



U.S. Department
of Transportation
**Federal Aviation
Administration**

Mike Monroney
Aeronautical Center

P.O. Box 25082
Oklahoma City, Oklahoma 73125

April 23, 1992

Michael J. Kearns
P.O. Box 201525
San Antonio, TX 78220

Dear Mr. Kearns:

Release of Mechanic Liens

Your letter of April 22, 1992, requests our opinion on a matter involving mechanic liens recorded with the FAA Aircraft Registration Branch.

You have inquired as to whether applicable Federal statutory or regulatory authority will permit a mechanic lien to be discharged or released through "substitution" of a surety bond for the mechanic lien recorded on an aircraft file.

It is our opinion that neither Section 503(a) of the Federal Aviation Act of 1958 (Act), as amended and Title 14, Part 49 of the Code of Federal Regulations provide authority for recordation of a surety bond, or for removal of a recorded mechanic lien from an aircraft file.

You contemplate the recordation of a surety bond as a substitute for a mechanic lien previously recorded on an aircraft registration file. We understand that a surety bond, in the context of your question, is a written agreement in which the surety guarantees payment of funds upon the occurrence or non-occurrence of a specified event (in this instance, the event could be a participating party's failure to pay an obligation for mechanical services performed on an aircraft).

Section 503(a) of the Act provides for a system for recordation of conveyances which affect ownership of, or an interest in, civil aircraft registered in the United States (49 U.S.C. App. § 1403(a)). Since a bond is arguably solely an agreement between private parties guaranteeing payment of a financial obligation, it does not appear to directly affect an interest in an aircraft. As such, it is not a conveyance contemplated by Section 503(a). Additionally, a bond does not appear in the description of the term "conveyance," which is defined in the Federal regulations which implement Section 503(a) (14 CFR Part 49).

Alternatively, if the mechanic lien is the subject of litigation, a court order which impacts the lien could be eligible for recordation as a conveyance affecting an interest in an aircraft.

Accordingly, an order issued by the presiding court which sets aside an aircraft lien, while requiring the appropriate party to post a surety bond in lieu of retaining a lien, would appear to meet the requirements of Section 503(a) of the Act.

Your inquiry, in describing a bond as a "substitute" for a recorded mechanic lien, suggests that a the mechanic lien can be removed from an aircraft registration file. The recordation system, as implemented by 14 CFR Part, does not provide for removal of instruments which have been recorded. For practical purposes, conveyances which are recorded as affecting ownership of, or an interest in, a civil aircraft are treated as permanent records. Section 49.17(d)(5) of the Federal Aviation Regulations (14 CFR 49.17(d)(5)) permits the alternative of recording a written release of an instrument previously recorded on an aircraft for purposes of security. Accordingly, a written release of a mechanic lien may be submitted for recordation as a conveyance which discharges an interest in a civil aircraft.

Sincerely,

Joseph R. Standell
Assistant Chief Counsel
Aeronautical Center

By:


Alonso J. Rodriguez
General Attorney