

108TH CONGRESS  
2D SESSION

# H. R. 4226

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the “Cape Town Treaty”.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 28, 2004

Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. MICA, and Mr. DEFAZIO) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

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## A BILL

To amend title 49, United States Code, to make certain conforming changes to provisions governing the registration of aircraft and the recordation of instruments in order to implement the Convention on International Interests in Mobile Equipment and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment, known as the “Cape Town Treaty”.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as “Cape Town Treaty Imple-  
3 mentation Act of 2004”.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) The Cape Town Treaty (as defined in sec-  
7 tion 44114 of title 49, United States Code) extends  
8 modern commercial laws for the sale, finance, and  
9 lease of aircraft and aircraft engines to the inter-  
10 national arena in a manner consistent with United  
11 States law and practice.

12 (2) The Cape Town Treaty provides for inter-  
13 nationally established and recognized financing and  
14 leasing rights that will provide greater security and  
15 commercial predictability in connection with the fi-  
16 nancing and leasing of highly mobile assets, such as  
17 aircraft and aircraft engines.

18 (3) The legal and financing framework of the  
19 Cape Town Treaty will provide substantial economic  
20 benefits to the aviation and aerospace sectors, in-  
21 cluding the promotion of exports, and will facilitate  
22 the acquisition of newer, safer aircraft around the  
23 world.

24 (4) Only technical changes to United States law  
25 and regulations are required since the asset-based fi-  
26 nancing and leasing concepts embodied in the Cape

1 Town Treaty are already reflected in the United  
2 States in the Uniform Commercial Code.

3 (5) The new electronic registry system estab-  
4 lished under the Cape Town Treaty will work in tan-  
5 dem with current aircraft document recordation sys-  
6 tems of the Federal Aviation Administration, which  
7 have served United States industry well.

8 (6) The United States Government was a leader  
9 in the development of the Cape Town Treaty.

10 (b) PURPOSE.—Accordingly, the purpose of this Act  
11 is to provide for the implementation of the Cape Town  
12 Treaty in the United States by making certain technical  
13 amendments to the provisions of chapter 441 of title 49,  
14 United States Code, directing the Federal Aviation Ad-  
15 ministration to complete the necessary rulemaking proc-  
16 esses as expeditiously as possible, and clarifying the appli-  
17 cability of the Treaty during the rulemaking process.

18 **SEC. 3. RECORDATION OF SECURITY INSTRUMENTS.**

19 (a) ESTABLISHMENT OF SYSTEM.—Section 44107(a)  
20 of title 49, United States Code, is amended—

21 (1) in paragraph (2)(A) by striking “750” and  
22 inserting “550”;

23 (2) by striking “and” at the end of paragraph  
24 (2)(D);

1           (3) by redesignating paragraph (3) as para-  
2           graph (4);

3           (4) by inserting after paragraph (2) the fol-  
4           lowing:

5           “(3) notice of prospective assignments and pro-  
6           spective international interests in, and prospective  
7           sales of, aircraft or aircraft engines under the Cape  
8           Town Treaty; and”;

9           (5) in paragraph (4) (as so redesignated) by  
10          striking “clause (1) or (2) of this subsection” and  
11          inserting “paragraph (1) or (2) and releases, can-  
12          cellations, discharges, and satisfactions related to  
13          the prospective assignment, interest, or sale for  
14          which a notice is recorded under paragraph (3)”.

15          (b) INTERNATIONAL REGISTRY.—Section 44107 of  
16          such title is amended by adding at the end the following:

17          “(e) INTERNATIONAL REGISTRY.—

18                 “(1) DESIGNATION OF UNITED STATES ENTRY  
19                 POINT.—As permitted under the Cape Town Treaty,  
20                 the Federal Aviation Administration Civil Aviation  
21                 Registry is designated as the United States Entry  
22                 Point to the International Registry relating to—

23                         “(A) civil aircraft of the United States;

24                         “(B) an aircraft for which a United States  
25                         identification number has been assigned but

1           only with regard to a notice recorded under  
2           subsection (a)(3); and

3                   “(C) aircraft engines.

4           “(2) AUTHORIZATION FOR REGISTRATION OF  
5           AIRCRAFT.—A registration with the International  
6           Registry relating to an aircraft described in para-  
7           graph (1) (other than subparagraph (C)) is valid  
8           only if (A) the person seeking the registration first  
9           files documents eligible for recording under sub-  
10          section (a) and relating to the registration with the  
11          United States Entry Point, and (B) the United  
12          States Entry Point authorizes the registration.”.

13 **SEC. 4. REGULATIONS.**

14          (a) IN GENERAL.—The Administrator of the Federal  
15          Aviation Administration shall issue regulations necessary  
16          to carry out this Act, including any amendments made by  
17          this Act.

18          (b) CONTENTS OF REGULATIONS.—Regulations to be  
19          issued under this Act shall specify, at a minimum, the re-  
20          quirements for—

21                  (1) the registration of aircraft previously reg-  
22                  istered in a country in which the Cape Town Treaty  
23                  is in effect;

1           (2) the cancellation of registration of a civil air-  
2           craft of the United States based on a request made  
3           in accordance with the Cape Town Treaty; and

4           (3) the filing of documents eligible for recording  
5           under section 44107(a)(1) or 44107(a)(2) of title  
6           49, United States Code, within a specified time pe-  
7           riod in order to maintain the validity of such pro-  
8           spective interests.

9           (c) EXPEDITED RULEMAKING PROCESS.—

10           (1) INTERIM FINAL RULE.—

11           (A) PUBLICATION.—The Administrator  
12           shall issue regulations under this section by  
13           publishing an interim final rule by the 60th day  
14           following the date of enactment of this Act.

15           (B) PUBLIC COMMENT.—The Adminis-  
16           trator shall seek public comment on the interim  
17           final rule.

18           (C) EFFECTIVE DATE.—The interim final  
19           rule shall be effective on the date the Cape  
20           Town Treaty enters into force with respect to  
21           the United States.

22           (D) ECONOMIC ANALYSIS.—The Adminis-  
23           trator shall not be required to prepare an eco-  
24           nomic analysis of the cost and benefits of the  
25           interim final rule.

1           (2) FINAL RULE.—The Administrator shall  
2           issue a final rule under this section by December 31,  
3           2004.

4           (d) APPLICABILITY OF TREATY.—Notwithstanding  
5           parts 47.37(a)(3)(ii) and 47.47(a)(2) of title 14, Code of  
6           Federal Regulations, Articles IX(5) and XIII of the Cape  
7           Town Treaty shall apply to the matters described in sub-  
8           section (b) until the earlier of the effective date of the  
9           interim final rule under this section or December 31,  
10          2004.

11 **SEC. 5. LIMITATION ON VALIDITY OF CONVEYANCES,**  
12 **LEASES, AND SECURITY INSTRUMENTS.**

13          Section 44108(c)(2) of title 49, United States Code,  
14          is amended by striking the period at the end and inserting  
15          “or the Cape Town Treaty, as applicable.”.

16 **SEC. 6. DEFINITIONS.**

17          (a) IN GENERAL.—Chapter 441 of title 49, United  
18          States Code, is amended by adding at the end the fol-  
19          lowing:

20 **“§ 44114. Definitions**

21          “In this chapter, the following definitions apply:

22                 “(1) CAPE TOWN TREATY.—The term ‘Cape  
23                 Town Treaty’ means the Convention on Inter-  
24                 national Interests in Mobile Equipment, as modified  
25                 by the Protocol to the Convention on International

1 Interests in Mobile Equipment on Matters Specific  
2 to Aircraft Equipment, signed at Rome on May 9,  
3 2003.

4 “(2) UNITED STATES ENTRY POINT.—The term  
5 ‘United States Entry Point’ means the Federal  
6 Aviation Administration Civil Aircraft Registry.

7 “(3) INTERNATIONAL REGISTRY.—The term  
8 ‘International Registry’ means the registry estab-  
9 lished under the Cape Town Treaty.”.

10 (b) CONFORMING AMENDMENT.—The analysis for  
11 such chapter is amended by adding at the end the fol-  
12 lowing:

“41114. Definitions.”.

13 **SEC. 7. EFFECTIVE DATE AND PRESERVATION OF PRIOR**  
14 **RIGHTS.**

15 This Act, including any amendments made by this  
16 Act, shall take effect on the date the Cape Town Treaty  
17 (as defined in section 44114 of title 49, United States  
18 Code) enters into force with respect to the United States  
19 and shall not apply to any registration or recordation that  
20 was made before such effective date under chapter 441  
21 of such title or any legal rights relating to such registra-  
22 tion or recordation.

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