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Aviation Alert from Hardy Law

Slimdown- Can I Close My Airplane Deal?

Oct. 9, 2013

In This Issue

**Aircraft Registry Closed-
What Are My Options?**

The FAA Aircraft Registration Branch is shut down. Does that mean aircraft deals are on hold? Pretty much, but . .

As always, please contact me if I can be of service.

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What Does the Government "Slimdown" Mean for Your Aircraft Deal?

Many of you have asked me how the partial government shutdown will affect your plans to buy, sell or finance an aircraft. While much depends on your particular goals and situation, here's the basic state of affairs.



The bad news: the FAA's Aircraft Registration Branch is shut down completely. No FAA title searches, recording bills of sale, registration applications or security interests. Which basically means no aircraft deal closings; at least in the traditional sense (but see below).

How long will this last?



I don't know. The FAA recalled 800 workers to other branches yesterday for safety reasons. There are strong voices calling for the Aircraft Registration Branch's reopening also.

U.S. Congressman Mike Pompeo is trying to [shepherd legislation](#) that will reopen the Branch, regardless of other government agencies.

Also yesterday, the leaders of some of the most influential aviation groups sent a [joint letter to the Secretary of Transportation](#) laying out a legal argument for reopening the Branch. The argument is based mainly on safety concerns. But the economic argument may be stronger- these last three months of the year are usually the busiest for aircraft deliveries, and billions are predicted to be lost if the slimdown continues. That very real possibility, along with the safety concerns, could produce enough pressure to reopen the Registration Branch in the near future.

What Can You do Now?

Depending on your goals, alternative action may be possible. For example, if a buyer has some important flights coming up that only a smaller corporate aircraft can make, the buyer and seller might do a short-term lease to bridge the gap. Not ideal, but much safer than trying to close a sale without the Aircraft Registry.



I've heard of a few folks actually proceeding with closings, with the agreement to clean up any title issues, and to file sale and registration documents, when the Registry reopens. I don't recommend that. Serious risks include the possibility that your new title will be subordinate to another's, your insurance policy may not apply as you thought it did, and security interests will not be perfected (if they exist at all). If you do proceed like that, and want to use an escrow service to help coordinate, the escrow service will require that every party involved sign a waiver and indemnify them from all risks involved in closing while the Aircraft Registry is shut down.

If nothing else is available for your situation, you can at least get all diligence and documents lined up and into escrow, so that once the Registration Branch reopens, closing can happen quickly.

If you'd like to further discuss the risks, or possible alternatives for your situation, please let me know.

About Joe Hardy

I believe in people working together for aviation safety- combining talents and efforts

to help business aviation run smoothly and safely. I am a pilot and attorney specializing in aviation transactions and mediation- especially buying and selling, financing, and setting up ownership and operational structures to comply with the Federal Aviation Regulations.

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