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

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

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Mr. Mark E. Millard
10100 Santa Monica Boulevard, 12th Floor
Los Angeles, California 90067-4113

Dear Mr. Millard,

This letter responds to your letter of October 17, 2011 requesting additional information regarding FAA's interpretation of 49 U.S.C. 44112.[1]

Your ask whether §44112, as envisioned by Congress, incorporates lease finance entities as opposed to term lessors/and or renters; whether the term "control" contemplates constructive control in that the statute provides for actual possession, which by its very nature would include physical control of the property; and whether, "if term lessors/rentors, are in the opinion of the FAA, included within the statute, whether control of the property includes oversight of the care and maintenance of the property subject to replevin upon failure to do so."

As the FAA noted in response to your previous letter, §44112 applies only to "a lessor," defined as a "person" who leases an aircraft for at least 30 days." *See* Letter from Rebecca MacPherson to Mark Millard, September 23, 2011. The term "person" includes "a governmental authority and a trustee, receiver, assignee, and other similar representative" (*see* 49 U.S.C. 40102 (a) (37)) in addition to "corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals (*see* 1 U.S.C. §1). Thus, anyone meeting the definition of a "person" under these statutory definitions,

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[1] 49 U.S.C 44112. Limitation of liability

(a) Definitions.--In this section--

(1) "lessor" means a person leasing for at least 30 days a civil aircraft, aircraft engine, or propeller.
(2) "owner" means a person that owns a civil aircraft, aircraft engine, or propeller.
(3) "secured party" means a person having a security interest in, or security title to, a civil aircraft, aircraft engine, or propeller under a conditional sales contract, equipment trust contract, chattel or corporate mortgage, or similar instrument.
(b) Liability.--A lessor, owner, or secured party is liable for personal injury, death, or property loss or damage on land or water only when a civil aircraft, aircraft engine, or propeller is in the actual possession or control of the lessor, owner, or secured party, and the personal injury, death, or property loss or damage occurs because of--
(1) the aircraft, engine, or propeller; or
(2) the flight of, or an object falling from, the aircraft, engine, or propeller.

including a lease finance company, would qualify as a lessor under §44112, provided the lease in question exceeds thirty days.

We do not address your remaining questions because §44112 does not raise regulatory oversight issues, and such matters between private litigants are best addressed by the courts on a case-by-case basis.

This interpretation was prepared by Lorna John, Senior Attorney, in the Regulations Division of the Office of the Chief Counsel. We trust that this information is helpful.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200