice by registered or certified mail:
 - (A) To the registered owner of the aircraft at the address on record at the aircraft repair business and the address on record in the Federal Aviation Administration, and
 - (B) To any person with a recorded interest in the aircraft, stating that if the aircraft is not repossessed within thirty days after the mailing of the notice, it will be sold or disposed of. The notice also shall contain a description of the aircraft and its location. The notice need not be sent to any purported owner or any person with an unrecorded interest in the aircraft whose name or address is not known and cannot be determined; and
- (4) The aircraft is not repossessed within the thirty-day period specified in paragraph (3).

(c) When an aircraft is abandoned, the owner of the aircraft repair business, or the authorized representative of the owner of the repair business, after one public advertisement in a newspaper of general circulation in the State, may negotiate the sale of the aircraft or dispose of it; provided that the aircraft shall not be sold or disposed of less than five days after the publication of the advertisement.

(d) The authorized seller of the aircraft shall be entitled to the proceeds of the sale to the extent that compensation is due him for services rendered in respect of the aircraft, including reasonable and customary charges for towing, handling, storage, and the cost of the notices and advertising required by this section. A lien holder shall receive priority of payment from the balance to the extent of his lien. Any remaining balance shall be forwarded to the registered owner of the aircraft, if he can be found. If he cannot be found, the balance shall be deposited with the director of finance of the State and shall be paid out to the registered owner of the aircraft, if a proper claim is filed therefor within one year from the execution of the sale agreement. If no claim is made within the year allowed, the money shall become a state realization.

(e) The transfer of title and interest by sale under this section is a transfer by operation of law and a bill of sale executed by the authorized seller shall be sufficient to authorize the transfer of title or interest.

§261- Trespass to aircraft; penalty. Whoever without right, boards or remains in or upon any aircraft of another within a state airport shall be fined not more than \$250, or imprisoned not more than three months, or both.

§261- Questioning and detaining suspected persons aboard an aircraft. A police officer may detain any person found upon an aircraft, under circumstances as reasonably justify a suspicion that the person boarded without permission, for the purpose of demanding, and may demand the name and address of the person and the nature of the person's business upon the aircraft. If the police officer has reason to believe that the person has no right to be upon the aircraft, the police officer may arrest the person without a warrant on the charge of violating section - .”

SECTION 2. Section 261-1, Hawaii Revised Statutes, is amended by adding a new definition to read:

“(13) “Police officer” means a police officer and any other state or county officer charged with the enforcement of state laws.”

SECTION 3. New material is underscored.*

SECTION 4. This Act shall take effect upon its approval.

(Approved April 16, 1981.)

*The text has been edited pursuant to HRS §23G-16.5, authorizing omission of the brackets, bracketed material, and underscoring.