

A PRACTITIONER’S GUIDE TO THE PERFECTION, PRIORITY, AND
ENFORCEMENT OF AN AIRCRAFT MECHANIC’S LIEN

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I. INTRODUCTION

The purpose of this Article is to provide aviation attorneys and other legal practitioners with the general knowledge required to assist clients who store, repair, or maintain a customer’s aircraft, or who provide other materials to that aircraft. This Article explains how to assert a “mechanic’s lien” or “artisan’s

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lien”¹ against an aircraft until the client providing the services, the “lien claimant,” has been paid for the services he or she provided to the aircraft. To understand under what circumstances a mechanic’s lien may be asserted against an aircraft, this Article discusses generally the interplay between federal and state laws that may affect how to perfect and enforce an aircraft mechanic’s lien.

Specifically, this Article discusses the basis for an aircraft mechanic’s lien: what a lien claimant must do to perfect the lien, how to determine the priority of the perfected lien as it may relate to other interests in the aircraft, options available to the lien claimant for enforcement of the lien, and several defenses to an aircraft mechanic’s lien. Additionally, this Article includes an Appendix offering an overview of the various state aircraft mechanic’s lien laws and their requirements; the Appendix is intended to provide a starting point for a practitioner who is researching these issues.

II. BASIS FOR THE LIEN

To begin, it is important to understand the type of work, services, or materials upon which an aircraft mechanic’s lien may be based. An aircraft mechanic’s lien arises from work performed, services provided, or materials furnished to an aircraft that enhance the aircraft’s value.² A lien may also arise from a lien claimant’s storage of an aircraft.³ Lien claims submitted only for services, such as training fees and pilot fees, typically are not acceptable.⁴

III. PERFECTING THE LIEN

Assuming a basis for an aircraft mechanic’s lien exists, a lien claimant may “perfect” the claim against the aircraft as required or allowed under state and

¹ For purposes of this Article, the author will refer to the aircraft mechanic or artisan’s lien simply as an aircraft mechanic’s lien or mechanic’s lien.

² See, e.g., MINN. STAT. § 514.221(1) (2012) (“[A]ny person who makes, alters, repairs, or otherwise enhances the value of any aircraft at the request of the owner or legal possessor, and who parts with possession of the aircraft, has a lien upon the aircraft for that person’s reasonable or agreed charges and for work done or materials furnished”).

³ See, e.g., ARK. CODE ANN. § 18-45-206 (2005) (allowing lien claim based upon storage of aircraft); FLA. STAT. § 25- 713.58 (2012) (allowing lien claim based upon storage of vehicle, including aircraft); MASS. GEN. LAWS ANN. ch. 255, § 31E (2012) (allowing a lien claim based upon tie-down fees).

⁴ See *supra* notes 2-3. See, e.g., FED. AVIATION ADMIN., EXAMINATION GUIDELINES §§ 4.5.1, 4.5.3 (2008) (Lien statutes focus on services or work (e.g., storage, repairs, etc.) provided directly to an aircraft that enhance or preserve the aircraft’s value, as opposed to services that may only be performed in connection with or ancillary to the aircraft and that do not directly enhance or preserve the aircraft’s value) [hereinafter EXAMINATION GUIDELINES].

federal law.⁵ As discussed below, these requirements may include governmental filings, possession, or both.

A. *Filing with the Federal Aviation Administration Registry*

Congress originally passed § 503 of the Federal Aviation Act of 1958⁶ “to establish a single national filing system for the recordation of documents evidencing title and security interests in civil aircraft.”⁷ Title 49 U.S.C. § 44107 specifically requires the recording of “conveyances that affect an interest in civil aircraft of the United States.”⁸ Accordingly, the Federal Aviation Administration (“FAA”) has established a national filing system, Aircraft Registry,⁹ for the recording of conveyances relating to aircraft.¹⁰

⁵ See U.C.C. § 9-311(a) (2012) (“[T]he filing of a financing statement is not necessary or effective to perfect a security interest in property subject to: (1) a statute, regulation, or treaty of the United States whose requirements for a security interest’s obtaining priority over the rights of a lien creditor with respect to the property preempt section 9-310(a).”). U.C.C. means the Uniform Commercial Code that has been adopted, with some variations, by all fifty states. Although some slight differences may exist between the forms of the U.C.C. ratified by each state, for purposes of this Article, the author will refer to the form of the U.C.C. as adopted by, and in effect in, the state of Minnesota under MINN. STAT. Ch. 336 (2012). Perfection may also be required under the Bankruptcy Code which “[f]or purposes of preferential transfer actions, a transfer is deemed made at the time the transfer is perfected if the perfection occurs more than 30 days after the transfer takes effect. 11 U.S.C. § 547(e)(2)(B). A transfer of personal property is perfected when it is entitled to priority against a hypothetical subsequent judicial lien. 11 U.S.C. § 547(e)(1)(B).” *In re McConnell*, 455 B.R. 824, 827 (Bankr. M.D.Ga. 2011).

⁶ The Federal Aviation Act of 1958, Pub. L. No. 85-726, 72 Stat. 737 (codified as amended in 49 U.S.C. § 1301 *et seq.*). See also 49 U.S.C. § 1403 (1958), amended by 49 U.S.C. § 44107 (1994).

⁷ *In re S. Air Transp., Inc.*, 511 F.3d 526, 532 (6th Cir. 2007).

⁸ 49 U.S.C. § 44107 (2006). The purpose of the recording requirements of the Federal Aviation Act of 1958 was “to substitute for the multiplicity of state registration or recording systems a single preemptive federal system for registering (1) instruments of title, comparable to state registration of titles to motor vehicles, and recording (2) security documents of the kinds commonly comprehended by state recording laws concerning written consensual security interests affecting personal property. The reason was that the ready mobility of aircraft and their common use across state lines made it cumbersome and burdensome for persons having concern with title to or incumbrances on aircraft to have to record or search in all states or localities which could arguably be claimed to constitute the proper recording situs in relation to the specific owner or incumbrancer of a particular aircraft.” *S. Jersey Airways, Inc. v. Nat’l Bank of Secaucus*, 261 A.2d 399, 403-04 (N.J. Super. Ct. App. Div. 1970) (citing Scott, *Liens in Aircraft: Priorities*, 25 J. AIR L. & COM. 193, 200-203 (1958)).

⁹ See *Aircraft Certification*, FED. AVIATION ADMIN., http://www.faa.gov/licenses_certificates/aircraft_certification/aircraft_registry/about_aircraft_records/ (last modified July 17, 2012). For purposes of this Article, the Federal Aviation Administration’s Aircraft Registry will be referred to as the “FAA Registry.”

¹⁰ See generally *In re Tower Air, Inc.*, 319 B.R. 88, 99 (Bankr. D. Del. 2004) (holding that aircraft engines were not subject to registration requirements).

A conveyance is defined as a bill of sale, contract of conditional sale, mortgage, assignment of mortgage, or other “instrument . . . affecting title to, or an interest in, property.”¹¹ Because a mechanic’s lien claimant asserts an interest in property, namely the aircraft, under 49 U.S.C. § 44107 an aircraft mechanic’s lien is a conveyance and a lien claimant must file a lien statement or claim with the FAA Registry.¹²

Thus, except for the few states that do not have aircraft lien recording or notice statutes, the lien statement must be filed with the FAA Registry in order for the lien to be valid or perfected.¹³ Some states may also require a lien claimant to maintain possession of the aircraft,¹⁴ file in the local jurisdiction¹⁵

¹¹ 49 U.S.C. § 40102 (a)(19).

¹² See generally *Philko Aviation, Inc. v. Shacket*, 462 U.S. 406, 413 (1983) (“[A]ll interests must be federally recorded before they can obtain whatever priority to which they are entitled under state law.”). See also *State Court Decision Affecting Recordation of Artisan Liens*, 70 Fed. Reg. 53,707 (Sept. 9, 2005) (“The FAA published notice in the Federal Register that the FAA Aircraft Registry would record artisan liens on aircraft that met the minimum requirements of state statute. The notice stated that, for aircraft, ‘there is Federal preemption of place of filing: The FAA Aircraft Registry at Oklahoma City.’ 46 FR 61528, December 17, 1981. The sole purpose of that notice was to set out the criteria for recording artisan liens with the FAA Aircraft Registry.”).

¹³ 49 U.S.C. § 44108(a) (“Until a conveyance, lease, or instrument executed for security purposes that may be recorded under section 44107(a)(1) or (2) of this title is filed for recording, the conveyance, lease, or instrument is valid only against - (1) the person making the conveyance, lease, or instrument; (2) that person’s heirs and devisees; and (3) a person having actual notice of the conveyance, lease, or instrument.”).

¹⁴ See generally *IOWA CODE § 577.1* (2011) (requiring Iowa lien claimant to retain possession of the aircraft); *OKLA. STAT. tit. 42, §§ 91A, 98* (2010) (requiring Oklahoma lien claimant to retain possession of the aircraft); *Commercial Jet, Inc. v. U.S. Bank, N.A.*, 45 So. 3d 887 (Fla. Dist. Ct. App. 2010), *rehearing denied*, 76 So. 3d 913 (Fla. Dist. Ct. App. 2011) (requiring a Florida lien claimant to retain possession of the aircraft in addition to filing with the FAA Registry).

¹⁵ Accord *State Court Decision Affecting Recordation of Artisan Liens*, 70 Fed. Reg. 53,707 (Sept. 9, 2005). See also *LA. REV. STAT. ANN. § 9.4512.A(2)* (2011) (requiring the lien claimant to also record the notice filed with the FAA Registry with “the recorder of mortgages for the parish where the aircraft was located at the time of labor, services, fuel, or materials were last furnished.”); *MO. REV. STAT. § 430.020* (2011) (requiring a lien claimant “furnishing the labor or material . . . may retain the lien after surrendering possession of the aircraft or part or equipment thereof by filing a statement in the office of the county recorder of the county where the owner of the aircraft or part or equipment thereof resides, if known to the claimant, and in the office of the county recorder of the county where the labor or material was furnished” and must be filed with the FAA Registry to bind a bona fide purchaser). See generally *Creston Aviation, Inc. v. Textron Fin. Corp.*, 900 So. 2d 727 (Fla. Dist. Ct. App. 2005) (holding that federal law pertaining to recording with the FAA Registry did not preempt a Florida statute requiring that an artisan lien for work on an aircraft first be filed in the county where the work was performed in order to enforce the lien under Florida law). As far as this author is aware, the statutes cited in this footnote are the only statutes that expressly set forth the requirements that the lien statement be filed both with the FAA Registry and the county or parish. Other statutes reference filing with the “clerk of court,”

in which the lien claim arose, or serve notice of the lien claim upon the aircraft owner,¹⁶ in addition to filing with the FAA Registry.¹⁷

In the absence of perfection of the lien claim with the FAA Registry, the lien claimant may still have rights—with notice—against the aircraft owner or operator, their heirs, or third parties.¹⁸ However, those rights will not be valid against third parties without notice of the lien claimant's claim.¹⁹

Currently, the FAA Registry accepts aircraft mechanic's lien statements from thirty-seven states.²⁰ However, not all states have the required aircraft

“secretary of state,” or “county register” etc. without any specific reference to the FAA Registry. As a result, it appears the filing requirements in these statutes would be completely pre-empted under *Philkco*. See, e.g., OKLA. STAT. tit. 42, § 98.A.1 (2012); OR. REV. STAT. § 87.252 (2011); S.D. CODIFIED LAWS § 44.11.3 (2012); VA. CODE ANN. § 43-34.1 (2012); WASH. REV. CODE § 60.08.020 (2012); WYO. STAT. ANN § 29-7-102 (2012).

¹⁶ See, e.g., CONN. GEN. STAT. § 49-92h(a) (2011) (“The lienor shall, within seven days of the filing, send by certified mail a copy of such notice to the person indicated as the owner of the aircraft, and to anyone who has filed with the Secretary of the State claiming a legal or equitable interest in the aircraft.”); MICH. COMP. LAWS § 259.205b (2012) (requiring a lien claimant to deliver claim of lien together with an itemized statement of the account to the registered owner of the aircraft by personal service or service by registered or certified mail addressed to the last known address of the registered owner of the aircraft within sixty days after filing with the FAA Registry); NEV. REV. STAT. § 108.272 (2011) (requiring a lien claimant within 120 days after date of service or within seven days after the lien claimant receives an order to release the property, whichever time is less, to serve the legal owner by mailing a copy of the notice of the lien to his last known address, or if no address is known, by leaving a copy with the clerk of the court in the county where the work was performed); OR. REV. STAT. § 87.252 (2011) (requiring a lien claimant to send a copy of the lien statement to the aircraft owner “forthwith” and “to holders of perfected security interests within 30 days after the date of filing”); TENN. CODE ANN. § 66-19-301 (2011) (requiring that “[a] copy of the notice of lien to be filed shall be sent by first class mail to the last known address of the party for whose account the work was performed, repairs made or materials furnished, and upon any other party known by the party asserting the lien to claim an ownership interest in the subject property.”); TEX. PROP. CODE ANN. § 70.304 (West 2011) (requiring a lien claimant maintaining possession of the aircraft to notify the aircraft owner and any other lienholders shown of record at the FAA Registry within sixty days of the date the work is completed via certified or registered mail, return receipt requested); UTAH CODE ANN. § 38-13-201 (LexisNexis 2012) (requiring lien claimant to also send notice of lien to the person against whom the notice of lien is recorded within thirty days of filing with the FAA Registry).

¹⁷ See *infra* App. I (providing summary of state aircraft mechanic's lien statutes and methods of perfection).

¹⁸ See MD. CODE ANN., COM. LAW § 16-204 (LexisNexis 2012).

¹⁹ See, e.g., NEV. REV. STAT. § 108.274 (2012); N.Y. LIEN LAW § 184 (McKinney 2012); OKLA. STAT. tit. 42, § 91A (2012).

²⁰ See, e.g., Legal Opinion as to the Recordability of Artisans' Liens and Identification of Those States From Which Such Liens Will be Accepted, 46 Fed. Reg. 61,528 (Dec. 17, 1981) (the FAA's initial legal opinion on the recordability of artisan liens, identifying Arkansas, Georgia, Illinois, Indiana, Kansas, Kentucky, Maine, Nebraska, Oklahoma, Oregon, South Carolina, South Dakota, Virgin Islands, Washington, and Wyoming as states from which it would accept mechanic's liens). See also Artisan Liens on Aircraft; Recordability, 70 Fed. Reg. 59,800 (Oct. 13, 2005) (adding Idaho and Utah); Artisan Liens on Aircraft; Recordability, 67 Fed. Reg. 68,902

notice or recording statutes and, as a result, the FAA Registry will not accept lien statements based upon the recording laws of those states.²¹ For those states from which the FAA Registry will not accept lien statements, the lien claimant must review the general lien statutes and case law of that particular state to determine the appropriate method for perfecting a lien against an aircraft in that jurisdiction.²²

B. Registering with the International Registry

In addition to filing with the FAA Registry, one familiar with the Cape Town Convention²³ may wonder whether a lien claimant must also file a lien

(Nov. 13, 2002) (adding Louisiana, Massachusetts, and Rhode Island); Artisan Liens on Aircraft; Recordability, 58 Fed. Reg. 50,387 (Sept. 27, 1993) (adding California (General Aviation only), Connecticut, Ohio, and Virginia); Artisan Liens on Aircraft; Recordability, 56 Fed. Reg. 36,189 (July 31, 1991) (adding Iowa); Artisan Liens on Aircraft; Recordability, 56 Fed. Reg. 27,989 (June 18, 1991) (adding Arizona); Artisan Liens on Aircraft; Recordability, 55 Fed. Reg. 31,938 (Aug. 6, 1990) (adding Michigan and Tennessee); Artisan Liens on Aircraft; Recordability, 54 Fed. Reg. 51,965 (Dec. 19, 1989) (adding North Dakota); Artisan Liens on Aircraft; Recordability, 54 Fed. Reg. 38,584 (Sept. 19, 1989) (adding Texas); Artisan Liens on Aircraft; Recordability, 53 Fed. Reg. 23,716 (June 23, 1988) (adding Missouri); Legal Opinion as to the Recordability of Artisans' Liens and Identification of Those States From Which Such Liens Will be Accepted, 51 Fed. Reg. 21,046 (June 10, 1986) (adding Minnesota and New Mexico); Legal Opinion as to the Recordability of Artisans' Liens and Identification of Those States From Which Such Liens Will be Accepted, 49 Fed. Reg. 17,112 (April 23, 1984) (adding Florida, Nevada, and New Jersey); EXAMINATION GUIDELINES, *supra* note 4, at § 4.5.12 (adding North Carolina).

²¹ See sources cited *supra* note 20. The FAA Registry will not accept lien statements from Alabama, Colorado, District of Columbia, Hawaii, Montana, New Hampshire, New York, Pennsylvania, Vermont, West Virginia, and Wisconsin. See sources cited *supra* note 20.

²² See WIS. STAT. § 779.43(3) (2011) (“[E]very person or corporation, municipal or private, owning any airport, hangar or aircraft service station and leasing hangar space for aircraft, shall have a lien thereon and may retain the possession thereof for the amount due for the keep, support, storage or repair and care thereof until paid.”); see generally *In re S. Air Transp., Inc.*, 511 F.3d 526, 533 (6th Cir. 2007) (“[W]here a state law does not require, or even provide for, the filing of an instrument in order for a possessory artisan’s lien against an aircraft to be perfected, the failure to file an instrument evidencing the lien with the FAA registry does not invalidate the lien.”). Thus, because the FAA Registry will not accept a lien statement for an aircraft mechanic’s lien arising in Wisconsin the lien claimant must perfect the claim by retaining possession of the aircraft. See sources cited *supra* note 20.

²³ Int’l Inst. for the Unification of Private Law (UNIDROIT), *Convention on International Interests in Mobile Equipment* (Nov. 16, 2001) [hereinafter *Cape Town Convention*], available at <http://www.unidroit.org/english/conventions/mobile-equipment/mobile-equipment.pdf>. See also 49 U.S.C. § 44107 (2012) (requiring filing with the FAA Registry and approval of the filing); 49 U.S.C. § 44107(e)(1) (2006) (establishing the Federal Aviation Administration Civil Aviation Registry is designated as the United States Entry Point to the International Registry); UNIDROIT, *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment* (Aug. 9, 2004) [hereinafter *Cape Town Protocol*], available at <http://www.unidroit.org/english/conventions/mobile-equipment/aircraftprotocol.pdf>. Many people simply refer to the Convention and the Protocol collectively as the Cape Town Treaty or Cape Town

claim for certain aircraft or engines with the International Registry. The Cape Town Convention is an international treaty that went into effect in the United States on March 1, 2006;²⁴ it applies to many twin-engine, and most jet, aircraft.²⁵ The Cape Town Convention is important because it changed the manner in which interests in aircraft and engines are documented and recorded,²⁶ and it also changed the priorities of those interests.²⁷ However, the United States has not filed a declaration identifying the categories of non-consensual rights or interests (e.g., an aircraft mechanic's lien) that shall be registrable with the International Registry.²⁸ As a result, the International Registry will not accept registration of an aircraft mechanic's lien.²⁹

Convention. For purposes of this Article, the author will simply refer to the Convention and the Protocol collectively as "the Cape Town Convention," except when citing specific provisions within the Convention or the Protocol.

²⁴ See Federal Aviation Administration, Civil Aviation Registry, Aircraft Registration Branch Practices Related to the Cape Town Treaty, 71 Fed. Reg. 9,907 (Feb. 28, 2006) (to be codified at 14 C.F.R. part 49). The Convention was originally ratified or acceded to by the United States, Ethiopia, Ireland, Malaysia, Nigeria, Panama, and Pakistan. See *Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, Adoption*, UNIDROIT.ORG, <http://www.unidroit.org/english/implementation/i-2001-aircraftprotocol.pdf> (last visited Jan. 6, 2013). The eighth ratification required for the Convention to become effective occurred on November 2, 2005, when Malaysia deposited its ratification. *Id.*

²⁵ *Cape Town Protocol*, *supra* note 23, at art. 1, 2(a) and (c). The aircraft and engines subject to the Cape Town Convention include: (1) Aircraft that are type certificated for at least eight (8) persons including crew; or goods in excess of 2750 kilograms (6,062 pounds); (2) Helicopters that are type certificated for at least five (5) persons including crew; or goods in excess of 450 kilograms (990 pounds); and (3) Aircraft engines having at least 1750 pounds of thrust or at least 550 rated take-off shaft horsepower. *Id.* at art. I, (b), (e), & (l). The Cape Town Convention does not contain any provisions for registering propellers. See *id.*

²⁶ *Cape Town Convention*, *supra* note 23, at art. 16 (establishing one worldwide electronic/computerized registry called the "International Registry" located in Ireland). The URL for the International Registry is <https://www.internationalregistry.aero>. All filings of interests in subject aircraft are performed through the International Registry website. Although the actual processes and procedures for performing a filing with the International Registry are beyond the scope of this Article, you may obtain more information from the International Registry at <https://www.internationalregistry.aero/irWeb/showFAQs.do>.

²⁷ See discussion *infra* Part IV.A-B.

²⁸ See generally *Declarations Deposited Under the Cape Town Convention on International Interests in Mobile Equipment Regarding Article 40*, UNIDROIT.ORG, <http://www.unidroit.org/english/conventions/mobile-equipment/depositaryfunction/declarations/byarticle/article40.htm> (confirming that the United States has not deposited any declarations pursuant to Article 40) (last visited Jan. 8, 2013).

²⁹ See generally *Cape Town Convention*, *supra* note 23, at art. 40 ("A Contracting State may at any time in a declaration deposited with the Depositary of the Protocol list the categories of non-consensual right or interest which shall be registrable under this Convention as regards any category of object as if the right or interest were an international interest and shall be regulated accordingly.").

C. *Timing for Filing of the Lien Statement*

The lien statement must be filed within the amount of time established by state law.³⁰ Depending upon the state, this time period can range anywhere from thirty days to 180 days either from the last date the lien claimant performed work on the aircraft,³¹ or from the date when the lien claimant relinquished possession of the aircraft.³²

D. *Contents of the Lien Statement*

For the FAA Registry to accept the lien statement for recording, the statement must at a minimum include the following information: (1) the identification of the aircraft by N-number and serial number; (2) the make and model of the aircraft; (3) the registered owner of the aircraft; (4) the type of work performed by the lien claimant; (5) the last day when the lien claimant worked on the aircraft; and (6) the amount of the lien claimed by the lien claimant.³³ Additionally, some states may require lien claimants to use a prescribed form for the lien claim or, if the state does not have a prescribed form, local law may require that the lien statement contain additional information beyond what is required by the FAA Registry.³⁴ The FAA Registry will only record the lien statement against the aircraft, and not separately against its engines, propellers, or accessories.³⁵ The lien statement sent to the FAA Registry for recording

³⁰ EXAMINATION GUIDELINES, *supra* note 4, at § 4.5.2.

³¹ See generally CAL. COM. CODE § 9798.2 (West 2011) (requiring filing within 180 day of completion of work); IND. CODE § 32-33-10-6 (2012) (requiring filing within sixty days from date service or part is supplied).

³² See generally ARIZ. REV. STAT. ANN. § 33-1022 (2012) (requiring filing within thirty days of relinquishment of possession); KY. REV. STAT. ANN. § 376.270 (West 2011) (requiring filing within six months after possession is relinquished).

³³ See EXAMINATION GUIDELINES, *supra* note 4, at § 4.5.3; Lester G. Robinson, *The FAA Aircraft Registry and its Operation*, 29 INS. COUNSEL J. 238, 241 (1972).

³⁴ EXAMINATION GUIDELINES, *supra* note 4, at § 4.5.3.

³⁵ See generally *id.* at § 4.5.1. Perfection of such a lien will be governed solely by the requirements of the applicable state law. *Id.* Sometimes this will require that the lien claimant retain possession of the aircraft engine and, in many instances, perfection will also involve filing of a lien statement or a UCC-1 Financing Statement with the appropriate state or county offices. See sources cited *supra* notes 14-17 and accompanying text. *But see* 14 C.F.R. § 49.41(a) (2006) that specifically references and impliedly recognizes the recording of “other lien[s] . . . which affects title to, or any interest in, any specifically identified aircraft engine of 550 or more rated takeoff horsepower, or the equivalent of that horsepower, or a specifically identified aircraft propeller capable of absorbing 750 or more rated takeoff shaft horsepower” and 14 C.F.R. § 49.43 (2012) that states “[a] conveyance is eligible for recording under this subpart only if, in addition to the requirements of §§ 49.11, 49.13, and 49.17, the following requirements are met: (a) It affects and describes an aircraft engine or propeller to which this subpart applies, specifically identified by make, model, horsepower, and manufacturer’s serial number.” Although the regulations appear to allow filing of a mechanic’s lien, presumably because none of the lien recording statutes

must also be an original executed document with the signature in ink.³⁶ Further, if local law requires the lien statement to be verified (e.g., notarized or acknowledged before a notary public), then the signature on the lien statement must also be verified; otherwise, the FAA Registry will reject the lien statement.³⁷

Once the lien statement is accepted by the FAA Registry for recording, the FAA Registry sends an Aeronautical Center (AC) Form 8050-41, Conveyance Recordation Notice, to the lien claimant as well as to the registered owner of the aircraft.³⁸ This form describes the affected aircraft, or engine, and also identifies the recorded document by the date, the identified parties, the FAA Registry recording number, and the date of recordation.³⁹ The FAA Registry sends this recordation notice to confirm that the lien has been recorded and that the aircraft's record reflects the lien.⁴⁰

The FAA Registry merely records aircraft lien statements or claims submitted by lien claimants; it takes no position regarding the validity or enforceability of the lien statement or claim, nor does it get involved with disputes between the aircraft owner and lien claimant.⁴¹ As a result, the validity of a lien against an aircraft is governed by state law and determined between the parties without any involvement by the FAA Registry.⁴² Once perfected, the

specifically reference engines or propellers separately from aircraft, the FAA Registry does not have the authority to record a lien claim against a specific engine or propeller. *See generally In re Tower Air, Inc.*, 319 B.R. 88, 99 (Bankr. D. Del. 2004) (holding that the term "aircraft," under "C.G.S.A. § 15-34(5), was not intended to include engines, or other components or parts of aircraft separate from the aircraft itself" and, as a result, a mechanic's liens for work performed on aircraft engines is not required to be filed and recorded under either 49 U.S.C. § 44107(a)(1) or 49 U.S.C. § 44107(a)(2) to be perfected and enforceable against third parties). *See also* MINN. STAT. § 514.221(a) (2011) (describing a lien against an "aircraft" as defined by Minn. Stat. 360.013(37) as "any contrivance now known or hereafter invented, used, or designed for navigation of or flight in the air" without reference to engines or propellers). Additionally, a lien claimant retaining possession of the engine or propeller would also be able to perfect a claim under the applicable state's Uniform Commercial Code. U.C.C. § 9-311 (2012).

³⁶ 14 C.F.R. § 49.33 (2012).

³⁷ EXAMINATION GUIDELINES, *supra* note 4, at § 4.5.3.

³⁸ *Id.* *See also* 14 C.F.R. § 49.17(d)(5) (2006).

³⁹ EXAMINATION GUIDELINES, *supra* note 4, at §§ 4.5.7, 6.1.

⁴⁰ For a general discussion of the timing and procedures involved in the FAA Registry's processing of documents received for recording, *see generally* EXAMINATION GUIDELINES, *supra* note 4; Robinson, *supra* note 33.

⁴¹ 14 C.F.R. § 49.17(c) (2006) (stating "[t]he recording of a conveyance is not a decision of the FAA that the instrument does, in fact, affect title to, or an interest in, the aircraft or other property it covers.>").

⁴² 49 U.S.C. § 44108(c)(1) (2006) ("The validity of a conveyance, lease, or instrument that may be recorded under section 44107 of this title is subject to the laws of the State, the District of Columbia, or the territory or possession of the United States at which the conveyance, lease, or instrument is delivered, regardless of the place at which the subject of the conveyance, lease, or

lien claimant's claim (the amount which the lien claimant believes he or she is owed) is established against all others who may claim an interest in the aircraft.⁴³

IV. PRIORITY OF THE LIEN

A. *Priority Under State Law*

The laws of the state in which the lien claim arose determine the priority of that claim as it relates to the interests of others in the aircraft.⁴⁴ In some states, the aircraft mechanic's lien will have priority over all other interests, including those recorded with the FAA Registry.⁴⁵ In other states, the lien claim will be prior to all other claims except those previously recorded with the FAA Registry.⁴⁶

instrument is located or delivered. If the conveyance, lease, or instrument specifies the place at which delivery is intended, it is presumed that the conveyance, lease, or instrument was delivered at the specified place.”); *see also* Aircraft Trading & Serv. Inc. v. Braniff, Inc., 819 F.2d 1227, 1231 (2d Cir. 1987) (“Although state law determines priorities, all interests must be federally recorded before they can obtain whatever priority to which they are entitled under state law.”); Sanders v. M.D. Aircraft Sales, Inc., 575 F.2d 1086, 1088-89 (3d Cir. 1978) (holding that state law determines the legal effect of a recorded instrument).

⁴³ 49 U.S.C. § 44108(a) (2006); *see also* MINN. STAT. § 336.9-311(c) (2011) (“[D]uration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty.”); *In re Brice*, 188 F.3d 576, 577 (4th Cir. 1999) (holding that perfection of security interest by filing with FAA Registry is not forfeited if secured party does not file a continuation statement); *Travel Express Aviation Maint. Inc. v. Group*, 942 N.E.2d 694, 696-97, (Ill. App. Ct. 2011) (holding that once a security interest is recorded with the FAA Registry, the secured creditor does not need to record a continuation statement with the FAA Registry for the security interest to remain perfected).

⁴⁴ *Philko Aviation v. Shacket*, 462 U.S. 406, 413 (1983).

⁴⁵ *See* N.J. STAT. ANN. § 2A:44-2 (West 2012) (stating “[t]he lien shall be superior to all other liens, except liens for taxes.”); N.M. STAT. ANN. § 48-3-29 (A)-(B) (2011) (stating that a possessory lien perfected by filing with the FAA Registry “shall have priority over all other liens, including recorded liens on the aircraft, except liens for taxes” but if possession is lost then the lien “shall be subordinate to prior recorded liens on the aircraft.”); *In re S. Air Transp., Inc.*, 511 F.3d 526, 533-34 (6th Cir. 2007).

⁴⁶ *See* IOWA CODE. § 577.1 (1) (2011) (“[S]uch lien shall be subject to all prior liens of record, unless notice is given to all lienholders of record and written consent is obtained from all lienholders of record to the making, repairing, improving, or enhancing the value of any inanimate personal property and in this event the lien created under this section shall be prior to liens of record.”) (emphasis added); MINN. STAT. § 514.221(3) (2011) (stating “[a] lien created by this section is prior and paramount to all other liens upon the aircraft except those previously filed in the appropriate filing office.”). *But see* S.D. CODIFIED LAWS § 44-11-2 (2012) (a mechanic's lien “shall be subject only to liens, mortgages, and conditional sales contracts properly filed on or before the time that the property comes into the possession of the lien claimant.”).

B. Priority Under the Cape Town Convention

With respect to priority, one may wonder what impact, if any, the Cape Town Convention's priority rules bear on aircraft subject to its provisions. Under the Cape Town Convention, the first party to register an interest with the International Registry in a subject aircraft, engine, or propeller will have an interest prior and superior to all other interests,⁴⁷ regardless of whether the first party has knowledge of a prior unregistered interest.⁴⁸

Fortunately, the Cape Town Convention's "first to file" priority does not adversely impact the priority of an aircraft mechanic's lien. Article 39 of the Cape Town Convention allows a contracting state to deposit declarations that declare the rights and priority of non-consensual liens that are not registered with the International Registry.⁴⁹ The United States filed Article 39 Declarations that preserve the priority of aircraft mechanic's liens against interests that are registered with the International Registry, despite the fact that such mechanic's liens are not registered.⁵⁰

⁴⁷ See *Cape Town Convention*, *supra* note 23 at art. 29(1) (stating "[a] registered interest has priority over any other interest subsequently registered and over an unregistered interest.").

⁴⁸ *Id.* at 29(2) ("The priority of the first-mentioned interest under the preceding paragraph applies: (a) even if the first-mentioned interest was acquired or registered with actual knowledge of the other interest; and (b) even as regards value given by the holder of the first-mentioned interest with such knowledge.").

⁴⁹ *Id.* at art. 39 ("1. A Contracting State may at any time, in a declaration deposited with the Depositary of the Protocol declare, generally or specifically: (a) those categories of non-consensual right or interest (other than a right or interest to which Article 40 applies) which under that State's law have priority over an interest in an object equivalent to that of the holder of a registered international interest and which shall have priority over a registered international interest, whether in or outside insolvency proceedings . . .").

⁵⁰ *Declarations Lodged by the Government of the United States of America Under the Cape Town Convention*, UNIDROIT.ORG, <http://www.unidroit.org/english/conventions/mobile-equipment/depositaryfunction/declarations/bycountry/unitedstates.htm> ("Pursuant to Article 39 of the Convention - (A) all categories of non-consensual rights or interests which under United States law have and will in the future have priority over an interest in an object equivalent to that of the holder of a registered international interest shall to that extent have priority over a registered international interest, whether in or outside insolvency proceedings; and (B) nothing in the Convention shall affect the right of the United States or that of any entity thereof, any intergovernmental organization in which the United States is a member State, or other private provider of public services in the United States to arrest or detain an aircraft object under United States law for payment of amounts owed to any such entity, organization, or provider directly relating to the services provided by it in respect of that object or another object.") (last visited Jan. 31, 2013).

V. ENFORCING THE LIEN⁵¹A. *The Wait and See Approach*

Once perfected, the aircraft mechanic's lien encumbers the aircraft and prevents the aircraft owner from conveying clear title to the aircraft without first obtaining a release from the lien claimant.⁵² After all, in the vast majority of aircraft transactions, the aircraft owner agrees to sell—and the purchaser expects to receive—the aircraft with clear title (i.e., having no liens, encumbrances, etc.).⁵³ If a potential purchaser of an aircraft encumbered by a mechanic's lien performs a title search and discovers the lien, he or she is not likely to purchase the aircraft without assurance that the lien has been satisfied and no longer encumbers the aircraft.⁵⁴ Thus, a lien claimant could wait until the aircraft is sold, knowing that the lien claimant will receive payment at closing in exchange for release of the lien claim. However, the “wait for the aircraft to sell” approach could run afoul of certain states' laws that require a lien claimant to foreclose upon the lien within a certain period of time.⁵⁵

B. *Foreclosing the Lien Through Judicial Action*

Rather than proceeding as though the claimant were a secured creditor and waiting until an aircraft sells to receive payment,⁵⁶ the lien claimant can initiate a foreclosure proceeding to foreclose upon its perfected⁵⁷ lien against the aircraft.⁵⁸ If the lien claimant does not have possession of the aircraft, this

⁵¹ As with the determination of priority, the procedures for enforcing an aircraft mechanic's lien will be governed by applicable state laws. For purposes of this Article and a discussion of procedures that may be available, Minnesota law will be used as a point of reference.

⁵² *In re TWA Inc. Post Confirmation Estate*, 312 B.R. 759, 762 (Bankr. D. Del. 2004) (stating “[c]learly, liens are ‘defects in title.’”).

⁵³ J. SCOTT HAMILTON, *PRACTICAL AVIATION LAW* 195 (4th ed. 2005). Both purchasers and lenders have an interest in making sure their interests are not subject to prior interests of other lienholders.

⁵⁴ *Id.* at 198.

⁵⁵ *See id.* at 195, 198.

⁵⁶ *See* MINN. STAT. § 514.221(3) (2011) (stating that “[t]he lien shall be treated in all respects as a secured transaction under the Uniform Commercial Code, sections 336.9-501 to 336.9-628.”).

⁵⁷ As discussed previously, the lien claim must be perfected. For an example of what happens if a foreclosure action is initiated without first perfecting a lien claim see *S. Horizons Aviation v. Farmers & Merch. Bank of Lakeland*, 497 S.E.2d 637 (Ga. Ct. App. 1998) (affirming judgment against a lien claimant who filed a mechanic's lien foreclosure action without filing a lien statement with the FAA Registry).

⁵⁸ *See* MINN. STAT. § 336.9-601(a)(1) (allowing a secured party to “reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure.”). *See also id.* § 514.221(3) (providing that the aircraft mechanic lien claimant's interest “shall be treated in all respects as a secured transaction under the Uniform Commercial Code, sections 336.9-501 to 336.9-628.”).

approach will require suing the aircraft owner or operator to recover the aircraft for sale.⁵⁹

The time period within which a lien claimant can initiate a foreclosure proceeding against the aircraft can range anywhere from ninety days to eighteen months from the last day of work, depending upon state law.⁶⁰ The foreclosure must start within that period of time; if the foreclosure is not initiated within the required period, the lien claimant may still be owed money for the services provided to the aircraft, but the aircraft will no longer secure the amount owed.⁶¹

If the lien claimant is successful in the foreclosure action, the aircraft will ultimately be sold at a sale or auction.⁶² This sale is typically conducted by the local sheriff's office, and the aircraft is sold to the highest bidder at the sale.⁶³ If no one bids at the sale, the aircraft is sold to the lien claimant for the amount of the lien; conversely, if the lien claimant is the highest bidder, the aircraft is sold to the lien claimant for the bid amount.⁶⁴ If the aircraft is sold to a bidder for more than the amount of the lien, part of the proceeds of the sale are disbursed to the lien claimant to pay the lien claim and any excess money is then paid to the aircraft owner.⁶⁵ To subsequently register the aircraft with the FAA Registry, the purchaser—the lien claimant or a third party—must file a bill of sale signed by the party given authority to conduct the sale and reflecting that the sale was made under applicable law.⁶⁶

⁵⁹ See *Gen. Elec. Capital Corp. v. Advance Petroleum, Inc.*, 660 So.2d 1139, 1143 (Fla. Dist. Ct. App. 1995) (requiring a defendant over whom the court had *in personam* jurisdiction to locate and return an aircraft against which a mechanic's lien was perfected to proceed with the court's order of foreclosure of the lien since the court could not "issue any orders which directly act on the aircraft, since the aircraft is not within the court's *in rem* or *quasi in rem* jurisdictional domain.").

⁶⁰ See ARK. CODE ANN. § 18-45-207 (2012) (requiring commencement of foreclosure within eighteen months of filing with the FAA Registry); COLO. REV. STAT. § 38-20-107(1) (2012) (requiring initiation of foreclosure proceedings "within ninety days after charges become due and payable."); MINN. STAT. § 514.221(3(a)) (2011) (requiring that "any foreclosure proceedings must be instituted within one year of the date the lien was filed."); WYO. STAT. ANN. § 29-7-102 (2011) (requiring a lien claimant to commence foreclosure proceedings to foreclose the lien within 180 days from the last date of work when the lien is perfected by possession or 180 days from the date a lien statement is filed with the FAA Registry if possession of the aircraft is relinquished).

⁶¹ See *supra* notes 59-60 and accompanying text.

⁶² See MINN. STAT. § 336.9-601(f) (providing that a judicially authorized execution sale may be conducted to foreclose on the security interest).

⁶³ See EXAMINATION GUIDELINES, *supra* note 4, at § 2.2.5 (o)(1); *Heritage Ins. Co. of Am. v. McElroy*, 807 F.2d 741, 742 (8th Cir. 1986).

⁶⁴ MINN. STAT. § 336.9-601(f) (providing that "[a] secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.").

⁶⁵ *Id.* § 336.9-615.

⁶⁶ EXAMINATION GUIDELINES, *supra* note 4, at § 2.2.5(o)(1).

C. *The Self-Help Approach*

Depending upon a claimant's status as a secured creditor,⁶⁷ a lien claimant who has not retained possession of the aircraft may be able to retake possession of the aircraft if possession was previously relinquished.⁶⁸ Once the lien claimant has possession of the aircraft—whether possession was maintained continuously or recovered after it was lost—the lien claimant may enforce the lien without seeking a judicial remedy.⁶⁹

For example, state law may allow the lien claimant to lease the aircraft or to sell it at a public or private sale.⁷⁰ If the aircraft is sold, the proceeds of the sale are applied to the amount owed—just as if the aircraft was sold pursuant to a judicial foreclosure.⁷¹ To then register the aircraft with the FAA Registry, the purchaser—the lien claimant or a third party—would need to file a bill of sale reflecting that the sale was made under applicable law and that it met the FAA Registry requirements for a sale in compliance with all applicable law.⁷²

VI. DEFENSES AGAINST THE LIEN

A common defense to an aircraft mechanic's lien foreclosure action is that the lien was not properly perfected. Because courts construe lien statutes strictly in these situations,⁷³ the aircraft owner may assert that the lien statement was not filed within the proper time period after the last day of work, or that the lien claimant did not follow the proper procedures to perfect the lien.⁷⁴ Similarly, if the foreclosure proceeding was not initiated within the time period allowed by law, the aircraft owner may also assert failure to timely initiate the foreclosure proceeding as a defense.⁷⁵

⁶⁷ *In re TWA Inc. Post Confirmation Estate*, 312 B.R. 759, 762 (Bankr. D. Del., 2004).

⁶⁸ See MINN. STAT. § 336.9-609.

⁶⁹ See *id.* §§ 336.9-609(b), 336.9-610(a). Given the higher costs and longer time periods that are involved with judicial action, lien claimants prefer to pursue non-judicial remedies unless judicial assistance is needed to effectuate a foreclosure sale or unless the lien claimant believes the aircraft owner or operator will seek judicial intervention to stop the lien claimant's pursuit of a non-judicial remedy. See also EDELMAN ET AL., AIRCRAFT REPOSSESSION AND ENFORCEMENT 1038 n.12 (2009).

⁷⁰ See MINN. STAT. § 336.9-610(b)-(c) (providing for sale at a public or private proceeding; and section (c) allowing the secured party to purchase at the public or private sale).

⁷¹ *Id.* § 336.9-609.

⁷² EXAMINATION GUIDELINES, *supra* note 4, at § 2.2.5(o)(2). In addition to the bill of sale, the FAA Registry may want to review “copies of a notice published in a local newspaper, a copy of a notice posted in a public place, an affidavit certifying the sale was made pursuant to statutory procedure, or any other evidence showing compliance with pertinent law.” *Id.*

⁷³ See *Geo. Sedgwick Heating & Air Conditioning Co. v. Riverwood Co., Inc.*, 409 N.W.2d 289, 291 (Minn. Ct. App. 1987).

⁷⁴ See MINN. STAT. § 514.221(2).

⁷⁵ See *id.* § 514.221(3)(a).

Another defense an aircraft owner may assert is that the lien is invalid because the lien claimant is knowingly demanding an amount in excess of what is justly due.⁷⁶ This defense is very common in situations where the aircraft owner initially disputes the amount being charged by the lien claimant. However, this defense usually requires that the aircraft owner show bad faith on the part of the lien claimant, or that the lien claimant knew the lien statement was overstated.⁷⁷

In defending against a mechanic's lien foreclosure action, it may be possible to obtain release of the lien pending resolution of claims in the litigation.⁷⁸ Upon deposit of a stipulated amount with the court, the court may issue an order discharging the lien and allowing the litigation to proceed with the stipulated amount acting as security for the lien claimant's claim.⁷⁹

If the aircraft owner is successful in defending against the foreclosure proceeding, the aircraft owner will also probably succeed in a "slander of title" claim against the lien claimant.⁸⁰ A slander of title claim alleges that the lien claimant improperly encumbered the aircraft with an invalid lien and as a result suffered special damages (e.g., loss of a sale, and attorney's fees incurred to remove the invalid lien).⁸¹

⁷⁶ See *id.* § 514.74 (stating "[i]n no case shall a lien exist for a greater amount than the sum claimed in the lien statement, nor for any amount, if it be made to appear that the claimant has knowingly demanded in the statement more than is justly due.").

⁷⁷ See *First Bank Southdale v. Kinney*, 392 N.W.2d 740, 742 (Minn. Ct. App. 1986) (quoting *Delyea v. Turner*, 118 N.W.2d 436, 440-41 (1962)) ("[A] lien will be defeated under section 514.74 on a showing of 'fraud, bad faith, or an intentional demand for an amount in excess of that due.'" and "[t]he amount claimed is so excessive as to preclude the likelihood of a mistake made in good faith.").

⁷⁸ See MINN. R. CIV. P. 67.01 (providing for deposit of money in court), 67.03 (providing authority for the court to issue orders with respect to money or property that is the subject of the litigation). In this author's experience, using the cited rules, it has been possible to stipulate to the amount to be deposited with the court vis-a-vis the lien claim and, upon depositing such funds, have the court issue an order approving the deposit of funds and discharging the lien claim. The court's order is then filed with the FAA Registry for removal of the lien as an encumbrance against the aircraft. See also NEV. REV. STAT. § 108.276 (2011) (providing "1. The legal owner may, for the redelivery of any aircraft, aircraft equipment or parts which are held by the lien claimant, file with the court a bond for double the amount of the lien[; and] 2. The court upon approval of such a bond shall issue its order requiring the lien claimant to relinquish possession of the property to the legal owner.").

⁷⁹ See *supra* note 78.

⁸⁰ "The elements required for a slander of title claim are: (1) That there was a false statement concerning the real property owned by the plaintiff; (2) That the false statement was published to others; (3) That the false statement was published maliciously; (4) That the publication of the false statement concerning title to the property caused the plaintiff pecuniary loss in the form of special damages." *Paidar v. Hughes*, 615 N.W.2d 276, 279-80 (Minn. 2000).

⁸¹ *Id.* at 277 n.1, 278, 280 (holding that "[s]pecial damages are those [that] are the natural, but not the necessary and inevitable result of a wrongful act" (citation and quotation omitted), and

Finally, absent a foreclosure proceeding, if the lien claim is unenforceable under the applicable state law, the FAA Registry may not remove the recorded lien from the aircraft's records. The FAA Registry will only release the aircraft from the recorded lien in one of two ways: (1) the lien claimant voluntarily signs a release of the lien and the release is recorded with the FAA Registry;⁸² or (2) a court order is obtained declaring the lien as either invalid or unenforceable, and a certified copy of that order is then recorded with the FAA Registry.⁸³ Thus, once recorded, a lien claim, whether enforceable under state law or not, remains a cloud on an aircraft's title until the claim is affirmatively released.

But what happens if the lien claimant is no longer in business? Unfortunately, that does not change the options; it just makes clearing the lien from the aircraft's title more difficult. The party seeking the release will need to locate someone who has authority to execute a release on behalf of the lien claimant, or the party must obtain a certified copy of a court order describing the aircraft and lien and stating that the lien either is no longer valid or has been cancelled.⁸⁴

also holding that reasonable attorney fees are recoverable as special damages when they are a direct consequence of an action to quiet title that results from slander of title, in addition to damages for loss of a sale, etc.). *But see* Clark v. Lewis, 684 S.W.2d 161, 164 (Tex. App. 1984) (holding attorney fees not recoverable as special damages in slander of title action because attorney fees are not a pecuniary loss).

⁸² 14 C.F.R. § 49.17(d)(5) (2012). *See generally* EXAMINATION GUIDELINES, *supra* note 4, at ch. 6. The lien claimant may sign FAA Form 8050-41 below the release statement and return the form to the FAA Registry. 14 C.F.R. § 49.17(d)(5). The FAA Registry will also accept a document that describes the affected aircraft or other collateral, specifically identifies the lien, and contains a statement releasing all of the lien claimant's rights and interests in the described collateral from the terms of the identified lien. EXAMINATION GUIDELINES, *supra* note 4, at § 6.18-6.20. The lien claimant must sign the release document in ink and show the signer's title, as appropriate. *Id.* at App. 26.

⁸³ *See* EXAMINATION GUIDELINES, *supra* note 4, at § 6.24.

⁸⁴ *Id.* at § 6.15. To obtain a signed release the FAA Registry suggests that, "[i]n the case of a corporate holder, check with the Secretary of State, State Banking Authority, FDIC, or other authority under which the defunct corporation or association was organized, to determine its disposition.

(1) If bankruptcy was involved, a receiver, liquidator, [sic] trustee would have been appointed to settle up the affairs. A release may be executed by such a party, or if the lien had not been paid off, the lien conveyance may have been assigned to another institution.

(2) If the corporation or association was voluntarily dissolved, one of the officers or stockholders may have been designated to wind up the affairs and may have knowledge of the lien involved. Any former officer or manager who has knowledge as to whether liens were satisfied prior to the dissolution may sign a release in their former capacity, when the release is dated prior to the dissolution."

Id. at § 6.15(a)(1)-(2) (emphasis removed).

VII. CONCLUSION

Perfecting and enforcing an aircraft mechanic's lien can be tricky. In addition to the federal filing requirement, each state has its own specific requirements governing aircraft mechanic's liens. Attorneys and legal practitioners, as well as lien claimants, should understand how aircraft mechanic's liens are perfected and enforced under particular state laws in order to successfully assert an aircraft mechanic's lien.

In the case of an individual, partnership, or co-owner lien claimant, the FAA Registry suggests that the party seeking the release "check the telephone directories and other addresses in the locale of the lienholder. A check with the county courthouse may reflect the appointment of an executor or administrator who may execute a release with evidence of the appointment." *Id.* at § 6.15(b).

VIII. APPENDIX A: AIRCRAFT MECHANIC'S LIEN LAWS

State	Statutory Authority for Filing	Possession Required to Perfect?	Method of Perfection
Alabama	1. ALA. CODE § 35-11-110 (2011) used when mechanic not in possession. 2. Common law mechanic's lien used when mechanic still in possession.	Statutory lien only when NOT in possession. ⁸⁵	Possession, or by attachment through court action. FAA Registry will not accept mechanic's lien statement for recording. ⁸⁶
Alaska	ALASKA STAT. § 34.35.185 (2012).	Yes.	Lien Notice must be filed with the FAA Registry before possession is relinquished.
Arizona	ARIZ. REV. STAT. ANN. § 33-1022 (2012).	No.	Filing within thirty days of relinquishing possession: (1) with the county recorder in the county in which the work was completed, and (2) with the FAA Registry.
Arkansas	ARK. CODE ANN. § 18-45-206 (2012).	No.	Possession or filing within 120 days of completion of work with the FAA Registry.
California	CAL. COM. CODE § 9798.2 (West 2011).	No.	Filing Notice of Lien with FAA Registry within 180 days of completion of work, but only for work on general aviation aircraft. Lien claimant must also provide customer with a written estimate prior to commencement of work and an invoice detailing work performed when work is completed.
Colorado	COLO. REV. STAT. § 38-20-106 (2012).	Yes, ⁸⁷	FAA Registry will not accept mechanic's lien statement for recording. Foreclosure proceedings must be taken within ninety days after charges become due and payable. <i>See</i> § 38-20-107.
Connecticut	CONN. GEN. STAT. § 49-92g, 49-92h (2011).	No.	Filing a verified statement with the FAA Registry within ninety days after completion of work. Lien claimant must also send notice of the lien to the aircraft owner and all other lienholders within seven days of filing with the FAA Registry.
Delaware	DEL. CODE ANN. tit. 25, § 3901-10 (2012).	No. <i>See</i> § 3902 (requiring lien holder to file application for lien sale within ten days of loss of possession).	FAA Registry will not accept mechanic's lien statement for recording.

⁸⁵ *See* Peavy's Serv. Ctr., Inc. v. Assocs. Fin. Servs. Co., 335 So. 2d 169 (Ala Civ. App. 1976).

⁸⁶ *See* EXAMINATION GUIDELINES, *supra* note 4.

⁸⁷ *See* Wenz v. McBride, 36 P. 1105 (1894); Hillsburg v. Harrison, 30 P. 355 (1892).

District of Columbia	D.C. CODE § 40-102 (2012).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording. Notice is required to enforce the lien.
Florida	FLA. STAT. §§ 329.01, 329.51, 713.58 (2012).	Yes. ⁸⁸	Filing lien notice with FAA Registry and with county clerk in county where work was done within ninety days of the last day of work.
Georgia	GA. CODE ANN. § 44-14-363, 550 (2011).	No.	Possession, or filing with FAA Registry within 90 days of last date of work.
Hawaii	HAW. REV. STAT. §§ 261-75, 507-18 (2011).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording. But, to sell under § 261-75, must give thirty days notice to registered owner and anyone with an interest recorded with the FAA Registry.
Idaho	IDAHO CODE ANN. § 45-1101 (possession); § 45-1102-03 (non- possessory) (2012).	No. Use § 45-1102- 03.	Possession or filing mechanic's lien statement with FAA Registry within 180 days of completion of the work.
Illinois	82 ILL. COMP. STAT. 41 (2011); 770 ILL. COMP. STAT. 45/1, 45/2, (2011).	No.	Filing Lien Notice with FAA Registry within sixty days of surrendering possession.
Indiana	IND. CODE § 32-33-10-6 (2012).	No.	Filing with FAA Registry and at recorder's office in the county where work performed within sixty days of the last date of work.
Iowa	IOWA CODE § 577.1 (2011).	Yes.	Possession and filing with FAA Registry within ninety days from completion of work, or longer if still in possession, but "possession" is deemed to continue automatically for ninety days after work, and indefinitely if filing with FAA registry.
Kansas	KAN. STAT. ANN. § 58-201 (2011).	No.	Filing with the FAA Registry within ninety days if the lien claimant was in possession of the aircraft and relinquished possession. Otherwise, filing within ninety days from date work was provided if not in possession.
Kentucky	KY. REV. STAT. ANN. § 376.270 (West 2011).	No.	Possession, or filing with the FAA Registry within six months after possession is relinquished.
Louisiana	LA. REV. STAT. ANN. § 9:4511-12 (2011).	No.	Filing with FAA Registry within ninety days of work and filing with parish where work was completed.
Maine	ME. REV. STAT. tit.10, § 625-3801-02 (2011).	No.	Filing with FAA Registry and in office of the Secretary of State within ninety days after work completed.

⁸⁸ See *Commercial Jet, Inc. v. U.S. Bank, N.A.*, 45 So. 3d 887, 888 (Fla. Dist. Ct. App. 2010).

Maryland	MD. CODE ANN., COM. LAW § 16-203 (LexisNexis 2012).	No. But surrender of possession discharges lien against third person without notice. <i>See</i> §16-204.	Possession or notice by registered/certified mail to all holders of perfected security interests within thirty days of creation of the lien. <i>See</i> §16-203(b). FAA Registry will not accept mechanic's lien statement for recording.
Massachusetts	MASS. GEN. LAWS ch. 255, § 31E (2012).	No.	Filing with FAA Registry within sixty days of last date of work.
Michigan	MICH. COMP. LAWS § 259.205, 259.205b (2012).	No. Lien claimant can detain aircraft any time it is in his possession within ninety days after last work.	Filing with FAA Registry and also delivering by personal service or registered mail to the last known address of the aircraft's registered owner the claim of lien and itemized statement of the account within sixty days of the date work was completed.
Minnesota	MINN. STAT. §§ 336.9-311, 514.221 (2011).	No.	Filing verified statement with FAA Registry within ninety days of last day of work.
Mississippi	MISS. CODE ANN. § 85-7-101 (2012).	No. <i>See</i> § 85-7-105.	FAA Registry will not accept mechanic's lien statement for recording.
Missouri	MO. REV. STAT. § 430.020 (2011).	No.	Possession or filing with FAA Registry and county recorder where the owner resides, AND where the work was done, within 180 days of relinquishing possession.
Montana	MONT. CODE ANN. § 71-3-1201 (2011).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording.
Nebraska	NEB. REV. STAT. § 52-202 (2011).	No.	Filing with FAA Registry within sixty days of last day of work.
Nevada	NEV. REV. STAT. § 108.272 (2011).	No. <i>See</i> § 108.280.	Filing with the FAA Registry within 120 days after supplies or services are furnished and within 120 days after date of service or within seven days after the lien claimant receives an order to release the property, whichever time is less; serving the legal owner by mailing a copy of the notice of the lien to his last known address; or if no address is known, by leaving a copy with the clerk of the court in the county where the work was performed.
New Hampshire	N.H. REV. STAT. ANN. § 450:2 (2011).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording. Notice of sale must be made pursuant to §§ 444:3, 4, and 6.
New Jersey	N.J. STAT. ANN. § 2A:44-2 (West 2012).	No. <i>See</i> § 2A:44-3.	Filing with the FAA Registry within ninety days of the last date of work.
New Mexico	N.M. STAT. ANN. § 48-3-29 (2011).	No.	Filing with the FAA Registry within ninety days of the last date of work.

New York	N.Y. LIEN LAW § 184 (McKinney 2012).	No. However, possession must be maintained to avoid lien becoming void as against all security interests, whether or not perfected.	FAA Registry will not accept mechanic's lien statement for recording.
North Carolina	N.C. GEN. STAT. § 44A-60 (2011).	No. See § 44A-55.	Filing with FAA Registry within 120 days from date possession is relinquished.
North Dakota	N.D. CENT. CODE § 35-13-02 (2011).	No.	Filing with FAA Registry within ninety days of last date of work and serving notice upon all owners/lienholders via registered mail within thirty days after filing verified lien statement with FAA Registry.
Ohio	OHIO REV. CODE ANN. § 1311.73 (LexisNexis 2012).	No.	Filing with FAA Registry within ninety days from last day of work if the aircraft is in the lien claimant's possession, or within ninety days of relinquishment of possession of the aircraft.
Oklahoma	OKLA. STAT. tit. 42, § 97-98 (2011).	No.	Possession and filing with FAA Registry within 120 days from last day of work.
Oregon	OR. REV. STAT. §§ 87.152 (2012) (possessory); 87.216; 87.242 (non-possessory).	No.	Possession for twenty days unpaid or when the owner tries to remove without payment. See § 87.166. Non-possessory liens: filing with FAA Registry no later than sixty days after the close of the furnishing of the labor, services, or materials. See § 87.242. Lien claimant must also send a copy of the lien statement to the aircraft owner "forthwith" and to be perfected within thirty days after the date of filing. § 87.252.
Pennsylvania	6 PA. STAT. ANN. § 11 (West 2012).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording.
Rhode Island	R.I. GEN. LAWS § 34-47-3 (2011).	No.	Filing with FAA Registry within sixty days after last date of work.
South Carolina	S.C. CODE ANN. § 29-15-100 (2011).	No.	Filing with the FAA Registry within ninety days after last date of work.
South Dakota	S.D. CODIFIED LAWS § 44-11-3, 3.1 (2012).	No.	Possession or filing with FAA Registry within 120 days after loss of possession.
Tennessee	TENN. CODE ANN. § 66-19-301 (2011).	No.	Filing with FAA Registry within ninety days of the last date of work. Notice must also be given to secured interests and to owner/person for whom work was done.

Texas	TEX. PROP. CODE ANN. §§ 70.303-304, 3031 (West 2011).	No.	If aircraft is registered in U.S.: filing with FAA Registry within 180 days after completion of work. If aircraft is not registered in U.S.: filing with Secretary of State within 180 days. If possession of aircraft is maintained, lien claimant must notify owner and other lienholders shown on FAA Registry within sixty days of the date the work was completed (via certified or registered mail, return receipt requested).
Utah	UTAH CODE ANN. § 38-13-201 (West 2012).	No.	Filing with FAA Registry within ninety days of completion of work and Notice of Lien sent to person against whom it is recorded within thirty days of filing with the FAA Registry.
Vermont	VT. STAT. ANN. tit. 9, § 1951 (2011).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording.
Virginia	VA. CODE ANN. §§ 43-32, 34.1 (2012).	No.	Filing with FAA Registry within 120 days of the last date of work.
Washington	WASH. REV. CODE § 60.08.020 (2012).	No.	Filing with the FAA Registry within ninety days from date of delivery to owner.
West Virginia	W. VA. CODE § 38-11-3 (2011).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording.
Wisconsin	WIS. STAT. § 779.43(3) (2011).	Yes.	Possession only. FAA Registry will not accept mechanic's lien statement for recording.
Wyoming	WYO. STAT. ANN. § 29-7-102 (2011).	No. But must perfect by filing before releasing possession.	Possession and filing with the FAA Registry while still in possession. If possession is lost involuntarily, filing with the FAA Registry within thirty days of losing possession.