

- (1) the airport;
- (2) the local airport system; or
- (3) any other local facility that is owned or operated by the person or entity that owns or operates the airport that is directly and substantially related to the air transportation of passengers or property.

(b) EXCEPTIONS.—Subsection (a) shall not apply if a provision enacted not later than September 2, 1982, in a law controlling financing by the airport owner or operator, or a covenant or assurance in a debt obligation issued not later than September 2, 1982, by the owner or operator, provides that the revenues, including local taxes on aviation fuel at public airports, from any of the facilities of the owner or operator, including the airport, be used to support not only the airport but also the general debt obligations or other facilities of the owner or operator.

(c) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent the use of a State tax on aviation fuel to support a State aviation program or the use of airport revenue on or off the airport for a noise mitigation purpose.

(Added Pub. L. 104-264, title VIII, §804(a), Oct. 9, 1996, 110 Stat. 3271.)

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.

§ 47134. Pilot program on private ownership of airports

(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, with respect to not more than 5 airports, 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 con-

sulted 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.—The Secretary may grant an exemption to a 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.—The Secretary may grant an exemption to a 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.

(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) PARTICIPATION OF CERTAIN AIRPORTS.—

(1) GENERAL AVIATION AIRPORTS.—If the Secretary approves under subsection (b) applications with respect to 5 airports, one of the airports must be a general aviation airport.

(2) LARGE HUB AIRPORTS.—The Secretary may not approve under subsection (b) more than 1 application submitted by an airport that had 1 percent or more of the total passenger boardings (as defined in section 47102) in the United States in the preceding calendar year.

(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 fee 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) REVOCATION 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) REPORT.—Not later than 2 years after the date of the initial approval of an application under this section, the Secretary shall transmit to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on implementation of the program under this section.

(m) GENERAL AVIATION AIRPORT DEFINED.—In this section, the term “general aviation airport” means an airport that is not a commercial service airport.

(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.)

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, as amended, 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

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).

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) 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 used for innovative financing techniques. Such projects shall be located at airports that each year have less than .25 percent of the total number of passenger boardings each year at all commercial service airports in the most recent calendar year for which data is available.

(b) PURPOSE.—The purpose of grants made under this section shall be to provide information on the benefits and difficulties of using innovative financing techniques for airport development projects.

(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; and
- (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.

(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.)

REFERENCES IN TEXT

The date of enactment of the Vision 100—Century of Aviation Reauthorization Act, referred to in subsec. (a), is the date of enactment of Pub. L. 108-176, which was approved Dec. 12, 2003.

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

2003—Subsec. (a). Pub. L. 108-176 inserted “, after the date of enactment of the Vision 100—Century of Aviation Reauthorization Act,” after “approve” in first sentence.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-176 applicable only to fiscal years beginning after Sept. 30, 2003, except as otherwise specifically provided, see section 3 of Pub. L. 108-176, set out as a note under section 106 of this title.

EFFECTIVE DATE

Section applicable only to fiscal years beginning after Sept. 30, 1999, see section 3 of Pub. L. 106-181, set

out as an Effective Date of 2000 Amendments note under section 106 of this title.

§ 47136. Inherently low-emission airport vehicle pilot program

(a) IN GENERAL.—The Secretary of Transportation shall carry out a pilot program at not more than 10 public-use airports under which the sponsors of such airports may use funds made available under section 48103 for use at such airports to carry out inherently low-emission vehicle activities. Notwithstanding any other provision of this subchapter, inherently low-emission vehicle activities shall for purposes of the pilot program be treated as eligible for assistance under this subchapter.

(b) LOCATION IN AIR QUALITY NONATTAINMENT AREAS.—

(1) IN GENERAL.—A public-use airport shall be eligible for participation in the pilot program only if the airport is located in an air quality nonattainment area (as defined in section 171(2) of the Clean Air Act (42 U.S.C. 7501(2)).

(2) SHORTAGE OF CANDIDATES.—If the Secretary receives an insufficient number of applications from public-use airports located in such areas, then the Secretary may consider applications from public-use airports that are not located in such areas.

(c) SELECTION CRITERIA.—In selecting from among applicants for participation in the pilot program, the Secretary shall give priority consideration to applicants that will achieve the greatest air quality benefits measured by the amount of emissions reduced per dollar of funds expended under the pilot program.

(d) UNITED STATES GOVERNMENT’S SHARE.—Notwithstanding any other provision of this subchapter, the United States Government’s share of the costs of a project carried out under the pilot program shall be 50 percent.

(e) MAXIMUM AMOUNT.—Not more than \$2,000,000 may be expended under the pilot program at any single public-use airport.

(f) TECHNICAL ASSISTANCE.—

(1) IN GENERAL.—The sponsor of a public-use airport carrying out inherently low-emission vehicle activities under the pilot program may use not more than 10 percent of the amounts made available for expenditure at the airport in a fiscal year under the pilot program to receive technical assistance in carrying out such activities.

(2) ELIGIBLE CONSORTIUM.—To the maximum extent practicable, participants in the pilot program shall use an eligible consortium (as defined in section 5506¹ of this title) in the region of the airport to receive technical assistance described in paragraph (1).

(g) MATERIALS IDENTIFYING BEST PRACTICES.—The Administrator may develop and make available materials identifying best practices for carrying out low-emission vehicle activities based on the projects carried out under the pilot program and other sources.

(h) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this

¹ See References in text note below.