



RISKS TO PRIVATE AIRCRAFT OWNERS POSED BY SERVICE PROVIDERS

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[GKG Law](#) frequently represents aircraft owners in contesting the validity of notices of liens filed with the FAA relating to their aircraft. Many aircraft owners face issues relating to FAA lien filings that create a “cloud” on the title to their aircraft. Often, such a cloud arises when vendors that have provided services relating to the aircraft file a notice of lien with the FAA due to alleged unpaid sums that the vendor is owed. These clouds are often discovered by aircraft owners when a title search is performed in connection with the sale of their aircraft, by a commercial lessor of the aircraft, or by a lender seeking to perfect its lien on the aircraft in connection with making a loan to the owner.

Many states have statutes permitting persons who provide storage, repairs, maintenance or other services relating to an aircraft the ability to create a lien on the aircraft for amounts owed, provided that they have met the requirements of the statute permitting the lien. Federal law permits those persons to file notices of the existence of such liens with the FAA aircraft registry. Although, under appropriate circumstances, such liens serve a valid purpose such as ensuring that mechanics and other aircraft service providers are compensated for services they performed at the request of an aircraft owner or operator, the ability to file such liens can pose a threat to aircraft owners and lessees.

In filing a mechanics’ lien on an aircraft, a mechanic or other service provider creates a cloud on the aircraft’s title, thereby impeding the aircraft owners’ ability to sell (or in some cases refinance) the aircraft until the lien has been released. Such liens also may cause an aircraft lessee to be in default under its lease of the aircraft. Recognizing the tremendous leverage that such liens afford them, some service providers file liens in excess of the amount validly owed, or file liens that do not comply with the requirements of state lien laws, knowing that an aircraft owner may feel compelled to pay to release the lien in order to permit an aircraft sale or loan to move forward, even though the lien is invalid.

An aircraft owner or lessee has several defenses that it may assert against such liens. Among the possible defenses that may be asserted by an aircraft owner or lessee are the fact that: 1) the vendor did not provide services that fall within the scope of the state lien statute under which the vendor asserts the existence of the lien; 2) the vendor did not provide the aircraft related services in the state where the liens are being asserted; 3) the lienholder has not complied with the state’s possessory lien requirements; and/or 4) the services were not provided with the aircraft owner’s consent.

In addition, an aircraft owner or operator can take certain precautionary measures to minimize the risk posed by such liens. These include ensuring that there is a written agreement with the service provider specifying the exact nature and costs of the services to be provided. Such written communications should preclude the service provider from later submitting an invoice, and asserting a lien, for an amount in excess of the amount that the aircraft owner or operator agreed in writing to pay to the vendor.

Private aircraft ownership and operations periodically result in commercial disputes. These disputes may arise in connection with the purchase or sale of an aircraft, the lease of the aircraft, the adequacy of repairs performed on the aircraft, and/or disputes regarding who has assumed responsibility for such maintenance and repairs. GKG’s extensive experience in all aspects of the business aviation marketplace makes it particularly suited to authoritatively protect your rights in such commercial disputes. Please contact [Brendan Collins](#) at [GKG Law](#) if you would like to discuss any potential aircraft related disputes. Brendan may be reached by telephone at (202) 342-6793 or by email at bcollins@gkglaw.com.