**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3138**

**STATUS INFORMATION**

General Bill

Sponsors: Rep. Bustos

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Introduced in the House on January 10, 2023

Introduced in the Senate on April 6, 2023

Last Amended on April 5, 2023

Currently residing in the House

Summary: Disposal of Abandoned and Derelict Aircraft

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/8/2022 House Prefiled

12/8/2022 House Referred to Committee on **Medical, Military, Public and Municipal Affairs**

1/10/2023 House Introduced and read first time ([House Journal‑page 74](h:\hj\20230110.docx))

1/10/2023 House Referred to Committee on **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 74](h:\hj\20230110.docx))

3/29/2023 House Committee report: Favorable with amendment **Medical, Military, Public and Municipal Affairs** ([House Journal‑page 56](h:\hj\20230329.docx))

4/3/2023 Scrivener's error corrected

4/4/2023 House Debate adjourned ([House Journal‑page 38](h:\hj\20230404.docx))

4/5/2023 House Amended ([House Journal‑page 40](h:\hj\20230405.docx))

4/5/2023 House Read second time ([House Journal‑page 40](h:\hj\20230405.docx))

4/5/2023 House Roll call Yeas-110 Nays-0 ([House Journal‑page 44](h:\hj\20230405.docx))

4/6/2023 House Read third time and sent to Senate ([House Journal‑page 22](h:\hj\20230406.docx))

4/6/2023 Senate Introduced and read first time ([Senate Journal‑page 34](h:\sj\20230406.docx))

4/6/2023 Senate Referred to Committee on **Transportation** ([Senate Journal‑page 34](h:\sj\20230406.docx))

4/11/2023 Scrivener's error corrected

View the latest  [legislative information](https://www.scstatehouse.gov/billsearch.php?billnumbers=3138&session=125&summary=B)  at the website

**VERSIONS OF THIS BILL**

[12/08/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3138_20221208.docx)

[03/29/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3138_20230329.docx)

[04/03/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3138_20230403.docx)

[04/05/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3138_20230405.docx)

[04/11/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/3138_20230411.docx)

Amended

April 5, 2023

H. 3138

Introduced by Rep. Bustos

S. Printed 04/05/23--H. [SEC 4/11/2023 11:11 AM]

Read the first time January 10, 2023

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A bill

TO AMEND THE south carolina CODE OF LAWS BY ADDING CHAPTER 7 TO TITLE 55 SO AS TO PROVIDE FOR THE DISPOSAL OF ABANDONED OR DERELICT AIRCRAFT BY AN AIRPORT MANAGER.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Title 55 of the S.C. Code is amended by adding:

CHAPTER 7

Abandoned or Derelict Aircraft

Section 55‑7‑10. This chapter shall not apply to unmanned aircraft, ultralight aircraft, or restoration of an aircraft where progress is being made toward restoration, or an experimental aircraft in which progress is being made toward building or restoration. Notwithstanding another provision of law to the contrary, as used in this chapter:

(1) “Abandoned aircraft” means an aircraft located or stored on the premises of an airport in a wrecked, or partially dismantled condition for at least one hundred twenty days, and for which the owner or operator of the aircraft has not made during this period any required tie down, hangaring, or rent payments for the use of the premises. The term shall not include an aircraft being repaired by a person providing services under Section 29‑15‑100, or pursuant to a plan specified in Section 55-7-30.

(2) “Aircraft” means any contrivance used or designated for navigation of or flight in the air. The term shall not include unmanned aircraft or ultralight aircraft.

(3) “Derelict aircraft” means any aircraft that is located or stored on the premises of an airport for at least one hundred eighty days and, throughout this period the owner or operator has not maintained responsibility for the storage, upkeep, or maintenance of the aircraft.

(4) “Person” means a natural person, firm, partnership, association, corporation, limited liability company, or a political subdivision.

Section 55‑7‑20. If an airport manager of a publicly owned or public use airport determines an abandoned aircraft or a derelict aircraft is located on the premises of the airport, he or his designee may dispose of the aircraft in a manner provided in this chapter.

Section 55‑7‑30. (A) If an airport manager determines an abandoned aircraft or derelict aircraft is located on the premises of the airport and seeks to dispose of the aircraft, the airport manager or his designee must:

(1) contact the FAA to determine the name and address of the last registered owners and lienholders of the aircraft, and any other person that has a legal or equitable interest in the aircraft; and

(2) serve the aircraft owner, lienholders, and any other person having a legal or equitable interest in the aircraft a written notice to the most recent address of the owner that is provided by the FAA. The notice shall state the aircraft has been determined to be abandoned or derelict and is subject to:

(a) disposal and removal from the premises of the airport; and

(b) the recovery, by the owner or operator of the airport, of any accrued and unpaid fees or charges incurred with respect to the aircraft while located on the premises of the airport.

(B) The notice must include:

(1) a description of the aircraft by Federal Aviation Administration N‑Number, manufacturer name, model designation, and serial number;

(2) the facts supporting the determination that the aircraft is abandoned or derelict and is subject to disposal and removal from the premises of the airport;

(3) the amount of accrued and unpaid fees or charges incurred with respect to the aircraft while located on the premises of the airport for which a lien is being asserted;

(4) a statement that the owner may rebut the determination that the aircraft is abandoned or derelict if the owner produces reasonable documentation from a certified aviation professional such as an airframe and powerplant mechanic, repairman, repair station, or similarly licensed aviation maintenance professional to develop and submit a reasonable plan to actively repair the aircraft to both an airworthy and properly registered condition. The plan must be submitted to the airport manager within thirty days from receiving notice;

(5) a statement that upon receipt of the notice, if a reasonable plan is not submitted within thirty days, the aircraft owner, lienholder, and any other person having a legal or equitable interest in the aircraft has an additional thirty days to:

(a) remove the aircraft from the premises of the airport; and

(b) pay any accrued and unpaid fees or charges identified under this section;

(6) a statement that after thirty days, the airport’s owner or operator may:

(a) assert a lien for any accrued and unpaid fees or charges identified in this section within thirty days;

(b) remove and dispose of the aircraft from the premises of the airport if the aircraft is not removed within thirty days; and

(c) sell the aircraft at a public auction or bid on the aircraft if it is made available for disposal by means of a public auction;

(7) a statement that the airport’s owner or operator may scrap the aircraft if no bids are received for the aircraft during a public auction; and

(8) the hand signature of an authorized signatory for the owner or operator of the airport located immediately above the title of the signatory.

(C) No later than thirty days after the determination is made that the aircraft is abandoned or derelict, the notice must be posted directly onto the aircraft, and:

(1) delivered to the aircraft owner, lienholder, and any other person having a legal or equitable interest in the aircraft by:

(a) certified mail, return receipt requested, and by first‑class United States mail, postage prepaid;

(b) a nationally recognized overnight courier service; or

(c) personal delivery; and

(d) be filed with the FAA.

(D) If the registered owner, lienholder, or any other person having a legal or equitable interest in the aircraft cannot be found or served, notice by publication may be used in lieu of personal service, courier service, or certified mail.

(E) In the event that the owner of the aircraft, a lien holder, or any other person having a legal or equitable interest in the aircraft, or their representative demonstrates that a hardship exists, no sale or disposition shall be allowed until thirty days after the hardship has been concluded. The submission and implementation of a plan pursuant to this section shall stay the sale or disposition. Such hardship may include, but is not limited to, circumstances in which the ability to repair, restore, or certify the aircraft for flight is impaired through circumstances not solely of the owner’s making, such as the death of an owner, probate of the estate of the owner, delays in FAA approvals and certification affecting the owner’s ability to complete a plan submitted under Section 55-7-20, the ability of the owner or its representatives to repair, restore, or certify the aircraft is impaired as a result of military service or deployment, bankruptcy, divorce, the inability to obtain parts to complete a plan of repair, restoration, or certification, delays as a result of weather, natural disaster, or calamity, and other reasonable and justifiable cause. During such times of hardship, aircraft storage or hangar rental fees shall continue to accrue.

Section 55‑7‑40. (A) A petition for an order finding an aircraft is abandoned or derelict and authorizing the disposal of the aircraft by means of a public auction and removal of the aircraft from the premises of an airport, and the recovery of any accrued and unpaid fees or charges incurred with respect to the aircraft while located on the premises of the airport must be filed in the circuit court of the county where the aircraft is located.

(B) The petition must be filed no later than sixty days after the written notice is delivered in accordance with Section 55‑7‑30.

(C) The court, before selling the aircraft, shall establish ownership of the aircraft and ensure the owner or any lienholder of record has been notified of the pending sale. The court must advertise the aircraft for at least fifteen days by posting notice in three public places in the county and at least two recognized aviation related websites or publications where aircraft are commonly listed for sale. After the conclusion of a court-ordered sale or transfer of the aircraft under this section, the court, its designee, or other authorized person shall execute an FAA Bill of Sale (FAA form AR-94 or its successor) to the new owner signed along with its order transferring title to the aircraft.

(D) Any net proceeds resulting from the sale or disposal of an aircraft must be paid to:

(1) the owner of the aircraft and any other person having a legal or equitable interest in the aircraft, in proportion to each person’s legal or equitable interest in the aircraft; or

(2) if the owner of the aircraft or any other person having a legal or equitable interest in the aircraft cannot be found, to the State Aviation Fund.

(E) In an action brought under this chapter, in the discretion of the court, the prevailing party may recover reasonable attorney’s fees if good cause is demonstrated.

SECTION 2. This act takes effect upon approval by the Governor.

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