

lease, or other means at a general aviation airport to be revenue greater than the amount needed to carry out the 5-year projected maintenance needs of the airport in order to comply with the applicable design and safety standards of the Administration.

“(b) USE OF REVENUE.—An airport sponsor that is in compliance with the conditions under subsection (c) may allocate revenue identified by the Administrator under subsection (a) for Federal, State, or local transportation infrastructure projects carried out by the airport sponsor or by a governing body within the geographical limits of the airport sponsor’s jurisdiction.

“(c) CONDITIONS.—An airport sponsor may not allocate revenue identified by the Administrator under subsection (a) unless the airport sponsor—

“(1) enters into a written agreement with the Administrator that sets forth a 5-year capital improvement program for the airport, which—

“(A) includes the projected costs for the operation, maintenance, and capacity needs of the airport in order to comply with applicable design and safety standards of the Administration; and

“(B) appropriately adjusts such costs to account for inflation;

“(2) agrees in writing—

“(A) to waive all rights to receive entitlement funds or discretionary funds to be used at the airport under section 47114 or 47115 of title 49, United States Code, during the 5-year period of the capital improvement plan described in paragraph (1);

“(B) to perpetually comply with sections 47107(b) and 47133 of such title, unless granted specific exceptions by the Administrator in accordance with this section; and

“(C) to operate the airport as a public-use airport, unless the Administrator specifically grants a request to allow the airport to close; and

“(3) complies with all grant assurance obligations in effect as of the date of the enactment of this Act [Feb. 14, 2012] during the 20-year period beginning on the date of enactment of this Act.

“(d) COMPLETION OF DETERMINATION.—Not later than 90 days after receiving an airport sponsor’s application and requisite supporting documentation to declare that certain mineral revenue is not needed to carry out the 5-year capital improvement program at such airport, the Administrator shall determine whether the airport sponsor’s request should be granted. The Administrator may not unreasonably deny an application under this subsection.

“(e) RULEMAKING.—Not later than 90 days after the date of enactment of this Act, the Administrator shall promulgate regulations to carry out this section.

“(f) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term ‘general aviation airport’ has the meaning given that term in section 47102 of title 49, United States Code, as amended by this Act.”

§ 47134. Airport investment partnership program

(a) SUBMISSION OF APPLICATIONS.—If a sponsor intends to sell or lease a general aviation airport or lease any other type of airport for a long term to a person (other than a public agency), the sponsor and purchaser or lessee may apply to the Secretary of Transportation for exemptions under this section.

(b) APPROVAL OF APPLICATIONS.—The Secretary may approve applications submitted under subsection (a) granting exemptions from the following provisions:

(1) USE OF REVENUES.—

(A) IN GENERAL.—The Secretary may grant an exemption to a sponsor from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the sponsor to recover from the sale or lease

of the airport such amount as may be approved—

(i) in the case of a primary airport, by at least 65 percent of the scheduled air carriers serving the airport and by scheduled and nonscheduled air carriers whose aircraft landing at the airport during the preceding calendar year, had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year; or

(ii) in the case of a nonprimary airport, by the Secretary after the airport has consulted with at least 65 percent of the owners of aircraft based at that airport, as determined by the Secretary.

(B) OBJECTION TO EXEMPTION.—An air carrier shall be deemed to have approved a sponsor’s application for an exemption under subparagraph (A) unless the air carrier has submitted an objection, in writing, to the sponsor within 60 days of the filing of the sponsor’s application with the Secretary, or within 60 days of the service of the application upon that air carrier, whichever is later.

(C) LANDED WEIGHT DEFINED.—In this paragraph, the term ‘landed weight’ means the weight of aircraft transporting passengers or cargo, or both, in intrastate, interstate, and foreign air transportation, as the Secretary determines under regulations the Secretary prescribes.

(2) REPAYMENT REQUIREMENTS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor from the provisions of sections 47107 and 47152 of this title (and any other law, regulation, or grant assurance) to the extent necessary to waive any obligation of the sponsor to repay to the Federal Government any grants, or to return to the Federal Government any property, received by the airport under this title, the Airport and Airway Improvement Act of 1982, or any other law.

(3) COMPENSATION FROM AIRPORT OPERATIONS.—If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee from the provisions of sections 47107(b) and 47133 of this title (and any other law, regulation, or grant assurance) to the extent necessary to permit the purchaser or lessee to earn compensation from the operations of the airport.

(4) BENEFIT-COST ANALYSIS.—

(A) IN GENERAL.—Prior to approving an application submitted under subsection (a), the Secretary may require a benefit-cost analysis.

(B) FINDING.—If a benefit-cost analysis is required, the Secretary shall issue a preliminary and conditional finding, which shall—

(i) be issued not later than 60 days after the date on which the sponsor submits all information required by the Secretary;

(ii) be based upon a collaborative review process that includes the sponsor or a representative of the sponsor;

(iii) not constitute the issuance of a Federal grant or obligation to issue a grant under this chapter or other provision of law; and

(iv) not constitute any other obligation on the part of the Federal Government until the conditions specified in the final benefit-cost analysis are met.

(c) **TERMS AND CONDITIONS.**—The Secretary may approve an application under subsection (b) only if the Secretary finds that the sale or lease agreement includes provisions satisfactory to the Secretary to ensure the following:

(1) The airport will continue to be available for public use on reasonable terms and conditions and without unjust discrimination.

(2) The operation of the airport will not be interrupted in the event that the purchaser or lessee becomes insolvent or seeks or becomes subject to any State or Federal bankruptcy, reorganization, insolvency, liquidation, or dissolution proceeding or any petition or similar law seeking the dissolution or reorganization of the purchaser or lessee or the appointment of a receiver, trustee, custodian, or liquidator for the purchaser or lessee or a substantial part of the purchaser or lessee's property, assets, or business.

(3) The purchaser or lessee will maintain, improve, and modernize the facilities of the airport through capital investments and will submit to the Secretary a plan for carrying out such maintenance, improvements, and modernization.

(4) Every fee of the airport imposed on an air carrier on the day before the date of the lease of the airport will not increase faster than the rate of inflation unless a higher amount is approved—

(A) by at least 65 percent of the air carriers serving the airport; and

(B) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.

(5) The percentage increase in fees imposed on general aviation aircraft at the airport will not exceed the percentage increase in fees imposed on air carriers at the airport.

(6) Safety and security at the airport will be maintained at the highest possible levels.

(7) The adverse effects of noise from operations at the airport will be mitigated to the same extent as at a public airport.

(8) Any adverse effects on the environment from airport operations will be mitigated to the same extent as at a public airport.

(9) Any collective bargaining agreement that covers employees of the airport and is in effect on the date of the sale or lease of the airport will not be abrogated by the sale or lease.

(d) **PROGRAM PARTICIPATION.**—

(1) **MULTIPLE AIRPORTS.**—The Secretary may consider applications under this section submitted by a public airport sponsor for multiple airports under the control of the sponsor if all airports under the control of the sponsor are located in the same State.

(2) **PARTIAL PRIVATIZATION.**—A purchaser or lessee may be an entity in which a sponsor has an interest.

(e) **REQUIRED FINDING THAT APPROVAL WILL NOT RESULT IN UNFAIR METHODS OF COMPETITION.**—The Secretary may approve an application under subsection (b) only if the Secretary finds that the approval will not result in unfair and deceptive practices or unfair methods of competition.

(f) **INTERESTS OF GENERAL AVIATION USERS.**—In approving an application of an airport under this section, the Secretary shall ensure that the interests of general aviation users of the airport are not adversely affected.

(g) **PASSENGER FACILITY FEES; APPORTIONMENTS; SERVICE CHARGES.**—Notwithstanding that the sponsor of an airport receiving an exemption under subsection (b) is not a public agency, the sponsor shall not be prohibited from—

(1) imposing a passenger facility charge under section 40117 of this title;

(2) receiving apportionments under section 47114 of this title; or

(3) collecting reasonable rental charges, landing fees, and other service charges from aircraft operators under section 40116(e)(2) of this title.

(h) **EFFECTIVENESS OF EXEMPTIONS.**—An exemption granted under subsection (b) shall continue in effect only so long as the facilities sold or leased continue to be used for airport purposes.

(i) **REVOCACTION OF EXEMPTIONS.**—The Secretary may revoke an exemption issued to a purchaser or lessee of an airport under subsection (b)(3) if, after providing the purchaser or lessee with notice and an opportunity to be heard, the Secretary determines that the purchaser or lessee has knowingly violated any of the terms specified in subsection (c) for the sale or lease of the airport.

(j) **NONAPPLICATION OF PROVISIONS TO AIRPORTS OWNED BY PUBLIC AGENCIES.**—The provisions of this section requiring the approval of air carriers in determinations concerning the use of revenues, and imposition of fees, at an airport shall not be extended so as to apply to any airport owned by a public agency that is not participating in the program established by this section.

(k) **AUDITS.**—The Secretary may conduct periodic audits of the financial records and operations of an airport receiving an exemption under this section.

(l) **PREDEVELOPMENT LIMITATION.**—A grant to an airport sponsor under this subchapter for predevelopment planning costs relating to the preparation of an application or proposed application under this section may not exceed \$750,000 per application or proposed application.

(Added Pub. L. 104-264, title I, §149(a)(1), Oct. 9, 1996, 110 Stat. 3224; amended Pub. L. 108-176, title I, §155(a), Dec. 12, 2003, 117 Stat. 2508; Pub. L. 112-95, title I, §§111(c)(2)(A)(iv), 156, Feb. 14, 2012, 126 Stat. 18, 36; Pub. L. 115-254, div. B, title I, §160(a), Oct. 5, 2018, 132 Stat. 3220; Pub. L. 118-63, title VII, §738, May 16, 2024, 138 Stat. 1276.)

Editorial Notes

REFERENCES IN TEXT

The Airport and Airway Improvement Act of 1982, referred to in subsec. (b)(2), is title V of Pub. L. 97-248, Sept. 3, 1982, 96 Stat. 671, which was classified principally to chapter 31 (§2201 et seq.) of former Title 49, Transportation, and was substantially repealed by Pub. L. 103-272, §7(b), July 5, 1994, 108 Stat. 1379, and reenacted by the first section thereof as this subchapter.

AMENDMENTS

- 2024—Subsec. (b)(4). Pub. L. 118-63 added par. (4).
- 2018—Pub. L. 115-254, §160(a)(1), substituted “Airport investment partnership program” for “Pilot program on private ownership of airports” in section catchline.
- Subsec. (b). Pub. L. 115-254, §160(a)(2), struck out “, with respect to not more than 10 airports,” after “approve” in introductory provisions.
- Subsec. (b)(2). Pub. L. 115-254, §160(a)(3), substituted “If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the sponsor” for “The Secretary may grant an exemption to a sponsor”.
- Subsec. (b)(3). Pub. L. 115-254, §160(a)(4), substituted “If the Secretary grants an exemption to a sponsor pursuant to paragraph (1), the Secretary shall grant an exemption to the corresponding purchaser or lessee” for “The Secretary may grant an exemption to a purchaser or lessee”.
- Subsec. (d). Pub. L. 115-254, §160(a)(5), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to participation of general aviation airports and large hub airports.
- Subsecs. (l), (m). Pub. L. 115-254, §160(a)(6), added subsec. (l) and struck out former subsecs. (l) and (m) which related to report on implementation of the pilot program and defined “general aviation airport”, respectively.
- 2012—Subsec. (b). Pub. L. 112-95, §156, substituted “10 airports” for “5 airports” in introductory provisions.
- Subsec. (g)(1). Pub. L. 112-95, §111(c)(2)(A)(iv), substituted “charge” for “fee”.
- 2003—Subsec. (b)(1)(A). Pub. L. 108-176, §155(a)(1), added cls. (i) and (ii) and struck out former cls. (i) and (ii) which read as follows:
- “(i) by at least 65 percent of the air carriers serving the airport; and
- “(ii) by air carriers whose aircraft landing at the airport during the preceding calendar year had a total landed weight during the preceding calendar year of at least 65 percent of the total landed weight of all aircraft landing at the airport during such year.”
- Subsec. (b)(1)(B), (C). Pub. L. 108-176, §155(a)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-176, title I, §155(b), Dec. 12, 2003, 117 Stat. 2508, provided that: “The amendments made by subsection (a) [amending this section] shall not affect any application submitted before the date of enactment of this Act [Dec. 12, 2003].”

EFFECTIVE DATE

Except as otherwise specifically provided, section applicable only to fiscal years beginning after Sept. 30, 1996, and not to be construed as affecting funds made available for a fiscal year ending before Oct. 1, 1996, see section 3 of Pub. L. 104-264, set out as an Effective Date of 1996 Amendment note under section 106 of this title.

DEEMED REFERENCES TO CHAPTERS 509 AND 511 OF TITLE 51

General references to “this title” deemed to refer also to chapters 509 and 511 of Title 51, National and

Commercial Space Programs, see section 4(d)(8) of Pub. L. 111-314, set out as a note under section 101 of this title.

§ 47135. Innovative financing techniques

(a) AUTHORITY.—

(1) IN GENERAL.—The Secretary of Transportation may approve an application by an airport sponsor to use grants received under this subchapter for innovative financing techniques related to an airport development project that is located at an airport that is not a large hub airport.

(2) APPROVAL.—The Secretary may approve not more than 30 applications described under paragraph (1) in a fiscal year.

(b) PURPOSES.—The purpose of grants made under this section shall be to—

(1) provide information on the benefits and difficulties of using innovative financing techniques for airport development projects;

(2) lower the total cost of an airport development project; or

(3) expedite the delivery or completion of an airport development project without reducing safety or causing environmental harm.

(c) LIMITATIONS.—

(1) NO GUARANTEES.—In no case shall the implementation of an innovative financing technique under this section be used in a manner giving rise to a direct or indirect guarantee of any airport debt instrument by the United States Government.

(2) TYPES OF TECHNIQUES.—In this section, innovative financing techniques are limited to—

(A) payment of interest;

(B) commercial bond insurance and other credit enhancement associated with airport bonds for eligible airport development;

(C) flexible non-Federal matching requirements;

(D) use of funds apportioned under section 47114 for the payment of principal and interest of terminal development for costs incurred before the date of the enactment of this section; and

(E) any other techniques that the Secretary determines are consistent with the purposes of this section.

(Added Pub. L. 106-181, title I, §132(a), Apr. 5, 2000, 114 Stat. 80; amended Pub. L. 108-176, title I, §156, Dec. 12, 2003, 117 Stat. 2508; Pub. L. 118-63, title VII, §721, May 16, 2024, 138 Stat. 1264.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2)(D), is the date of enactment of Pub. L. 106-181, which was approved Apr. 5, 2000.

AMENDMENTS

2024—Subsecs. (a), (b). Pub. L. 118-63, §721(1), added subsecs. (a) and (b) and struck out former subsecs. (a) and (b) which read as follows:

“(a) IN GENERAL.—The Secretary of Transportation may approve, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act, applications for not more than 20 airport development projects for which grants received under this subchapter may be