



PAUL TITTL

STATE REPRESENTATIVE • 25TH ASSEMBLY DISTRICT

Assembly Committee on Jobs and the Economy

AB 611

December 4, 2019

I would like to thank you Chairman Neylon and committee members for allowing me to testify before you today on Assembly Bill 611.

Wisconsin aviation faces a crucial problem: the inability to register aircraft liens with the FAA Aircraft Registry.

Our state laws do not meet the requirements for aviation liens to be filed in the FAA Registry. This bill changes our laws to meet these requirements, creating a FAA approved provision allowing the filing of a lien with the FAA. Since 1981, Wisconsin residents claiming a lien with the FAA are not able to do so as our state's current law do not satisfy the FAA's requirements for a claim to be registered.

Therefore, this bill enables those claiming a lien to provide the owner of the plane with written notification giving the name of the person who repaired or serviced the aircraft, the name of the owner of the aircraft, and a description of the aircraft. A process for recording the lien would also be created for those who are owed a debt for the services and labor done on the aircraft. This process would mostly be carried out in a court of law, who could give the rightful lien holder the right to collect a debt that is owed, including by sale of the plane.

People who buy and work on airplanes today in Wisconsin are not notified if a plane has a lien. This means the buyers and sellers of airplanes can get caught up in issues with the title down the road, adding unnecessary time and cost to an already troublesome process.

As you will hear later in this hearing from other speakers, this bill will also help those who work in Wisconsin's aviation mechanical industry and those who work in our state's 132 airports.

If Wisconsin passes this bill, we will be joining 36 other states who already reap the benefits of established aircraft lien laws every day.

I appreciate your consideration of this bill. Thank you for this opportunity to testify before you today.

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MIKE ROHRKASTE

STATE REPRESENTATIVE • 55TH ASSEMBLY DISTRICT

To: Representative Neylon and members of the Assembly Committee on Jobs and the Economy

From: Representative Mike Rohrkaste, 55th Assembly District

Date: December 4, 2019

Re: 2019 Assembly Bill 611

Thank you for hearing Assembly Bill 611, relating to liens on aircraft and aircraft engines.

This is a simple bill that helps Wisconsin clear up its laws regarding the most important element in an aircraft transaction: clear title. Should clear title not be established, both the buyer and the seller could lose property or money in a costly legal dispute.

An article in Midwest Flyer that I am submitting along with my testimony does an excellent job of summarizing the need to update our statutes to reflect changes in title registry. The Federal Aviation Administration (FAA) created the Civil Aircraft Registry to be the location for filing title and lien documents affecting U.S. registered aircraft. Unfortunately, because Wisconsin's lien laws do not include a recording provision approved by the FAA, Wisconsin is one of only 14 states that cannot participate in this registry. Recording a mechanic's lien with the FAA is not allowed if the applicable state laws fail to conform to the FAA requirements.

The legislature should update statutes to reflect what has been done in other lien cases, including construction liens, real estate broker's liens, hospital liens, and federal tax liens, and create a provision providing for that lien's recording. We should join the 36 other states that have a provision complying with the FAA's registry requirements. This will benefit all members of the aviation community – buyers and sellers, mechanics and their customers.

I would like to thank my co-authors, Representative Paul Tittl and Senator Roger Roth, and those individuals, government entities, and businesses in the 55th Assembly District and Outagamie County that brought this to my attention.

If you have any questions please contact my office. Thanks again for your consideration.

The Need For An Aircraft Lien Recording Law In Wisconsin

Posted on [June 2, 2014](#) by [mwflyer](#)

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by

Russell Klingaman

As an aircraft owner and operator, and as an attorney familiar with aviation law, I have identified a problem associated with buying and selling aircraft in Wisconsin: the inability to register some Wisconsin aircraft liens with the FAA Aircraft Registry. This article discusses why the Wisconsin lien laws should be revised to allow for aircraft mechanic's liens to be recorded as part of the FAA Aircraft Registry.

Clear title is very important for all aircraft transactions.

Clear title is the most important element in an aircraft transaction. Clear title means that ownership of the aircraft is transferred free and clear of all mortgages, liens, leases or encumbrances and that there are no legal questions or ambiguities as to the aircraft's ownership.

For the buyer, clear title means that the aircraft is being bought without any risk that a third party will claim either ownership or a lien interest. For the seller, clear title is the essence of what is being sold in exchange for the purchase price. If an aircraft is sold with title problems, both the buyer and seller may end up involved in costly legal disputes.

The aircraft industry is full of horror stories about people who have skipped the title search, only to have lien-holders from years back show up and demand compensation or repossession of the aircraft. Even when it appears that a buyer is taking clear title to an aircraft, challenges to title and lien claims can pop up after the aircraft has been sold. When this happens, the lien-holder (who may have no notice of the sale) may demand compensation, and the new owner may demand that the seller take care of the problem and clear the title. These disputes often end up in court. Many of these disputes can be avoided as long as liens are filed with the FAA Civil Aircraft Registry, and people use the Registry before buying/selling aircraft.

Getting clear title for an aircraft transaction requires that: (1) the seller originally acquired clear title or resolves any existing "clouds" on the title before the sale, and (2) the seller lawfully conveys clear title to the buyer.

Generally, no seller should transfer ownership of an aircraft with a clouded title; no buyer should pay for an airplane with a clouded title; and no lender should fund a loan on an aircraft with a clouded title.

The FAA Aircraft Registry

The FAA created the Civil Aircraft Registry to be the location for filing title and lien documents affecting U.S. registered aircraft. Aircraft records maintained by the FAA are on file at the Mike Monroney Aeronautical Center in Oklahoma City. The FAA Aircraft Registry collects the information necessary to establish and maintain the title records for all U.S. civil aircraft. In fact, the FAA maintains a folder with ownership records for every U.S. civil aircraft in the vaults of the FAA Aircraft Registry building. Each time a bill of sale, a lien, or a 337 form is submitted to the FAA, it is reviewed for completeness and accuracy, then added to the appropriate aircraft folder.

A search of the FAA Registry is important before every aircraft transaction.

The FAA Registry records are examined daily by many people, from individuals seeking information about an aircraft they are considering purchasing, to banks that finance such purchases, to law enforcement and security agencies. Examining the FAA Aircraft Registry before an aircraft transaction helps avoid the headaches many aircraft owners have suffered because they failed to take this one important step before purchasing an aircraft.

No one should purchase a house without having the title records for the property examined. The same goes for purchasing an aircraft. Before every aircraft transaction, the buyer should hire a qualified aircraft title search company to examine the FAA Aircraft Registry.

When a title search is requested, the title researcher goes to the Registry building, requests the file folder for a particular N number, and waits while the FAA duplicates the file for the examination. The title researcher then carefully reviews the file contents to prepare the title search report. It is a very tedious task, and in many cases can take several hours. Unfortunately, the search is only as good as the Registry's records.

The existence of recorded liens against an aircraft, as well as the priority of those liens, can be determined by a careful review of the documents maintained in the FAA Aircraft Registry. In fact, it is common for a title search

to reveal that an aircraft has a lien filed against it that is unknown to the current owner.

Clearing title on the FAA Registry for recorded liens and encumbrances is a simple process. A lien is filed with the FAA using AC Form 8050-41 (Conveyance Recordation Notice). In order to release a recorded lien, Form 8050-41 contains a "Release" section, which can be signed by the lien-holder and filed with the FAA to release the recorded lien.

Obviously, unrecorded liens can create difficult legal problems for aircraft buyers and sellers. Unfortunately, a search of the FAA Aircraft Registry will not reveal the existence of any Wisconsin mechanic's liens because the FAA does not permit recording of such liens. The FAA does not allow for the recording of Wisconsin mechanic's liens because the Wisconsin lien laws do not include a recording provision approved by the FAA.

Registry of Liens with the FAA is governed by state laws.

Federal law governs the recording of lien documents with the Aircraft Registry. However, the applicable state laws govern the validity and enforceability of liens on aircraft. In other words, both federal and individual state laws governing recording of documents affecting the title to an aircraft, operate concurrently.

After the enactment of the Federal Aviation Act of 1958 and prior to 1981, the FAA accepted and recorded aircraft liens from almost every state. This system caused confusion as to the legitimacy of some liens and embroiled the FAA in litigation to clear them.

In 1981, to provide uniformity in the process of recording aircraft liens with the FAA Aircraft Registry, the FAA adopted a policy of reviewing state statutes and requiring specific recording language in the state statutes before allowing any liens to be part of the Aircraft Registry. The FAA has enforced this requirement despite any prior state judicial precedent that allowed for lien filing.

A letter from the FAA Aeronautical Counsel to a Florida attorney published in the Federal Register in 1981 outlines the requirements the FAA must see in a state lien statute. The requirements are: (1) the time frame for recording; (2) the signatures that are required; (3) whether or not the claim must be verified; and (4) the filing location.

In 1981, the Florida statutes did not include these elements and the attorney's lien recording request was denied. Subsequently, Florida passed a lien recording law that complies with the FAA requirements.

Aircraft Mechanic's Liens

When someone provides storage, repair, maintenance or other services for an aircraft, he or she typically has the ability to assert a lien on the aircraft and retain possession of it until he or she has been paid for the services provided. This is commonly referred to as a "mechanic's" or "artisan's lien." See, for example, Wis. Stat. § 779.41.

Generally, a person who provides services for the aircraft and who has not been paid, would like to file proof of his/her lien with the FAA Registry. However, recording a mechanic's lien with the FAA is not allowed if the applicable state laws fail to conform to the FAA requirements.

If allowed by state law, a mechanic's lien recorded with the FAA must include some basic information. According to the FAA website, a recordable mechanic's lien must state, at minimum, the following information: (1) the amount of the claim; (2) a description of the aircraft by N-Number, manufacturer name, model designation, and serial number; and (3) dates on which labor, materials or services were last furnished, and the recording fee.

Recording a mechanic's lien with the FAA will increase the chances of a mechanic eventually getting paid for his/her work under circumstances where the aircraft has been returned to the owner prior to full payment for the mechanic's parts and services. Ideally, a mechanic in Wisconsin should not be forced to insist upon full payment of all invoices before releasing possession of a customer's aircraft. However, a mechanic who does not insist upon full payment prior to releasing possession of the aircraft risks not getting paid. At the same time, releasing possession of the aircraft will jeopardize his/her lien rights.

By having a procedure in place to record mechanic's liens with the FAA Registry, a mechanic who has not received payment for work performed has a better chance of eventually getting paid. If the lien is recorded, it will probably be identified during the title search. Typically, the seller or the buyer will contact the mechanic to arrange payment — thereby clearing this particular cloud on the aircraft's title.

All members of the aviation community are better off when a procedure is in place for recording a mechanic's lien. Not only are buyers and sellers better off but mechanics and their customers also benefit. Mechanics who can register their liens will tend to have fewer unpaid invoices. Since unpaid invoices increase the overall cost of doing business, mechanics must increase the fees they charge for services provided to their other customers who do pay their bills on time.

Thirty-six (36) states have laws, which provide for lien registration and qualify for the FAA Registry.

Since 1981, the FAA roster has more than doubled in size from 16 to 36 states that are lien-recording approved. The list includes: Alaska, Arizona, Arkansas, California, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Virgin Islands, Virginia, Washington, and Wyoming. Fourteen (14) states, including Wisconsin, do not have lien registration laws approved by the FAA.

The various lien-recording laws are not uniform. Some are written better than others. Some appear unambiguous and use easy-to-understand language, while others do not. Some are older than others, and it appears that drafters of the more recently enacted laws have been able to improve upon the language used in the older laws.

It should be noted that all of Wisconsin's neighboring states in the upper Midwest, including Illinois, Iowa, Minnesota, Michigan, and Indiana, have enacted aircraft mechanic's lien recording laws.

Wisconsin lien laws do not qualify for the FAA Registry.

Currently, the Wisconsin lien laws do not meet the FAA recording requirements because they do not contain any provisions for recording aircraft-related mechanic's liens. Hence, the current Wisconsin lien statutes do not satisfy the FAA lien-recording requirements, and Wisconsin mechanics' liens cannot be recorded by the Aircraft Registry.

Under existing Wisconsin law, mechanics' liens are viewed as creatures of possession and have no legal provisions for recording that the FAA will recognize. As a result, aircraft buyers and sellers in Wisconsin have no way to verify clear title through a search of the FAA Registry.

It should be recognized that some Wisconsin statutes provide for the recording of liens — but not aircraft mechanic's liens. For instance, Wis. Stat. § 779.06 allows for the recording of construction liens; § 779.32 allows for the recording of real estate broker's liens; § 779.80 allows for the recording of hospital liens and § 779.97 allows the U.S. government to record federal tax liens.

A preliminary survey of other states' statutes provides some good insight and/or options for a mechanic's lien recording law in Wisconsin. For instance, Michigan has a statute, M.C.L.A. 259.2056, stating that persons who store, maintain or repair aircraft and are not paid for their services may, ". . .

within 60 days after the last work or service is performed, file with the Federal Aviation Administration Aircraft Registry, a claim of lien, duly acknowledged, stating the name and address of the lien claimant, the amount due, and

describing the aircraft by make, model, serial number, and registration number." It seems appropriate for the Wisconsin legislature to enact a similar law.

Conclusion

It appears that the entire aviation community would benefit from a Wisconsin statute that satisfies the FAA criteria for recording liens with the FAA Aircraft Registry. Mechanics and their customers will benefit because unpaid invoices will be reduced; and buyers and sellers of aircraft will be better off because title problems will be avoided. Wisconsin should join the other 36 states that have passed laws that satisfy the FAA requirements for filing mechanics' liens with the FAA Civil Aircraft Registry.

EDITOR'S NOTE: Russell A. Klingaman is a pilot, aircraft owner and an attorney and partner in the law firm of Hinshaw & Culbertson LLP in Milwaukee, Wisconsin: 414-276-6464, rklingaman@hinshawlaw.com.

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Gulfstream™

To: Assembly Committee on Jobs and the Economy

Representative Neylon, Chair
Representative Snyder, Vice-Chair
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Representative Kulp
Representative Tittl
Representative Macco
Representative Wittke
Representative Magnafici
Representative Ballweg
Representative Ohnstad
Representative Neubauer
Representative Stuck
Representative Fields
Representative Zamarripa

Fr: Tom Ramee, Deputy General Counsel and Risk Manager
Gulfstream Aerospace

Da: December 4, 2019

Re: Testimony in support of AB 611

Thank you Chairman Neylon and members of the committee for the opportunity to testify today in support of AB 611. My name is Tom Ramee I am here today representing Gulfstream Aerospace. Gulfstream has a facility in Appleton employing more than 900 people. We provide service and repairs, as well as final completions of aircraft that are flown up from our Savannah, GA headquarters.

We are grateful to Senator Roger Roth and Representative Paul Tittl for bringing forward this legislation. AB 611 creates a recordable aviation mechanics lien law in Wisconsin. This bill will benefit all members of the aviation community – buyers and sellers, mechanics, and their customers.

Specifically, the bill creates a law that conforms to the FAA registry, allows for all those in the aviation industry to utilize the registry as needed, and furthermore, increase flexibility to release an aircraft if full payment cannot be made at the time of service.

Thank you again for the opportunity to testify on AB 611. I hope that the committee will be able to support the passage of AB 611, and I would be happy to answer any questions you may have at this time.



Good Morning Chairman Neylon and committee members and thank you for this opportunity to speak with you about Assembly Bill 611.

Today things move fast. Business moves fast. People want things done quickly and instant gratification. Nobody wants to wait either for product or service.

This is certainly true in Aviation where aircraft owners and operators want their planes back in the air. Aircraft move fast and can travel far, quickly.

I'm Jeff Baum and I am the President of Wisconsin Aviation and Wisconsin Aviation – Four Lakes here in Madison. We are a Fixed Base Operator, the industry name of aviation service organizations that typically fuel, store, maintain, rent and charter aircraft. Our company provides these services and more here at Dane County Regional Airport, at the Dodge County Airport in Juneau and at the Watertown Municipal Airport. We currently employ approximately 150 people, including 37 that work directly in maintaining and upgrading aircraft, their engines and their avionics – the radio and navigation equipment. These are quality technical jobs that demand high levels of training and expertise. In addition, we have about 45 employees that work directly with fueling, handling and hangaring – i.e. the storage of aircraft.

At Wisconsin Aviation we pride ourselves on quality and customer service: Done right, as promised and with a smile! As promised means on time and on budget. Yet there are times when aircraft leave without the billing charges paid. There are many reasons for this, including based aircraft that may have been on an open account for a long period of time, parts pricing information not yet received from a vendor, a fueling quick turn where the aircraft immediately leaves or off hours pick up of planes that wasn't planned.

Dane County Regional Airport
3606 Corben Court • Madison, WI 53704
608-268-5000 • 800-594-5359

CORPORATE HEADQUARTERS
Watertown Municipal Airport
1741 River Drive • Watertown, WI 53094
920-261-4567 • 800-657-0761

Dodge County Airport
N6491 State Hwy 26 • Juneau, WI 53039
920-386-2402 • 800-319-0907

W I S C O N S I N A V I A T I O N . C O M

The vast majority of Wisconsin Aviation's customers are great people to work with and pay their bills religiously. Like anything else there is always that small percentage where trouble can arise, be it from the sale or transfer of an aircraft, financial problems, personal emergencies or in a few cases, simply larceny in their hearts! Whatever the case, aviation business need means to help protect themselves and their workers from these kinds of losses that hinder their ability to pay, train, equip their workforce and build their businesses. Wisconsin is one of only 14 states that does not have this type of legal protection and I strongly urge you to enact Assembly Bill 611.

Thank you for your time and the opportunity to speak about this bill which is very important to Wisconsin Aviation. I would be very happy to answer any questions you may have.