

for clarity.

The only other changes are in style.

The Commission feels that there are general problem areas in regard to this section that deserve legislative attention and study. These can be summarized as follows:

(1) Is there any reason for the apparently inconsistent use of the term "prima facie" in subsections (a) and (d) (2) and "presumption" in (b)? What of the use of "injury" in subsections (a) and (b) and "damage" in (d)?

(2) As to subsection (a), were the phrases "operated above the lands and waters" and "persons or property ... beneath" actually intended to limit - as they appear to do - the otherwise broad meaning of "operate aircraft" and, in effect, exclude taxiing and other ground accidents from the applicability of this section? If this was not the intent, deletion of these phrases would be appropriate. In this regard, see, also, present Art. 1A, §10-1002 - now §5-1006 of this subtitle - which clearly was made applicable to collisions in the air or "on land or water".

(3) As to subsection (d) (1), the reference to the "owner" or "bailee" of the injured property may be more narrow than actually intended. The term "bailee" properly applies only to personal property; neither "owner" nor "bailee" would appear to cover a lessee or other person in control or possession of or with an interest less than ownership in real property. Unless this narrow and seemingly inconsistent construction actually was intended, the references should be broadened to treat real and personal property alike.

(4) Subsection (d) (2) provides for termination of the lien on "rebuttal of the prima facie liability". Was it really intended that the lien terminate on mere rebuttal of the presumption, even before final judgment or other resolution of the still extant issue of liability?

(5) Should not the statute provide for a method of filing a release of lien?