

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4564**

BY DELEGATES REED, QUEEN, RILEY, ROWAN, MALLOW,

BATES, AND HARDY

Introduced February 07, 2022; Referred to the

Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
 2 designated §8-29C-1, §8-29C-2, §8-29C-3, §8-29C-4, §8-29C-5, and §8-29C-6, all  
 3 relating to derelict or abandoned aircraft; definitions; discovery and notification of owner  
 4 or interested person; retention , trade, sale, or disposal of aircraft by airport authority; lien  
 5 on derelict or abandoned aircraft by airport authority; proceeds of sale of aircraft; and  
 6 person acquiring legal interest in aircraft.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 29C. DERELICT OR ABANDONED AIRCRAFT.**

**§8-29C-1. Definitions.**

1 As used in this article:

2 “Abandoned aircraft” means:

3 (1) An aircraft left in a wrecked, inoperative, or partially dismantled condition on a public-  
 4 use airport; and

5 (2) An aircraft that has remained in an idle state on a public-use airport for 45 consecutive  
 6 calendar days without a contractual agreement between the owner or operator of the aircraft and  
 7 the airport authority for use of the airport premises;

8 “Airport authority” means an authority created pursuant to §8-29A-1 of this code;

9 “Derelict aircraft” means any aircraft that is not in a flyable condition, does not have a  
 10 current certificate of air worthiness issued by the federal aviation administration, and is not in the  
 11 process of actively being repaired; and

12 “Public-use airport” is an airport owned or controlled by an airport authority.

**§8-29C-2. Discovery of derelict or abandoned aircraft at airport – notification of owner or other interested party.**

1 (a) If a derelict or abandoned aircraft is discovered on a public-use airport, whether the  
 2 public-use airport is under a lease or license to a third party, the airport authority shall:

3 (1) Make a record of the date the aircraft was discovered on the public-use airport; and

4           (2) Inquire as to the name and address of any person having an equitable or legal interest  
5 in the aircraft, including the owner and any lien holders, by:

6           (A) Contacting the federal aviation administration, aircraft registration branch, and making  
7 a diligent search of the appropriate records; or

8           (B) Contacting an aircraft title search company.

9           (b) Within 10 business days of receiving the information requested pursuant to subsection  
10 (a), the airport authority shall notify the owner and all other interested parties by certified mail,  
11 return receipt requested:

12           (1) Of the location of the derelict or abandoned aircraft on the public-use airport;

13           (2) That fees and charges for the use of the airport by the aircraft have accrued and the  
14 amount of those fees and charges;

15           (3) That the aircraft is subject to a lien under §8-29C-4 of this code for any unpaid and  
16 accrued fees and charges for the use of the airport and for the transportation, storage, and  
17 removal of the aircraft;

18           (4) That the lien is subject to enforcement pursuant to this part;

19           (5) That the airport may use, trade, sell, or remove the aircraft as described in §8-29C-3  
20 of this code if, within 30 calendar days after the date of receipt of the notice, the owner or other  
21 interested party has not removed the aircraft from the airport and paid in full all accrued fees and  
22 charges for the use of the airport and for the transportation, storage, and removal of the aircraft;  
23 and

24           (6) That the airport authority may remove the aircraft in less than 30 calendar days if the  
25 aircraft poses a danger to the health or safety of users of the public-use airport, as determined by  
26 the airport authority.

27           (c) (1) If, after the inquiry required by subsection (a)(2) of this section, the owner of the  
28 aircraft is unknown or cannot be found, the airport authority shall place a notice upon the aircraft  
29 in a conspicuous position containing the information required by subsection (b)(2)(6) of this

30 section.

31 (2) The notice under subsection(c)(1) of this may be not less than 8 inches by 10 inches  
32 and shall be laminated or otherwise sufficiently weatherproof to withstand normal exposure to  
33 rain, snow, and other conditions.

**§8-29C-3. Retention, trade, sale, or disposal of aircraft by airport authority.**

1 (a) If, after 30 calendar days of the owner or other interested party receiving the notice or  
2 after 30 calendar days of posting the notice on the aircraft, the owner or other interested party  
3 has not removed the aircraft from the airport and paid in full all accrued fees and charges for the  
4 use of the airport and for the transportation, storage, and removal of the aircraft, or shown  
5 reasonable cause for the failure to do so, the airport authority may:

6 (1) Retain the aircraft for use by the airport, the state, or the unit of local government  
7 owning or operating the airport;

8 (2) Trade the aircraft to another unit of local government or a state agency;

9 (3) Sell the property; or

10 (4) Dispose of the property through an appropriate refuse removal company or a company  
11 that provides salvage services for aircraft.

12 (b) If the airport authority elects to sell the aircraft in accordance with subsection (a)(3) of  
13 this section, the aircraft shall be sold at public auction after giving notice of the time and place of  
14 sale, at least 10 calendar days prior to the date of sale, in a newspaper of general circulation  
15 within the county where the airport is located and after providing written notice of the intended  
16 sale to all parties known to have an interest in the aircraft.

17 (c) If the airport authority elects to dispose of the aircraft in accordance with subsection  
18 (a)(4) of this section, the airport authority may negotiate with the company for a price to be  
19 received from the company in payment for the aircraft, or, if circumstances so warrant, a price to  
20 be paid to the company by the airport authority for the costs of disposing of the aircraft. All  
21 information and records pertaining to the establishment of the price and the justification for the

22 amount of the price shall be prepared and maintained by the airport authority.

23 (d) If the sale price or the negotiated price is less than the airport authority's then current  
24 fees and charges against the aircraft, the owner of the aircraft shall remain liable to the airport  
25 authority for the fees and charges that are not offset by the sale price or negotiated price.

26 (e) All costs incurred by the airport authority in the removal, storage, and sale of any  
27 aircraft shall be recoverable against the owner of the aircraft.

**§8-29C-4. Lien on derelict or abandoned aircraft.**

1 (a) The airport authority shall have a lien on a derelict or abandoned aircraft for all unpaid  
2 fees and charges for the use of the airport by the aircraft and for all unpaid costs incurred by the  
3 airport authority for the transportation, storage, and removal of the aircraft. As a prerequisite to  
4 perfecting a lien under this section, the airport authority shall serve a notice in accordance with  
5 §8-29C-2 of this code on the last registered owner and all persons having an equitable or legal  
6 interest in the aircraft.

7 (b) (1) For the purpose of perfecting its lien under this section, the airport authority shall  
8 record a claim of lien that states:

9 (A) The name and address of the airport;

10 (B) The name of the last registered owner of the aircraft and all persons having a legal or  
11 equitable interest in the aircraft;

12 (C) The fees and charges incurred by the aircraft for the use of the airport and the costs  
13 for the transportation, storage, and removal of the aircraft; and

14 (D) A description of the aircraft sufficient for identification.

15 (2) The claim of lien shall be signed and sworn to or affirmed by the airport authority's  
16 director or the director's designee.

17 (3) The claim of lien shall be served on the last registered owner of the aircraft and all  
18 persons having an equitable or legal interest in the aircraft. The claim of lien shall be so served  
19 before recordation.

20 (4) The claim of lien shall be recorded with the clerk of the county commission where the  
21 airport is located. The recording of the claim of lien shall be constructive notice to all persons of  
22 the contents and effect of such claim. The lien shall attach at the time of recordation and shall  
23 take priority as of that time.

**§8-29C-5. Proceeds of sale of aircraft.**

1 (a) If the aircraft is sold, the airport authority shall satisfy the airport authority's lien, plus  
2 the reasonable expenses of notice, advertisement, and sale, from the proceeds of the sale.

3 (b) The balance of the proceeds of the sale, if any, shall be held by the airport authority,  
4 and delivered on demand to the owner of the aircraft.

5 (c) If no person claims the balance within 12 months of the date of sale, the airport  
6 authority shall retain the funds and use the funds for airport operations.

**§8-29C-6. Person acquiring legal interest in aircraft; documents of disposition.**

1 (a) Any person acquiring a legal interest in an aircraft under this part shall be the lawful  
2 owner of the aircraft and all other legal or equitable interests in that aircraft shall be divested;  
3 provided, that the holder of any legal or equitable interest was notified of the intended disposal of  
4 the aircraft as required in this part.

5 (b) The airport authority may issue documents of disposition to the purchaser or recipient  
6 of an aircraft disposed of under this part.

NOTE: The purpose of this bill is to authorize airport authorities to deal with derelict or abandoned aircraft at a public-use airport.

Strike-throughs indicate language that would be stricken from a heading or the present law, and underscoring indicates new language that would be added.