AERONAUTICS CODE OF THE STATE OF MICHIGAN
Act 327 of 1945

AN ACT relating to aeronautics in this state; providing for the development and regulation of aeronautics; creating a state aeronautics commission; prescribing powers and duties; providing for the licensing, registration, and supervision and control of all aircraft, airports and landing fields, schools of aviation, flying clubs, airmen, aviation instructors, airport managers, manufacturers, dealers, and commercial operation in intrastate commerce; providing for rules pertaining thereto; prescribing a privilege tax for the use of the aeronautical facilities on the lands and waters of this state; providing for the acquisition, development, and operation of airports, landing fields, and other aeronautical facilities by this state, by political subdivisions, or by airport authorities; providing for the incorporation of airport authorities and providing for the powers, duties, and obligations of airport authorities; providing for the transfer of airport management to airport authorities, including the transfer of airport liabilities, employees, and operational jurisdiction; providing jurisdiction of crimes, torts, and contracts; providing police powers for those entrusted to enforce this act; providing for civil liability of owners, operators, and others; making hunting from aircraft unlawful; providing for a repair station operators lien; providing for appeals from rules or orders issued by the commission; providing for the transfer from the Michigan board of aeronautics to the aeronautics commission all properties and funds held by the board of aeronautics; providing for a state aeronautics fund and making an appropriation therefor; prescribing penalties; and making uniform the law with reference to state development and regulation of aeronautics.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—Am. 1958, Act 114, Eff. Sept. 13, 1958;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 2002, Act 90, Imd. Eff. Mar. 26, 2002;—Am. 2015, Act 95, Imd. Eff. June 30, 2015.

The People of the State of Michigan enact:

CHAPTER I
DECLARATION OF INTENT.

259.1 Aeronautics code; declaration of intent.

Sec. 1. It is hereby declared that the purpose of this act is to further the public interest and aeronautical progress by providing for the protection and promotion of safety in aeronautics; by cooperating in effecting a uniformity of the laws relating to the development and regulation of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such power and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may develop a statewide system of airports, may cooperate with and assist the political subdivisions of this state and others engaged in aeronautics, and may encourage and develop aeronautics; by establishing uniform regulations, consistent with federal regulations and those of other states, in order that those engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and by providing for cooperation with the federal authorities and the authorities of this state to eliminate costly and unnecessary duplication of functions.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.1.

Compiler's note: The catchlines following the act section numbers were incorporated as part of the act as enacted.

CHAPTER IA

259.1a Discrimination prohibited.

Sec. 1a. Notwithstanding any existing regulation to the contrary, operation of aircraft shall not be regulated on the basis of an individual's race, religion, creed, color, national origin, gender, or ancestry.

History: Add. 1998, Act 268, Imd. Eff. July 17, 1998.

CHAPTER II
DEFINITIONS.

259.2 Definitions; A.

Sec. 2. As used in this act:

(a) “Accident” means an event involving an aircraft that is in-flight or taxiing, resulting in death or injury to any person, damage to the aircraft affecting its ability to safely operate, or damage to public property or property of another person.

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(b) “Aeronautical facilities” means any device, physical or otherwise, that is an object of nature or that is human-made, that aids and is used in aeronautics.

(c) “Aeronautics” means any act or matter that treats or deals with flight in the airspace.

(d) “Air navigation” means the operation or navigation of aircraft in the airspace over the land and waters of this state.

(e) “Aircraft” means any contrivance used or designed for navigation of or flight in the air.

(f) “Aircraft, civil” means any aircraft other than a public aircraft.

(g) “Aircraft, public” means any aircraft used exclusively in the service of any government or of any political subdivision of a government, including the government of any state, territory, or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes.

(h) “Airman” means any individual, including the 1 in command, and any pilot, mechanic, or member of the crew, who engages in the navigation of aircraft while under way, and any individual who is in charge of the inspection, overhauling, or repair of aircraft, and any individual who serves in the capacity of aircraft dispatcher or air traffic control tower operator.

(i) “Airport” means any location, either on land or water, that is used for the landing or take-off of aircraft, and includes the buildings and facilities, if any, on that location.

(j) “Airport approach plan” means a plan, or an amendment to a plan, adopted under section 12 of the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.442.

(k) “Airport layout plan” means a plan, or an amendment to a plan, that shows current or proposed layout of an airport and that is approved by the commission.

(*l*) “Airport manager” means any individual who is properly appointed and designated by the airport owner as the airport manager, and who is responsible for the supervision and operation of the airport to the airport owner.

(m) “Airspace approval” means that approval issued by the appropriate federal authority pertaining to the safe and efficient use of airspace by aircraft for an established or proposed airport or landing field.

(n) “Airspace, navigable” means airspace at and above the minimum flight altitudes prescribed in the federal air regulations including airspace needed for safe takeoff and landing.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.2;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

259.3 Definitions; B to D.

Sec. 3. As used in this act:

(a) “Balloon” means a lighter-than-air aircraft that is not engine driven and that sustains flight through the use of either gas buoyancy or an airborne heater.

(b) “Commercial activity or operations” means an activity or operation such as the sale of gasoline or oil, the soliciting or engaging in charter flying or flight instruction, the provision of shelter or the tie-down of an aircraft, the overhaul or repair of an aircraft or of engines, or other activity or operation that offers aeronautic facilities or services to the public.

(c) “Commission” means the Michigan aeronautics commission.

(d) “Dealer” means a person engaged in the business of purchasing, selling, brokering, exchanging, or dealing in aircraft parts or in aircraft of a type required to be registered.

(e) “Decal plate” means that distinctive tab, sticker, decal, or plate issued by the commission with the registration certificate for an aircraft.

(f) “Department” means the state transportation department, bureau of aeronautics.

(g) “Director” means the deputy director of the department, bureau of aeronautics who is the director of the Michigan aeronautics commission.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.3;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

259.4 Definitions; F, G.

Sec. 4. As used in this act:

(a) “Flight instructor” means any person who possesses a valid flight instructor certificate or other airman certificate issued by the federal aviation administration authorizing that individual to instruct in aircraft.

(b) “Flight school” means any person providing or offering to provide flight training leading to pilot or flight instructor certification, for hire or compensation, and engaged in any of the following:

(*i*) Advertising or calling oneself a flight school or anything equivalent to a flight school.

(*ii*) Hiring, contracting, or otherwise using 1 or more flight instructors in an endeavor described in this

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section.

(c) “Flying club” means any group of persons owning, leasing, or operating 1 or more aircraft, not for profit or reward, and using the aircraft for the purpose of providing its members with an aircraft for their personal use and enjoyment.

(d) “Fuel” means any gasoline, distillate, benzine, naphtha, benzol, or other volatile and inflammable liquid produced, compounded, and used for propelling aircraft.

(e) “Garage keeper” means any person who, for hire or reward, publicly offers to store, maintain, keep, or repair aircraft or any accessory used in the operation of aircraft and to furnish accessories and supplies for aircraft or any accessory used in the operation of aircraft.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.4;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 1 of Act 63 of 1931.

259.5 Definitions; H, I.

Sec. 5. As used in this act:

(a) “Hazards to air navigation” means any obstruction of whatever character, object of natural growth, or use of land, upon or surrounding or adjacent to an airport, landing field, or other aeronautical facility, that prevents the safe use of the facilities for the take-off or landing of aircraft.

(b) “Heliport” means an area of land, water, or a fixed structure used or intended to be used for the landing and takeoff of helicopters or other rotary wing aircraft.

(c) “Heliport approach surface” means an imaginary plane beginning at the end of the heliport landing area with the same width as the landing area and extending outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1.

(d) “Historic aircraft” means an aircraft that is over 30 years old and that is owned solely as a collector's item or for participation in club activities, exhibitions, tours, parades, or similar uses, but that is not used for general transportation.

(e) “Hospital” means that term as defined in section 20106 of the public health code, 1978 PA 368, MCL 333.20106.

(f) “Hospital heliport” means a heliport limited to serving helicopters engaged in air ambulance or other hospital-related functions.

(g) “Hospital helistop” means a minimally developed facility for the boarding and discharging of helicopter crew and passengers and the loading and unloading of helicopter cargo solely for an air ambulance or other hospital-related functions.

(h) “In-flight” is that time from the beginning of an aircraft's take off run to the end of the landing run.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.5;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

259.6 Definitions; L to O.

Sec. 6. As used in this act:

(a) “Landing area” means an area of an airport, landing field, or other aeronautical facility used or intended for use in landing, taking off, or taxiing of aircraft, excluding area and facilities for shelter, servicing, or repair of aircraft or for receiving or discharging passengers or cargo.

(b) “Landing field” means any location, either on land or water, that is used for the landing or take-off of aircraft.

(c) “Manufacturer” means a person engaged in the business of manufacturing aircraft, aircraft engines, propellers, component parts, appliances, or accessories.

(d) “Nonresident” means a person who is not a resident of this state.

(e) “Operation of aircraft” or “operate aircraft” means the use of aircraft for the purpose of air navigation, including the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control in the capacity of owner, lessee, or otherwise, of the aircraft, is engaging in the operation of aircraft.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.6;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

259.7 Definitions; P to R.

Sec. 7. As used in this act:

(a) "Person" means an individual, partnership, corporation, association, governmental entity, or other legal entity.

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(b) "Political subdivision" means a county, city, village, or township of this state, and any other political subdivision, public corporation, authority, or district in this state that is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports, landing fields, and other aeronautical facilities.

(c) "Private landing area" means any location, either on land or water, that is used for the takeoff or landing of aircraft and the use of which is restricted to the owner or persons authorized by the owner. Notwithstanding any existing limitation or regulation to the contrary, the owner and any person authorized by the owner has the right to use the private landing area. Commercial operations shall not be conducted on a private landing area.

(d) "Public use facility" means an airport, landing field, or other aeronautical facility that is available for use by the general public without prior approval of the owner or operator.

(e) "Qualified airport" means that term as defined in section 109.

(f) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.7;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002;—Am. 2015, Act 261, Eff. Mar. 22, 2016.

Former law: See section 1 of Act 177 of 1929, being CL 1929, § 4801; Act 53 of 1931; and Act 264 of 1939.

259.8 Definitions; S.

Sec. 8. As used in this act:

(a) “Seaplane” means an aircraft that is capable of landing and taking off on the water.

(b) “Seaplane base” means an area of water used or intended to be used for the landing and takeoff of aircraft, together with appurtenant shoreside buildings and facilities.

(c) “State approach surface” means an imaginary plane longitudinally centered on the extended runway centerline and extending outward and upward from each end of the state primary surface.

(d) “State primary surface” means a surface longitudinally centered on a runway. For a paved runway, the state primary surface extends 200 feet beyond each end of that runway for an unpaved runway or a planned paved runway, the state primary surface ends at each end of that runway. The elevation of any point on the state primary surface is the same as the elevation of the nearest point on the runway centerline. The width of a state primary surface is as follows:

(*i*) One hundred feet for basic utility airports.

(*ii*) Two hundred and fifty feet for general utility airports.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.8;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

259.9 Definitions; T to V.

Sec. 9. As used in this act:

(a) “Taxi” means the moving of an aircraft under its own power either on the ground or on the surface of the water, prior to the beginning of the take-off run and after the end of the landing run.

(b) “Temporary commercial operations” means any commercial operation conducted for a period not to exceed 120 days per calendar year.

(c) “Ultralight” means an aircraft meeting requirements of 14 C.F.R. part 103.

(d) “Vehicle” means any device in, upon, or by which a person or property is or may be transported, except an aircraft.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.9;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2000, Act 382, Imd. Eff. Jan. 2, 2001;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 1 of Act 177 of 1929, being CL 1929, § 4801; Act 53 of 1931; and Act 264 of 1939.

259.10a, 259.11 Repealed. 2002, Act 35, Eff. May 15, 2002.

Compiler's note: The repealed sections pertained to “airport manager,”“airspace approval,” and “airspace, navigable” defined.

259.12-259.14 Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed sections pertained to “airspace reservations,”“aviation instructor,” and “aviation school” defined.

259.15, 259.15a Repealed. 2002, Act 35, Eff. May 15, 2002.

Compiler's note: The repealed sections pertained to definitions of certain terms.

259.15b Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to “decal plate” defined.

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259.16-259.22 Repealed. 2002, Act 35, Eff. May 15, 2002.

Compiler's note: The repealed sections pertained to definitions of certain terms.

259.22a Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to "operation under certificate of public convenience and necessity" defined.

259.23-259.25e Repealed. 2002, Act 35, Eff. May 15, 2002.

Compiler's note: The repealed sections pertained to definitions of certain terms.

CHAPTER III
AERONAUTICS DEPARTMENT—CREATION—MEMBERSHIP—FUNDS.

259.26 Michigan aeronautics commission; creation; membership; appointment; terms.

Sec. 26. (1) There is created and established an aeronautics commission to be known as the Michigan aeronautics commission.

(2) The commission shall consist of the director of the state transportation department, the director of the department of state police, the director of the department of natural resources, the director of the department of military affairs, and 5 other members who shall be appointed by the governor with the advice and consent of the senate and who shall continue in office until their successors are appointed.

(3) Members of the commission shall be appointed for terms of 4 years.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.26;—Am. 1992, Act 308, Eff. Mar. 31, 1993.

Transfer of powers: See MCL 16.333 and 247.821.

Former law: See section 1a of Act 177 of 1929; Act 53 of 1931.

259.27 Director of aeronautics; appointment; qualifications, duties, compensation and expenses.

Sec. 27. Director of aeronautics. There is hereby established and created the office of director of aeronautics within the department of aeronautics. The director shall be appointed by the commission, to serve for an indefinite term, during his efficient, honest and businesslike execution of his duties. He shall be appointed with due regard to his fitness and by reason of his aeronautical knowledge and practical experience in the field of aeronautics. He shall devote his entire time to the duties of his office as required and prescribed by this act, and shall not be actively engaged or employed in any other business, vocation, or employment, nor shall he have any pecuniary interest in or any stock in or bonds of any civil aeronautics enterprise. He shall receive such compensation as the commission may determine and shall be reimbursed for all traveling and other expenses incurred by him in the discharge of his official duties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.27.

259.28 Commissioners of aeronautics; appointment, qualifications.

Sec. 28. Qualifications of commissioners. Those of the members of the commission who shall be appointed by the governor shall be selected with due regard to their fitness and by reason of their aeronautical knowledge and practical experience in the field of aeronautics.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.28.

259.29 Commissioners of aeronautics; salary and expenses.

Sec. 29. Salary of commissioners. No member of the commission shall receive any salary for his services as a commissioner and each may be reimbursed for actual and necessary expenses incurred by him in performance of his duties as a commissioner.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.29.

Former law: See section 1a of Act 177 of 1929; Act 53 of 1931.

259.30 Commissioners of aeronautics; removal.

Sec. 30. Removal of commissioners. The members of the commission may be removed by the governor for inefficiency, neglect of duty, misuse of office, or malfeasance in office, in the manner provided by law for the removal of other public officers for like causes.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.30.

259.31 Aeronautics commission; organization, meetings and reports.

Sec. 31. Organization of commission, meetings, reports. The commission shall, immediately upon its

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appointment, organize, adopt a seal for the department of aeronautics, and make, amend, and revise such rules and regulations for its administration not inconsistent herewith as it may deem expedient. At such organization meeting the commission shall elect from among its members a chairman and a vice-chairman to serve for 1 year and annually thereafter shall elect such officers; each to serve until his successor is appointed and qualified. No action shall be taken by the commission by less than a majority of its members.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.31.

Administrative rules: R 259.201 et seq. of the Michigan Administrative Code.

259.32 Aeronautics commission; biennial reports to governor, contents.

Sec. 32. On or before January 15 of each odd year the commission shall make to the governor a report covering the operation of the department for the 2 fiscal years ending the preceding June 30. Such report shall contain a summary of the commission's proceedings during the said fiscal years, a statement of all revenues and expenditures made by or in behalf of the commission, such other information as it may deem necessary or useful and any additional information which may be requested by the governor.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.32;—Am. 1954, Act 120, Eff. Aug. 13, 1954;—Am. 1962, Act 193, Eff. Mar. 28, 1963.

259.33 Aeronautics commission; assistants and expenses.

Sec. 33. Office and expense—employees of department of aeronautics. The commission is hereby authorized to employ such assistants, clerks, stenographers, and other help, and to make such expenditures as it may deem necessary for the carrying out of the provisions of this act.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.33.

Former law: See section 6 of Act 177 of 1929, being CL 1929, § 4806.

259.34 State aeronautics fund; qualified airport fund.

Sec. 34. (1) The state aeronautics fund is created. All money received from aviation fuel taxes imposed under section 203(1), the portion of sales and use taxes to be deposited into the state aeronautics fund under section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.111, any money required to be deposited into the state aeronautics fund under section 35(3), and all money received from licensing of schools of aviation, airports, landing fields, airport managers, registration of aircraft and airmen, and from the operation of state operated airports, landing fields, and other aeronautical facilities, must be paid into the state treasury and credited to the state aeronautics fund.

(2) The qualified airport fund is created. All money to be deposited into the qualified airport fund under section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.111, must be paid into the state treasury and credited to the qualified airport fund.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.334;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2015, Act 259, Eff. Mar. 22, 2016.

Former law: See section 3 of Act 160 of 1931; Act 193 of 1935.

259.35 State aeronautics fund; qualified airport fund; appropriations; use of money disbursed to operator; finding of noncompliance with federal requirements; disbursement; report; "ordinance" defined.

Sec. 35. (1) All money in and credited to the state aeronautics fund created under section 34(1) is appropriated for carrying out this act, and to meet the expenses of the department. However, money in and credited to the state aeronautics fund is not appropriated for carrying out subsection (2), except as provided in subsection (4). Upon appropriation, the state treasurer may draw a warrant on the state treasury to make payments in the amounts and to the persons as directed by the department subject to approval and release by the state administrative board of the authorized amounts. However, money appropriated under this subsection or later made available must not be expended on an aviation project not carried out under the supervision and direction of the department.

(2) Subject to subsection (3), all money in and credited to the qualified airport fund created under section 34(2) is appropriated for carrying out the purposes described in this subsection. On a quarterly basis, the state treasurer shall disburse from the qualified airport fund to the operator of a qualified airport an amount equal to the amount deposited into the qualified airport fund. If there is more than 1 qualified airport the state treasurer shall disburse the amount deposited into the qualified airport fund to each operator of a qualified airport in the same proportion that the amount of taxable gallons of fuel sold at the qualified airport during the preceding fiscal year bears to the total amount of taxable gallons of fuel sold at all qualified airports during the preceding fiscal year. An operator of a qualified airport shall use money disbursed to the operator under this

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subsection in the following order of priority:

(a) For deposit in a bond and interest redemption account created by ordinance of the qualified airport solely to pay the next scheduled payments for revenue bonds issued by the operator of the qualified airport pursuant to an ordinance under the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140, to finance capital improvements to landing areas at the qualified airport. The capital improvements to landing areas may include, but are not limited to, runway and taxiway design, construction, repair or rehabilitation, lighting, drainage systems, land acquisition, airfield roadways, noise mitigation systems, deicing pads, and surveillance systems at the qualified airport.

(b) To defray the costs of capital improvements to landing areas of the qualified airport. The capital improvements to landing areas may include, but are not limited to, runway and taxiway design, construction, repair or rehabilitation, lighting, drainage systems, land acquisition, airfield roadways, noise mitigation systems, deicing pads, and surveillance systems at the qualified airport.

(3) If the Federal Aviation Administration or a federal court of competent jurisdiction issues a final decision, decision and order, or order in a proceeding finding that the deposit or credit of money to the qualified airport fund under this act, section 25 of the general sales tax act, 1933 PA 167, MCL 205.75, and section 21 of the use tax act, 1937 PA 94, MCL 205.111, does not comply with, or disbursements from the qualified airport fund as authorized under subsection (2) do not comply with, the federal airport revenue use requirements under 49 USC 47107(b) or 49 USC 47133, the state treasurer shall transfer money in the qualified airport fund to the state aeronautics fund as necessary to comply with the final decision, decision and order, or order. The state treasurer shall only transfer money from the qualified airport fund under this subsection while the final decision, decision and order, or order is in effect and binding on this state.

(4) The department shall, on a quarterly basis, disburse all money transferred from the qualified airport fund to the state aeronautics fund under subsection (3) to the operator of a qualified airport. The department shall not disburse money under this subsection if the disbursement would violate the terms of the final decision, decision and order, or order of the Federal Aviation Administration or federal court. If there is more than 1 qualified airport, the department shall disburse the money to each operator of a qualified airport in the same proportion that the amount of taxable gallons of fuel sold at the qualified airport during the preceding fiscal year bears to the total amount of taxable gallons of fuel sold at all qualified airports during the preceding fiscal year. An operator of a qualified airport that receives money under this subsection shall only use the money for the purposes, and in the order of priority, described in subsection (2).

(5) By April 1, 2017, and by April 1 of each year after 2017, the operator of a qualified airport shall file a report with the department describing how the money disbursed to the operator of the qualified airport under this section was spent or otherwise used by the operator of the qualified airport during the preceding calendar year. The report must be on a form or in a format prescribed or approved by the department.

(6) As used in this section, "ordinance" means that term as defined in section 3 of the revenue bond act of 1933, 1933 PA 94, MCL 141.103.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.35;—Am. 2002, Act 352, Imd. Eff. May 23, 2002;—Am. 2015, Act 258, Eff. Mar. 22, 2016.

Former law: See section 6 of Act 160 of 1931; Act 193 of 1935.

259.36 Transfer of properties from board of aeronautics to department of aeronautics.

Sec. 36. Transfer from Michigan board of aeronautics to department of aeronautics. All matters which have heretofore come under the jurisdiction of, handled and executed by the board of aeronautics, as well as all physical properties in possession or control of the board of aeronautics, are hereby transferred to the Michigan department of aeronautics.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.36.

CHAPTER IV

GENERAL POWERS AND DUTIES OF AERONAUTICS COMMISSION AND DIRECTOR OF AERONAUTICS.

259.51 Aeronautics commission; powers and duties generally.

Sec. 51. (1) The commission has general supervision over aeronautics within this state. The commission shall encourage, foster, and participate with and provide grants to the political subdivisions of this state in the development of aeronautics within this state. The commission shall establish and encourage the establishment of airports, landing fields, and other aeronautical facilities. The commission shall promulgate rules that it considers necessary and advisable for the public safety governing the designing, laying out, location, building, equipping, and operation of airports and landing fields and shall exercise exclusive authority to approve the

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location and operation of airports, landing fields, and other aeronautical facilities within the state, so as to assure a uniformity in regulations covering aeronautics. In order to implement this act, the commission may establish programs of state financial assistance in the form of grants, leases, loans, and purchases, or a combination of grants, leases, loans, and purchases, for assisting political subdivisions or other persons. The commission shall not grant an exclusive right for the use of an aeronautical facility. The commission may by the issuance of appropriate and effective rules register pilot's certificates issued by the civil aeronautics authority or other similar federal authority to resident pilots of the state for which it may charge a fee not to exceed $5.00; govern and regulate commercial operations in intrastate commerce for which it may charge a fee of not more than $25.00; and provide for the licensing of aircraft dealers for which it may charge a fee of not more than $25.00.

(2) The commission shall cooperate with and assist the federal government, state governments, authorities of political subdivisions, and individuals engaged in aeronautics or the development of aeronautics, and shall seek to coordinate the aeronautical activities of these entities. The commission may confer with or hold joint hearings with any federal or state governments, their agencies, the authorities of political subdivisions, and individuals, in connection with any matter arising under this act, and avail itself of the cooperation, services, records, and facilities of those agencies in the administration and enforcement of this act. The commission shall reciprocate by furnishing governments and their agencies its cooperation, services, records, and facilities, insofar as may be practicable.

(3) The commission may perform acts, issue and amend orders, and make, promulgate, and amend reasonable general or special rules and procedures, and establish minimum standards, consistent with this act, which it considers necessary to implement this act and to perform its duties under this act, all commensurate with and for the purpose of protecting and insuring the general public interest, health, welfare, and safety. The commission may adopt and enforce the provisions of the currently effective federal legislation governing aeronautics. The commission shall promulgate rules to implement this act. The commission may deviate from or add to rules if necessary for the public safety and for the safety of aircraft and airmen within the state. A rule of the commission shall not apply to aeronautical facilities owned by the federal government.

(4) For the safety of aircraft and airmen within this state the commission may designate, establish, or modify a state airways system. The commission may publish and distribute maps, charts, and information relating to that system.

(5) The commission, a commission member or employee, the director, and every state, county, and municipal officer charged with the enforcement of state and municipal laws shall enforce and assist in the enforcement of this act and of rules promulgated under this act, and of all other laws of this state relating to aeronautics. In the aid of enforcement, general police powers are conferred upon the commission, each of its members, the director, and the officers and employees of the commission designated by the commission to exercise those powers. The commission is further authorized to enforce this act and rules promulgated under this act by injunction in the circuit court. The prosecuting attorney of the county in which an offense is committed shall prosecute offenders against this act and other aeronautical laws of this state, or any rule promulgated under this act or order issued by the commission. When a complaint is made before a municipal court in a city having such a court, or the district court in the county, district, or political subdivision in which venue is proper, that court may take cognizance, hear, try, and determine such matters and pass sentence upon offenders in accordance with law.

(6) The commission, a commission member, the director, or an employee designated by the commission may hold investigations, inquiries, and hearings concerning matters covered by this act, aircraft accidents, or orders and rules of the commission. Each person designated may administer oaths and affirmations, certify to official acts, issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books, and documents. In case of failure to comply with a subpoena or order issued under this act, the commission, or its authorized representative, may invoke the aid of a court of general jurisdiction. The court may order the witness to comply with the requirements of the subpoena or order, or to give evidence touching the matter in question. Failure to obey the order of the court may be punished by the court as contempt.

(7) In order to facilitate investigations by the commission in the interest of public safety and development of aeronautics, the reports of investigations or hearings, or any part of them, shall not be admitted in evidence or used for any purpose in an action or proceeding growing out of a matter referred to in the investigation, hearing, or report, except in case of criminal or other proceedings instituted in behalf of the state under this act or any other law of this state relating to aeronautics. A commissioner, director, or an officer or employee of the commission shall not be required to testify to facts ascertained in, or information gained by reason of, his or her official capacity, or be required to testify as an expert witness in an action or proceeding involving an aircraft. Except as otherwise provided in this section, the commission may make available to appropriate federal and state agencies information and material developed in the course of its hearings and investigations.

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(8) For the purposes of executing its powers and duties under this act, the commission, upon recommendations to the state administrative board, may enter into necessary contracts.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.51;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1969, Act 288, Imd. Eff. Aug. 11, 1969;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1982, Act 385, Eff. Mar. 30, 1983;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 2 of Act 177 of 1929, being CL 1929, § 4802; Act 53 of 1931; Act 264 of 1939.

Administrative rules: R 259.201 et seq. and R 259.241 et seq. of the Michigan Administrative Code.

259.52 Director of aeronautics; powers and duties.

Sec. 52. Powers and duties of director of aeronautics. The director of aeronautics shall be the executive officer of the commission and department of aeronautics and under the commission's supervision shall administer the provisions of this and all other acts relating to aeronautics within this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.52.

259.53 Director of aeronautics; powers delegated.

Sec. 53. Delegation of powers to director of aeronautics. The commission may delegate to the director of aeronautics any of the powers or duties vested in or imposed upon it by this act. Such delegated powers and duties may be exercised by such director in the name of the commission.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.53.

259.54 Cooperation with federal government; compliance with federal laws and regulations for expenditure of federal money; receipt and disbursement of federal and other money; commission as agent of state; deposit of money in state treasury; commission assistance in preparation of airport projects; cost.

Sec. 54. (1) The commission may cooperate with the government of the United States and any agency or department thereof, in the acquisition, construction, improvement, maintenance, and operation of airports, landing fields, and other aeronautical facilities in this state where federal financial aid is received. The commission shall comply with the laws of the United States and any regulations made under those laws for the expenditure of federal money upon airports, landing fields, and other aeronautical facilities for which federal financial aid is received.

(2) The commission may accept, receive, receipt for, and disburse, federal or other money for and in behalf of this state or a political subdivision of this state, for the acquisition, construction, improvement, maintenance, and operation of airports, landing fields, and other aeronautical facilities in this state. In each case, the commission shall act as agent of the political subdivision of this state in accepting, receiving, receipting for, and disbursing such money in behalf of the political subdivision. The governing body of a political subdivision in this state may designate the commission as its agent for these purposes, as provided in section 135.

(3) Money accepted for disbursement by the commission pursuant to subsection (2) shall be deposited in the state treasury and disbursed in accordance with the provisions of the respective grants and the fiscal procedures of the state treasurer.

(4) The commission may assist political subdivisions of this state in the preparation of airport projects under federal statutes that provide federal funding of the airport and airway system, by the furnishing of engineering or other technical services. The cost for such assistance shall be chargeable to the airport project and reimbursable to the commission in accordance with the federal statute providing federal funding as allowable project costs, and deposited to the planning and engineering fund for use on future projects.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.54;—Am. 1948, 1st Ex. Sess., Act 32, Imd. Eff. May 10, 1948;—Am. 1982, Act 466, Imd. Eff. Dec. 30, 1982.

259.55 Enforcement officers.

Sec. 55. (1) The commission may prescribe the duties and conditions of employment of its enforcement officers. The officers shall be law enforcement officers of the state and shall have the authority of police officers as provided by law, except as otherwise provided in this section. The officers shall be vested with power and authority of deputy sheriffs except that such power and authority shall be restricted to the investigation and enforcement of rules promulgated and orders issued by the commission and to the statutes relating to Michigan airports and the Michigan aeronautics code. The officers may issue summons, make arrests, and initiate criminal proceedings against offenders. The commission shall be responsible for all actions of its officers committed under color of their official position and authority.

(2) A summons issued by the law enforcement officers of the commission for violations of the aeronautics

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code, the statutes relating to Michigan airports, or the rules and orders promulgated by the commission, shall be answerable before the recorder's court or municipal court of the city in which the violation took place or before the district court in the county, district or political subdivision in which the violation took place.

History: Add. 1976, Act 191, Imd. Eff. July 8, 1976.

Administrative rules: R 259.201 et seq. of the Michigan Administrative Code.

CHAPTER V

REGULATION OF AIRCRAFT, AIRMEN, AIRPORTS AND AIR INSTRUCTION.

259.76 Registration of aircraft generally.

Sec. 76. (1) An aircraft tied down, moored, hangared, or based within this state and the number assigned to that aircraft by the federal aviation administration shall be registered annually with the commission and a registration fee paid. An aircraft shall not be issued a state registration certificate when it does not have a valid and effective registration certificate as issued by the federal aviation administration or a foreign government.

(2) An aircraft shall be subject to the registration provisions of this act except when it is 1 of the following:

(a) An aircraft engaged in scheduled passenger service flying in interstate or foreign commerce or in that part of interstate or foreign commerce which is intrastate in character, and operating exclusively under the provisions of a federal certificate issued under 14 CFR Part 121.

(b) An aircraft owned by the United States government.

(c) An aircraft of a resident of another state or an aircraft of a resident of this state that is tied down, moored, hangared, or based within another state, having complied with the registration requirements of that state, and operating within this state for a period of not more than 90 days in a calendar year. This aircraft shall not engage in intrastate commercial activity within this state.

(d) Aircraft owned by or registered to the United States, aircraft of the civil air patrol, or aircraft licensed by a foreign country with which the United States has reciprocal relations. This aircraft shall not engage in commercial activity within this state.

(e) An aircraft which, in the opinion of the commission, is in a condition that would reasonably preclude its operation during the registration period.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.76;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1988, Act 391, Imd. Eff. Dec. 22, 1988.

Former law: See section 2 of Act 63 of 1931; Act 169 of 1933; and Act 265 of 1939.

259.76a Operation of aircraft; registration required; registration certificate; application forms; fees.

Sec. 76a. (1) A person shall not operate nor shall an owner knowingly permit to be operated, except as provided in this act, an aircraft of a type required to be registered, which is not registered or for which a current certificate of registration has not been issued, or for which the current fee has not been paid.

(2) A person shall not operate nor shall an owner knowingly permit to be operated, except as provided in this act, an aircraft of a type required to be registered, unless there is carried in, as required by this act, a valid registration certificate issued by the commission for the current registration year.

(3) An application for registration shall be made on forms provided by the commission, and shall be signed and sworn to by the applicant. The registration shall be issued subject to approval of the commission. Fees shall be paid to the commission in the form of cash paid in person or in the form of a check, money order, or bank draft made payable to the state of Michigan.

History: Add. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.77 Application for renewal registration; execution and return; payment of registration fee; expiration of registration; registration fee in lieu of property taxes; rate of registration fee; penalty for failure to register or pay registration fee; waiver of penalty; postmark date as date of payment.

Sec. 77. (1) If an aircraft is registered under this act, the commission shall send an application for renewal registration to the owner of the aircraft on or after November 1 preceding the year to be designated on the registration. The registration application shall be executed and returned to the commission with payment of the registration fee as provided by this section before the expiration date of the prior registration. If an owner of an aircraft fails to receive a registration application form by December 1, he or she shall inform the commission.

(2) The owner of an aircraft that had not been previously subject to registration under this act but has

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become subject to registration under this act shall inform the commission within 30 days after becoming subject to registration, shall register the aircraft, and shall pay the appropriate fee as provided by this section.

(3) A registration fee shall be payable annually on or before December 31. However, for an aircraft being registered for the first time, a registration certificate issued after July 1 shall be issued at the rate of 50% of the annual fee. All aircraft registrations shall expire on January 1 of each year.

(4) A registration fee shall be in lieu of all property taxes on the aircraft, either general or local.

(5) A registration fee shall be paid at the rate of 1 cent per pound of either maximum gross weight or maximum takeoff weight, whichever is greater, for which the aircraft is certified under the federal aviation administration airworthiness certificate.

(6) If an aircraft owner fails to register or pay the aircraft registration fee due under this act by the time specified, a penalty of $50.00 shall be added if the failure is not more than 1 month, with an additional $5.00 penalty for each additional month or fraction of a month during which the registration fee and penalty are not paid.

(7) If an aircraft registration fee is not paid within the time specified and it is shown to the satisfaction of the commission that the failure or refusal was due to reasonable cause and not willful neglect, the penalty may be waived at the discretion of the director of the state transportation department or his or her designated representative. The period for which a penalty is assessed shall not exceed 1 year.

(8) If an aircraft registration fee is paid by mail, the postmark date is the date of payment.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.77;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1988, Act 391, Imd. Eff. Dec. 22, 1988;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 2 of Act 63 of 1937; Act 169 of 1933; and Act 265 of 1939.

259.78 Sale, transfer, or assignment of interest in aircraft; transfer fee.

Sec. 78. When the owner of a registered aircraft sells, transfers, or assigns his or her interest thereto, the registration certificate issued for that aircraft shall be returned to the commission within 15 days together with the date and place of sale, transfer, or assignment, the value received, and the name and residence of the purchaser, transferee, or assignee. Within 15 days the purchaser, transferee, or assignee shall apply for the transfer of the registration certificate, if the aircraft remains subject to registration as defined in this act. The fee for the transfer of the registration certificate shall be $5.00.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.78;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1988, Act 391, Imd. Eff. Dec. 22, 1988.

Former law: See section 2 of Act 63 of 1931; Act 169 of 1933; and Act 265 of 1939.

259.79 Carrying or display of registration certificate or assigned number; exception.

Sec. 79. (1) The state registration certificate issued by the commission shall be carried in the aircraft at all times. Each aircraft shall display the number assigned to it by the United States or a foreign country.

(2) A person shall not carry or display upon an aircraft a registration certificate not issued for the aircraft or not otherwise lawfully used on the aircraft.

(3) Historic or restored aircraft or an authentic replica of a historic aircraft are not required to display any external state-required registration markings.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.79;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 2 of Act 63 of 1931; Act 169 of 1933; and Act 265 of 1939.

259.79a Aircraft inspection; access.

Sec. 79a. The commission may cause an aircraft to be inspected at any time to determine its compliance with the registration requirements of this act. The owner, operating agency, or airman shall give the inspector or officer representing the commission unhindered and uninterrupted access to the aircraft and to the shelter or field where the aircraft is located in order to conduct the inspection provided for in this section.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.80 Operation of aircraft; airworthiness requirements; operating limitations; waiver.

Sec. 80. (1) A person shall not operate nor an owner knowingly permit to be operated except as provided in this chapter, an aircraft which does not meet the airworthiness requirements of the United States or a foreign country.

(2) A person shall not operate nor shall an owner knowingly permit to be operated except as provided in this chapter an aircraft when the operation is in violation of the operating limitations of that aircraft as specified by the United States or a foreign country.

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(3) This section does not apply to aircraft operated in conformance with the terms of a waiver issued by the appropriate federal authority.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.80;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1976, Act 191, Imd. Eff. July 8, 1976.

Former law: See section 2 of Act 63 of 1931; Act 169 of 1933; and Act 265 of 1939.

259.80a Prohibited conduct.

Sec. 80a. (1) A person shall not navigate an aircraft over; land upon; or fly from; or service, maintain, or repair an aircraft or an airport, landing field, or other aeronautical facility; or conduct an aircraft operation from an airport, landing field, or other aeronautical facility in this state except in conformity with this act.

(2) A person shall not use a licensed aeronautical facility as a base or terminal for a commercial activity without first securing a written agreement from the airport manager or his or her designated representative and paying the fees and charges prescribed.

(3) An airport manager or his or her designated representative at all times may take such action authorized by law as may be necessary in the handling, conduct, and management of the public in attendance at the licensed aeronautical facility.

(4) A person dealing, at wholesale or retail, in aviation fuel shall acquire and dispense the fuel in accordance with the laws of this state. A person shall not dispense fuels of different octane from the same pump.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.80b Conformance with standard traffic patterns recommended by federal air regulations; exceptions; flying aircraft acrobatically; payment of storage, repair, and supply charges; responsibility for safe operation; report of accident; distance requirements.

Sec. 80b. (1) A person operating an aircraft shall conform to standard traffic patterns recommended by federal air regulations except as follows:

(a) When meteorological conditions are such that compliance with visual flight rules as prescribed by federal air regulations is impossible at the prescribed traffic pattern altitudes, altitudes may be reduced as necessary down to but no lower than altitudes in accordance with the appropriate federal air regulations, this act, and the rules promulgated under this act.

(b) If local conditions require, and the traffic pattern has been altered to fit these conditions and approved by the commission.

(2) Aircraft shall conform with properly established local noise abatement procedures.

(3) A person shall not fly an aircraft acrobatically over a licensed aeronautical facility except upon written authority of the airport manager, and then only when the site is closed to traffic.

(4) Airmen, before departing from a licensed aeronautical facility, shall make satisfactory arrangements for the payment of storage, repair, and supply charges.

(5) The owner, operator, or pilot of an aircraft, or a person to whom he or she has given permission to use the aircraft, is directly responsible for its safe operation.

(6) When an aircraft is involved in an accident in this state that causes injury or death, the owner or person in control of the aircraft shall immediately report the accident to the nearest state police post.

(7) A person shall not operate an aircraft in a careless or reckless manner so as to endanger, or be likely to endanger, the life or property of another. Other than at a licensed or approved landing area, a person shall not fly an aircraft less than 25 feet (7.6 meters) above the ground at the field boundary, or closer than 25 feet (7.6 meters) to any object or structure while landing or taking off.

(8) A person shall not fly an aircraft within 500 feet (153 meters) of another aircraft, except by prearrangement of each aircraft's pilot in command.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.80c Disposal of wrecked aircraft; report by participants in accident; admission of investigations or hearings as evidence; testimony as expert witness.

Sec. 80c. (1) An aircraft owner, pilot, or authorized agent is responsible for the prompt disposal of a wrecked aircraft and its parts to avoid interference with aircraft operations, unless specifically directed by the airport manager, commission, state police, or appropriate federal agency to delay removal pending investigation.

(2) Participants in an accident at or near a licensed aeronautical facility shall report to the airport manager or responsible authorities as soon after an accident as possible, furnishing their names, addresses, and rendering required reports.

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(3) Reports of investigations or hearings, or any part of investigations or hearings, shall not be admitted in evidence or used for any purpose pertaining to a matter referred to in an investigation, hearing, or report, except in case of criminal or other proceedings in behalf of the commission.

(4) An officer or employee of the commission or the state transportation department shall not be required to testify as an expert witness in an action involving an aircraft.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.80d Landing aircraft.

Sec. 80d. (1) An aircraft shall not land, except in an emergency, on private property, other than upon recognized landing areas, unless express permission is secured from the owner or lessee.

(2) A person shall not land an aircraft on a public highway, except in an emergency. A person shall not operate an aircraft on a public highway unless traffic is controlled by law enforcement officials. Lighter-than-air and emergency evacuation aircraft may take off and land on any public highway with prearranged traffic control.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.80e Locations for flying of aircraft; limitations; altitude.

Sec. 80e. (1) Except when necessary for takeoff or landing, an aircraft shall not be flown at the following locations:

(a) Over any congested area of a city or village at an altitude below that which, if a power unit fails, will permit an emergency landing without undue hazard to persons or property on the surface, and in no case less than 1,000 feet above the highest obstacle within a horizontal radius of 2,000 feet from the aircraft.

(b) Over any other area at an altitude of less than 500 feet (153 meters) above the surface, except over open water or sparsely populated areas, in which case the aircraft shall not be operated less than 500 feet from any person, vessel, vehicle, or structure.

(2) A helicopter may be flown at altitudes less than the minimums prescribed in subsection (1), if the operation is conducted without hazard to persons or property on the surface.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.80f Possessing, carrying, or attempting to possess certain items in sterile area of airport; prohibitions; violations; penalties; exceptions; other violations; consecutive terms of imprisonment; definitions.

Sec. 80f. (1) An individual shall not possess, carry, or attempt to possess or carry any of the following in a sterile area of a commercial airport:

(a) Firearm.

(b) Explosive.

(c) Knife with a blade of any length.

(d) Razor, box cutter, or item with a similar blade.

(e) Dangerous weapon.

(2) Except as provided in subsection (3), an individual who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

(3) An individual who violates subsection (1) while doing any of the following is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than $10,000.00, or both:

(a) Getting on or attempting to get on an aircraft.

(b) Placing, attempting to place, or attempting to have placed on an aircraft an item listed in subsection (1).

(c) Committing or attempting to commit a felony.

(4) This section does not apply to any of the following:

(a) A peace officer of a duly authorized police agency of this state, a political subdivision of this state, another state, a political subdivision of another state, or the United States.

(b) An individual regularly employed by the department of corrections and authorized in writing by the director of the department of corrections to possess or carry an item listed in subsection (1) during the performance of his or her duties or while going to or returning from his or her duties.

(c) A member of the United States army, air force, navy, marine corps, or coast guard while possessing or carrying an item listed in subsection (1) in the line of duty.

(d) A member of the national guard, armed forces reserves, or other duly authorized military organization while on duty or drill or while possessing or carrying an item listed in subsection (1) for purposes of that military organization.

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(e) Security personnel employed to enforce federal regulations for access to a sterile area.

(f) A court officer while engaged in his or her duties as a court officer as authorized by a court.

(g) An airline or airport employee as authorized by his or her employer.

(5) This section does not prohibit the individual from being charged with, convicted of, or punished for any other violation of law committed by that individual while violating this section.

(6) A term of imprisonment imposed under this section may be served consecutively to any other term of imprisonment imposed for a violation of law arising out of the same transaction.

(7) As used in this section:

(a) “Commercial airport” means an airport that has regularly scheduled commercial flights to and from other destinations.

(b) “Felony” means that term as defined in section 1 of chapter I of the code of criminal procedure, 1927 PA 175, MCL 761.1, or a violation of a law of the United States that is designated as a felony or that is punishable by death or by imprisonment for more than 1 year.

(c) “Sterile area” means that term as defined in 14 C.F.R. 107.1.

History: Add. 2001, Act 225, Eff. Apr. 1, 2002.

259.80g Operation of ultralight.

Sec. 80g. (1) A person shall not operate an ultralight in a manner that creates a hazard to other persons or property.

(2) A person shall not allow an object to be dropped from an ultralight if it creates a hazard to other persons or property.

(3) A person shall not operate an ultralight between sunset and sunrise. Each person operating an ultralight shall maintain vigilance so as to see and avoid aircraft and shall yield the right-of-way to all aircraft.

(4) A person shall not operate an ultralight in a manner that creates a collision hazard with any other aircraft.

(5) A powered ultralight shall yield the right-of-way to an unpowered ultralight.

(6) A person shall not operate an ultralight over any congested area of a city, town, or settlement, or over an open air assembly of persons.

(7) Notwithstanding subsection (3), an ultralight may be operated up to 30 minutes before sunrise or 30 minutes after sunset if both of the following apply:

(a) The ultralight is equipped with an operating anticollision light visible for at least 3 statute miles.

(b) The ultralight is operating in uncontrolled airspace as defined by federal regulations.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.80h Seaplane base; takeoff and landing distance.

Sec. 80h. A seaplane operator conducting commercial operations shall assure that the seaplane base used for takeoff or landing has sufficient takeoff and landing distance for the operation being conducted as specified by the manufacturer's operating limitations for the aircraft being operated.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.81 Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to inspection of aircraft.

259.82 Dealer's license; application; fee; form; signature; statement; expiration; renewal; display; record; report; general registration numbers for manufacturer and dealer aircraft; issuance, charge, and display; sale or exchange of aircraft subject to registration; application for registration; dismantling or wrecking registered aircraft; cancellation, revocation, or suspension of license.

Sec. 82. (1) A person shall not engage in the business of buying, selling, brokering, or dealing in aircraft of a type required to be registered, unless he or she has received a license from the commission.

(2) An application for a dealer's license shall be accompanied by a $25.00 license fee and shall be submitted on the appropriate form furnished by the commission. Applications shall be signed and accompanied by a sworn statement containing the information required by the commission to determine whether the applicant is lawfully entitled to the license.

(3) A license granted under subsection (1) expires on January 1 of each calendar year and may be renewed upon application and payment of the required fee. The commission may issue a 1/2-year license for the balance of the current year if application is made after July 1 upon payment of 1/2 of the fee.

(4) A dealer or manufacturer shall display a dealer's license in a prominent location at his or her place of

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business.

(5) A licensee shall maintain a record, to be open to inspection by any law enforcement officer or authorized officer or investigator of the commission, of every aircraft subject to registration which is bought, sold, exchanged, received, or accepted by the licensee for sale or exchange. A licensee shall submit a report to the commission of aircraft sold to a resident of another state and include the notice of sale or transfer and the registration certificate, if any.

(6) The commission shall issue to aircraft manufacturers, aircraft engine manufacturers, and dealers a distinctive general registration number for each aircraft owned or controlled by them. These aircraft shall not be used except for demonstration, for sale, for ferrying, or for testing. General registration numbers for manufacturer and dealer aircraft shall be issued annually under the same conditions as registration certificates and a $5.00 charge made for the general registration numbers for manufacturer and dealer aircraft. The general registration number issued to a manufacturer or dealer shall be displayed in the aircraft at all times.

(7) A manufacturer or dealer selling or exchanging aircraft subject to registration, before delivering an aircraft to the purchaser, shall apply to the commission for aircraft registration, and the purchaser shall sign the application for registration and other necessary papers to enable the manufacturer or dealer to apply to the commission.

(8) A dealer dismantling or wrecking any registered aircraft shall forward the registration certificate for that aircraft to the commission within 15 days for cancellation.

(9) The commission may cancel, revoke, or suspend the dealer's license for failure to comply with this section.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.82;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 2 of Act 63 of 1931; Act 169 of 1933; and Act 265 of 1939.

259.83 Operation of civil aircraft; federal airman certification requirements; compliance required.

Sec. 83. (1) A person shall not operate a civil aircraft over or upon the lands and waters of this state unless he or she is complying with the federal airman certification requirements under the code of federal regulations.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a first violation, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $500.00, or both.

(b) For a second violation within 5 years of the first violation, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than $1,000.00, or both.

(c) For a third or subsequent violation within 5 years of the second or subsequent violation, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.83;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 4 of Act 63 of 1931; Act 265 of 1939.

259.83a Flight operations requiring federal aviation regulation air carrier or commercial operator's certification.

Sec. 83a. (1) A person holding a valid federal air carrier operating certificate or commercial operator's certificate shall not conduct flight operations in violation of that certificate.

(2) A person who violates subsection (1) is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than $1,000.00, or both.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.83b Flight operations; prohibition; violation.

Sec. 83b. (1) A person shall not conduct flight operations requiring a federal aviation regulation air carrier or commercial operator's certification without first having been issued a valid federal aviation regulation air carrier or operating certificate or valid commercial operator's certificate.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) For a first violation, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than $5,000.00, or both.

(b) For a second violation within 5 years after the first violation, the person is guilty of a felony punishable by imprisonment for not less than 1 year or more than 5 years or a fine of not less than $5,000.00 or more than

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$50,000.00, or both.

(c) For a third or subsequent violation within 5 years after a conviction for a violation of this section, the person is guilty of a felony punishable by imprisonment for not less than 4 years or more than 10 years or a fine of not less than $10,000.00 or more than $100,000.00, or both.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.84 Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to applicability of MCL 259.83.

259.84a Registration of aircraft; cancellation, revocation, or suspension; grounds; notice and hearing.

Sec. 84a. After notice and opportunity for the person to be heard, the commission may cancel, revoke, or suspend the registration of an aircraft if any of the following occur:

(a) The commission is satisfied that the registration was fraudulently or erroneously issued.

(b) The commission determines that the licensee has made or is making unlawful use of his or her registration certificate.

(c) An aircraft has been dismantled or wrecked.

(d) A registration certificate other than the 1 issued for that aircraft is knowingly carried within the aircraft.

(e) The commission is authorized under any other provision of this act.

(f) It is shown by satisfactory evidence that delivery of an aircraft in the possession of a dealer was not made to the applicant registered under this act.

History: Add. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.85 Flight school.

Sec. 85. (1) A person shall not operate a flight school in this state unless the person holds an annual license issued by the commission.

(2) Upon receipt of an application and a $25.00 license fee from a flight school, the commission shall review the qualifications of the applicant.

(3) Unless surrendered, suspended, or revoked before this date, a flight school license expires 1 year from date of issuance or upon the sale or transfer by the owner of property, equipment, or franchise of the flight school.

(4) The annual flight school license renewal fee is $10.00 and is payable from the original date of issuance. An applicant shall file an initial application and pay the initial application fee if a license is not renewed before its expiration.

(5) A change in the name of the flight school, without change in ownership, does not void a current license if the owner of the flight school notifies the commission in writing within 15 days of the change. Upon receipt of notification under this subsection, the commission shall issue a license under the new name with the same expiration date as the license previously issued.

(6) A flight school operating facilities at more than 1 aeronautical facility shall obtain a license for each location.

(7) The flight school license shall be posted in the principal office of the flight school where it may be readily observed by the general public.

(8) A flight school shall at all times conduct itself in accordance with all applicable federal, state, and local laws and statutes.

(9) A flight school shall be operated from an airport properly licensed by the commission.

(10) A flight school operator shall obtain from the airport manager a written agreement to operate commercially from the airport at which the flight school is based.

(11) Each flight school student shall be advised in writing at the time of enrollment of the type and amount of insurance coverage provided for each aircraft used by the flight school.

(12) A flight school shall provide a suitable space of permanent nature that is properly heated, lighted, and ventilated to accommodate flight school students and to house adequate equipment necessary to properly conduct business matters and to prepare and preserve business records. The facilities described in this subsection shall be located at the licensed airport site.

(13) Each aircraft to be used for purposes of flight instruction at a flight school shall comply with all of the following:

(a) Possess a valid airworthiness certificate issued by the federal aviation administration.

(b) Be properly registered with the commission.

(c) Have the equipment and performance characteristics appropriate to the curriculum and to the airport to

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be used.

(14) All aircraft used in any flight school operation shall be operated in accordance with federal aviation administration maintenance regulations and standards. Adequate records shall be kept by the school to demonstrate performance of all required items of maintenance. The maintenance status of each aircraft, including discrepancies, shall be displayed by the school in a manner adequate to determine compliance.

(15) A flight school shall have a flight instructor available to dispatch and supervise each student pilot solo flight.

(16) A flight school shall have a written curriculum, including lesson plans, adequate to properly qualify the student to complete the particular course for the certificate or rating sought. A flight school shall also include lessons pertaining to Michigan laws relating to aviation and this act.

(17) A flight school shall make available to students current texts and reference material pertaining to the certificate or rating sought.

(18) A flight school shall provide adequate instruction to properly qualify a student completing its courses for the appropriate federal aviation administration examination covering the grade of certificate or rating sought.

(19) A flight school shall maintain training records adequate to show each student's progress and level of completion relative to the course of instruction in which the student is enrolled. These records shall be made available for inspection by any authorized representative of the commission.

(20) A copy of the airport and flight school regulations shall be made available to the students enrolled in the school for information and guidance.

(21) A flight school shall designate a practice area.

(22) A flight school or its representatives and instructors shall not make false claims of any kind pertaining to either flight training or employment following flight training. Only a licensed flight school may advertise flight instruction.

(23) A flight school accepting prepayment equal to or in excess of $1,000.00 shall file with the commission a corporate surety bond payable to the state of Michigan in the sum of $5,000.00 conditioned on the faithful performance of all contracts and agreements with students made by the flight school or its agent. The aggregate liability for the surety for all breaches of conditions of the bond shall not exceed the principal sum of $5,000.00. The surety of any bond may cancel the bond upon giving 60 days' notice in writing to the commission and the flight school. If a bond is canceled in compliance with this subsection, the surety is relieved of liability for any breach of conditions occurring after the effective date of cancellation.

(24) A flight school shall implement a security program, acceptable to the commission, designed to limit aircraft accessibility and ensure the security of those aircraft on the ground that are used by the flight school.

(25) The security program described in subsection (24) shall include 1 or more of the following:

(a) Procedures for positive identification of a student pilot or renter pilot as a precondition to allowing access to aircraft.

(b) Procedures for control of aircraft ignition keys that prevent operation of an aircraft by a student pilot that is not in the presence of or under the authorization of a flight instructor or other authorized individual.

(c) Instructional procedures that ensure close student pilot supervision.

(26) The security program described in subsection (24) shall include all of the following:

(a) A requirement that the student present a federal aviation administration student medical certificate and student pilot certificate as a predicate to enrollment in the flight school. For purposes of this subdivision, enrollment is considered a flight instructor endorsement to operate an aircraft at a time during which the student is the sole occupant of the aircraft.

(b) Instructional materials that identify and offer examples of types of suspicious activity at or in proximity to an airport and that advise students and renter pilots of the means to report such activity to local law enforcement officials and appropriate federal authorities.

(c) The prominent display of signs requesting pilots to report suspicious activity at or in proximity to an airport. The signs must provide telephone numbers of local law enforcement officials and appropriate federal authorities.

(27) The requirements for a flight school set out in this section are conditions of the license. Failure to comply with any of these requirements is grounds for revocation of a flight school's license.

(28) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, or a fine of not less than $100.00 or more than $500.00, or both, together with costs of the prosecution.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.85;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 258, Eff. May 22, 2002;—Am. 2003, Act 133, Imd. Eff. Aug. 1, 2003.

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Former law: See section 2 of Act 177 of 1929; being CL 1929, § 4802; Act 53 of 1931; Act 264 of 1939; section 3 of Act 177 of 1929, being CL 1929, § 4803.

259.85a Repealed. 2003, Act 133, Imd. Eff. Aug. 1, 2003.

Compiler's note: The repealed section pertained to criminal history, records check, and fingerprinting as conditions to enrollment in flight school.

259.86 Airport manager; license; fee; expiration; approval of aeronautical facilities; license of approval; requirements; fee in lieu of real property taxes; temporary field permits; statement describing approach clear zones and transitional surface areas.

Sec. 86. (1) Any individual appointed as an airport manager by the owner of a licensed aeronautical facility, before operating as an airport manager, shall be licensed by the department for which the department may make a reasonable charge not to exceed $5.00. An airport manager license expires on December 31, annually.

(2) All airports, landing fields, and other aeronautical facilities, except those owned or operated by the United States government, before operating as such, shall be approved by the department.

(3) The department shall issue annually a license of approval in each case and charge an annual fee not in excess of $100.00. The fee shall be in lieu of all real property taxes on the landing area and improvements to the landing area to the extent permitted by section 7y of the general property tax act, 1893 PA 206, MCL 211.7y.

(4) Commercial operations shall not be performed on any land based landing area other than at a licensed aeronautical facility except that temporary field permits may be issued under this section. All commercial operations shall be based out of a licensed aeronautical facility.

(5) If the owner of an aircraft uses, or proposes to use, an area of land for temporary commercial landing areas, he or she shall apply to the commission for a temporary field permit on forms furnished by the commission.

(6) The annual license of approval issued pursuant to subsection (2) shall include a statement, certified by the director, describing the approach clear zones and transitional surface areas for the airport for which the license is applicable. Standards for describing approach clear zones and transitional surface areas shall be uniform according to type of runway and shall conform with regularly accepted definitions and usage in the aeronautics field.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.86;—Am. 1962, Act 193, Eff. Mar. 28, 1963;—Am. 1969, Act 288, Imd. Eff. Aug. 11, 1969;—Am. 1982, Act 466, Imd. Eff. Dec. 30, 1982;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 2 of Act 177 of 1929, being CL 1929, § 4802; Act 53 of 1931; Act 264 of 1939; and section 3 of Act 177 of 1929, being CL 1929, § 4803.

259.86a-259.86c Repealed. 2002, Act 35, Eff. May 15, 2002.

Compiler's note: The repealed sections pertained to categories of licensed aeronautical facilities and appointment and duties of airport manager.

259.87 Airports and facilities; rejection of application for permission to operate.

Sec. 87. (1) In any case in which the department rejects an application for permission to operate an airport, landing field, or other aeronautical facility, or in any case where the department shall issue any order requiring certain things to be done, it shall set forth its reasons for the order and shall state the requirements to be met before approval will be given. In any case in which the department considers it necessary, the department may order the closing of any airport, landing field, or other aeronautical facility, until compliance is made with the requirements ordered by the department.

(2) A facility shall not be licensed or approved that requires aircraft to be airborne under a bridge or power line during the approach to or takeoff from a landing area, or that requires aircraft to fly in a manner that may endanger persons or property.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.87;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 4 of Act 177 of 1929, being CL 1929, § 4804; Act 53 of 1931.

259.87a Certificate of approval; registration; fee.

Sec. 87a. Each certificate of approval of an airport, landing field, or other aeronautical facility shall be registered annually, and the department is authorized to establish a reasonable fee in accordance with issued rules and regulations.

History: Add. 2002, Act 35, Eff. May 15, 2002.

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259.88 Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to annual registration of airports and facilities.

259.89 Private use landing areas.

Sec. 89. Sections 86 and 87a do not apply to landing areas designated and operated for private use if commercial operations are not performed on the landing areas. A landing area for private use shall not be established, without commission approval, within 5 nautical miles of a public use facility certified by the commission or that would violate section 87.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.89;—Am. 1969, Act 288, Imd. Eff. Aug. 11, 1969;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 1998, Act 81, Eff. July 17, 1998;—Am. 2002, Act 35, Eff. May 15, 2002.

259.89a Ultralight or balloon use; landing areas.

Sec. 89a. Sections 86 and 87a do not apply to landing areas designated and operated for the exclusive use of either ultralights or balloons. A landing area for ultralight or balloon use shall not be established, without commission approval, within 5 nautical miles of a public use facility certified by the commission. For the purposes of this section, "established" means any facility that is used or intended to be used for the operation of balloons or ultralights more than 10 times in any 12-month period.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.90 Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to emergency public use.

259.91 Flying club.

Sec. 91. A flying club shall be a nonprofit entity organized for the express purpose of providing its members with an aircraft for their personal use and enjoyment. The ownership of the aircraft shall be vested in the name of the flying club or owned in equal shares by all of its members. The property rights of the members of the club shall be equal and any part of the net earnings of the club to be distributed to the members shall be in equal shares to all members. The club shall not derive greater revenue from the use of its aircraft than the amount necessary for its actual operation, maintenance, and replacement or upgrade of its aircraft. Flying club aircraft shall not be used by members for rental, or by anyone for charter or lease.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

CHAPTER VI
ACQUISITION AND OPERATION OF STATE AIRPORTS.

259.101 State airport and landing fields; acquisition.

Sec. 101. The commission may, on behalf of and in the name of this state, acquire by purchase, gift, devise, lease, condemnation proceedings, or otherwise, property real or personal, for the purpose of establishing and constructing airports, landing fields, and other aeronautical facilities, and may acquire in the same manner, own, control, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and police these facilities, within this state. The commission may dispose of any property acquired under this section, in accordance with the laws of this state governing the disposition of other similar property of the state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.101;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 1 of Act 182 of 1927, being CL 1929, § 4829; Act 344 of 1939; and section 1 of Act 329 of 1927, being CL 1929, § 4836.

259.102 Aeronautics commission; airport protection privileges.

Sec. 102. Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports, landing fields, and other aeronautical facilities acquired or operated under this act, the commission may acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports, landing fields, or other aeronautical facilities and other airport protection privileges as are necessary to insure safe approaches to the landing areas of airports, landing fields, and other aeronautical facilities, and the safe and efficient operation of these airports, landing fields, and aeronautical facilities. The commission may also acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards, including the right of ingress and egress to or from such airport

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hazards for the purpose of maintaining and repairing the lights and marks. This authority shall not be so construed to limit the right, power, or authority of the state or any political subdivision to zone property adjacent to any airport pursuant to laws of this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.102;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.103 Aeronautics commission; joint operations.

Sec. 103. Joint operations. The commission may engage in all such activities jointly with the United States, other states, and with political subdivisions or other agencies of this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.103.

259.104 Aeronautics commission; condemnation, right of eminent domain.

Sec. 104. Condemnation. The commission may exercise the right of eminent domain, in the name of the state, in the manner provided by the laws of this state for the acquisition of real property for public purposes, for the purpose of acquiring any property which it is herein authorized to acquire by condemnation. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.104.

Former law: See section 4 of Act 182 of 1927, being CL 1929, § 4832.

259.105 Aeronautics commission; leases and sales.

Sec. 105. The commission may do 1 or more of the following, provided that in each case the public is not deprived of its rightful, equal, and uniform use:

(a) Lease for a term not exceeding 50 years, airports, landing fields, or other aeronautical facilities, or real property acquired or set apart for airport purposes, to any person, any municipal or state government or the national government, or any department of either for operation or use consistent with the purposes of this act.

(b) Lease or assign for a term not exceeding 50 years to any person, any municipal or state government or the national government, or any department of either, for operation or use consistent with the purposes of this act, space, area, improvements, or equipment on such airports.

(c) Sell any part of an airport, landing field, other aeronautical facility, or real or personal property to any municipal or state government, or to the United States or any department or instrumentality of the United States, for aeronautical purposes or purposes incidental to aeronautical purposes.

(d) Confer the privilege of concessions.

(e) Subject to the approval of the state administrative board, lease at any state airport, landing field, or aeronautical facility any real property acquired or set apart for airport purposes to persons for nonaeronautical uses.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.105;—Am. 1954, Act 120, Eff. Aug. 13, 1954;—Am. 1958, Act 168, Eff. Sept. 13, 1958;—Am. 1967, Act 51, Imd. Eff. June 14, 1967;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 1 of Act 182 of 1927, being CL 1929, § 4829; Act 344 of 1939; and Act 333 of 1941.

259.106 Aeronautics commission; charges and rentals, determination.

Sec. 106. Charges and rentals. The commission shall have the authority to determine reasonable and uniform charges or rental for the use of any properties and the charges for any service or accommodations, under its control, and the terms and conditions under which such properties may be used: Provided, That in all cases the public is not deprived of its rightful, equal, and uniform use of such property. The state shall have and the commission may enforce liens, as provided by law for liens and the enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.106.

Former law: See section 1 of Act 312 of 1915, being CL 1929, § 4793; Act 274 of 1939; Act 204 of 1941; section 1 of Act 182 of 1927, being CL 1929, § 4829; and Act 344 of 1939.

259.107 Aeronautics commission; rules establishing traffic code for state-owned facilities; enforcement; violation as misdemeanor.

Sec. 107. (1) The commission may promulgate rules establishing a traffic code governing the operation, parking, and speed of motor vehicles upon the lands comprising state-owned and operated airports, landing fields, and aeronautical facilities and for the purpose of enforcing and imposing penalties for the violation of the traffic code. The traffic code may establish a prima facie presumption of evidence regarding the person who is responsible for parking a vehicle in an unauthorized place. The traffic code shall not be in contravention of the Michigan vehicle code, Act No. 300 of the Public Acts of 1949, being sections 257.1 to

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257.923 of the Michigan Compiled Laws.

(2) Any law enforcement agency may enforce the traffic code.

(3) A violation of the traffic code is a misdemeanor.

History: Add. 1962, Act 75, Eff. Mar. 28, 1963;—Am. 1964, Act 46, Eff. Aug. 28, 1964;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Administrative rules: R 259.1101 et seq. of the Michigan Administrative Code.

CHAPTER VIA.

ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS, AND OTHER AERONAUTICAL FACILITES BY PUBLIC AIRPORT AUTHORITIES

259.108 Short title of chapter.

Sec. 108. This chapter shall be known and may be cited as the "public airport authority act".

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.109 Definitions.

Sec. 109. As used in this chapter:

(a) "Airport" means a publicly owned airport licensed by the state transportation department, bureau of aeronautics under section 86 and includes all airport facilities at the airport. An airport is "publicly owned" if the portion used for the landing and taking off of aircraft is owned, operated, controlled, leased to, or leased by the United States or any agency or department of the United States, this state, a local government or any municipality or other political subdivision of this state, or any other governing body, public agency, or other public corporation. Property to be included as part of an airport shall include all of the following:

(*i*) Property within the area identified in the latest exhibit A, the property map based on deeds, title opinions, land surveys, an approved airport layout plan, and project documentation included with or attached to federal grant agreements executed by the local government that owns or operates the airport prior to the transfer of operational jurisdiction over the airport to an authority created under this chapter, and lands purchased with federal funds and passenger facility charges related to the airport.

(*ii*) Other property acquired with the proceeds of any airport generated revenues, passenger facility charges, federal grants-in-aid related to the airport, or other federal grants for airport purposes by the local government that owns the airport over which operational jurisdiction is being transferred to an authority.

(*iii*) Other property owned or acquired by an authority for airport purposes.

(b) "Airport facilities" means any of the following at an airport:

(*i*) Real or personal property, or interest in real or personal property, used for the landing, taking off, taxiing, parking, storing, shelter, supply, or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used for airport buildings or other airport facilities, and all appurtenant rights-of-way.

(*ii*) Real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for over-flight, for noise abatement or noise buffers, for clear zones, or for side transition zones.

(*iii*) Real or personal property, and easements above, on, or under the surface of real or personal property, used or intended to be used for the full or partial satisfaction of environmental mitigation requirements imposed by any federal, state, county, or other municipal government or agency as a condition of approving the acquisition, construction, expansion, or operation of other airport facilities, whether or not located within the boundaries of the local unit of government that owns the airport over which operational jurisdiction is transferred pursuant to this chapter.

(*iv*) Other structures, improvements, and buildings of all types used or useful for airport related purposes for the convenience of the public or for commercial or general aviation activities, located on the property acquired by or under the operational jurisdiction of the authority, including, but not limited to, restaurants, hotels, motels, exhibition halls, convention facilities, automotive parking facilities, retail stores, aircraft fueling systems, automotive service centers, cargo buildings, warehouses, kitchen facilities, drainage systems, utilities, roadways, automobile and aircraft bridges, and surface transportation terminals and facilities.

(*v*) Beacons, markers, communications systems, and all navigation facilities for use in aid of air navigation.

(*vi*) Any and all other improvements or facilities necessary, useful, or desirable to serve the occupants, passengers, users, employees, operators, airlines, or lessees of any portion of the property or facilities of the authority, or which are otherwise deemed by the authority to be in the public interest, including, but not limited to, facilities necessary, used, useful, or intended for use for handling, parking, storing, display, sale, or servicing of aircraft, either private or commercial; for the accommodation of persons and handling of freight,

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mail, and other items transported by air, for the furnishing and supplying of goods, commodities, services, things, and facilities that are deemed by the authority to be appropriate for the safety or convenience of the traveling public or of the operators of aircraft, or otherwise in the public interest; and in or for the equipping, operation, and maintenance of any airport facilities of the authority.

(c) “Approval date” means the effective date of the issuance by the federal aviation administration to the authority assuming operational jurisdiction of an airport of a certificate under part 139 of chapter 14 of the code of federal regulations with respect to the airport, and the concurrence by the FAA of the designation of the authority as a sponsor of the airport, including the FAA's approval of the assignment of existing grant agreements to the authority.

(d) “Authority” means a public airport authority created by or pursuant to section 110 and governed by a board.

(e) “Board” means the governing body of an authority appointed pursuant to section 111.

(f) “Department” means the state transportation department.

(g) “Enplanement” means a domestic, territorial, or international revenue passenger who boards an aircraft at an airport in scheduled or nonscheduled service of aircraft in intrastate, interstate, or foreign service and includes an in-transit passenger who boards an international flight that transits an airport in the United States for nontraffic purposes.

(h) “FAA” means the federal aviation administration of the United States department of transportation, or any successor agency.

(i) “Fiscal year” means that annual period that is the fiscal year of the local government that owns the airport over which an authority has assumed operational jurisdiction or, if the local government is not required to include the authority in the financial statements of the local government, that annual period established by the board.

(j) “Legislative body” means the elected body of a local government having legislative powers.

(k) “Local chief executive officer” means the mayor or manager of a city or village, the township supervisor of a township, or the county executive of a county or, if a county does not have a county executive, the chairperson of the county board of commissioners.

(*l*) “Local government” means a county, city, township, or village that owns or operates an airport.

(m) “Passenger facility charge” or “PFC” means a passenger facility fee authorized under section 40117 of title 49 of the United States Code, 49 U.S.C. 40117, and designated as a passenger facility charge under part 158 of title 14 of the code of federal regulations.

(n) “Qualified airport” means an airport, other than a military airport, that has 10,000,000 or more enplanements in any 12-month period.

(o) “Sponsor” means the public agency authorized by subchapter I of chapter 471 of title 49 of the United States Code, 49 U.S.C. 47101 to 47134, to submit requests for, and thereafter accept, and be responsible for performing all of the assurances associated with accepting grant agreements with respect to airports from the FAA or this state and to impose a passenger facility charge at airports, and to perform certain duties and responsibilities previously assumed by the local government that owns or operates the airport prior to the transfer of operational jurisdiction of the airport to an authority created under this chapter by virtue of the local government's acceptance prior to the approval date of grants for the benefit of the airport from the FAA or any other agency of the United States or this state.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.110 Public airport authority; political subdivision and instrument of local government; public agency; airport manager; qualified airport; powers of authority; incorporation of authority; presumption of validity; court jurisdiction; state transportation department as party; rules prohibited.

Sec. 110. (1) Except as otherwise provided in this chapter, an authority created under or pursuant to this section shall be a political subdivision and instrumentality of the local government that owns the airport and shall be considered a public agency of the local government for purposes of state and federal law. An authority created under or pursuant to this section also shall be the airport owner for purposes of appointing and designating an airport manager under this act. An authority shall not levy a tax or special assessment.

(2) For a local government that owns or operates a qualified airport on the effective date of this chapter, there is created an authority on the effective date of this chapter. For a local government that operates an airport that becomes a qualified airport after the effective date of this chapter, there is created an authority on the date the airport becomes a qualified airport. An authority is vested with powers granted by this chapter to manage and operate the qualified airport and airport facilities of a qualified airport and any other airport and related airport facilities owned or operated by the local government on the approval date. Before the approval

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date, an authority may organize and exercise all powers granted under this chapter, except those powers related to the management and operation of a qualified airport. Officials and employees of the local government and the authority shall actively cooperate with the local government, the authority, this state, and the federal government to the end that the FAA will recognize the authority as the sponsor of the qualified airport, and to obtain FAA approval of the transfers contemplated by this chapter. Any action required by this state related to the approval shall be coordinated by the department. The local government shall execute such additional documents as necessary to obtain FAA approval of the transfers contemplated by this chapter and to obtain recognition of the authority as the sponsor with respect to the qualified airport.

(3) A local government that owns or operates an airport that is not a qualified airport may, by resolution, declare its intention to incorporate an authority. In the resolution of intent, the legislative body of the local government shall set a date for the holding of a public hearing on the adoption of a proposed resolution incorporating the authority. After a public hearing, which shall be held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, if the legislative body of the local government intends to proceed with the incorporation of the authority, it shall adopt, by majority vote of its members, a resolution incorporating the authority. The adoption of the resolution is subject to any applicable statutory or charter provisions in respect to the approval or disapproval by the local chief executive officer or other officer of the local government and the adoption of an ordinance over his or her veto. The resolution shall take effect upon being filed with the secretary of state.

(4) The validity of the creation or incorporation of the authority shall be conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation or incorporation of the authority under this chapter. The court of appeals has original jurisdiction to hear an action under this subsection. The court shall hear the action in an expedited manner. The state transportation department is a necessary party in any action under this subsection.

(5) The department shall not promulgate rules under this chapter.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.111 Public airport authority; board; membership; appointment; terms; qualifications; violation of subsection 5(b); chief executive officer; chief financial officer; duties.

Sec. 111. (1) An authority created under or pursuant to this chapter shall be directed and governed by a board consisting of 7 members.

(2) The members of a board created under section 110(2) shall be appointed as follows:

(a) Two board members shall be appointed by the governor, with 1 board member appointed for an initial term of 6 years and 1 board member appointed for an initial term of 8 years.

(b) One board member shall be appointed by the legislative body of the local government that owns the airport, for an initial term of 4 years. Notwithstanding any other statute, law, ordinance, or charter provision to the contrary, the board member appointed by the legislative body may be a member of the legislative body of the local government that owns the airport, but only while continuing to serve as a member of the legislative body of that local government.

(c) Four board members shall be appointed by the local chief executive officer of the local government that owns the airport, with 1 board member appointed for an initial term of 4 years, 1 board member appointed for an initial term of 2 years, and 2 board members appointed for an initial term of 6 years.

(d) Each appointing entity shall file each appointment under this subsection with the department. Each subsequent appointment by an appointing entity to fill a vacancy on the board shall also be filed with the department.

(3) Upon incorporation of an authority pursuant to section 110(3), the local chief executive officer, with the consent of the legislative body of the local government if the local chief executive officer is not elected, shall appoint the members of the board. Of the board members first appointed under this subsection, 1 board member shall be appointed for a term of 2 years, 2 board members shall be appointed for terms of 4 years each, 3 board members shall be appointed for terms of 6 years each, and 1 board member shall be appointed for a term of 8 years.

(4) A board member appointed pursuant to subsection (2)(b) or (c) or (3) must be a citizen of the United States and a resident of the local government that owns the airport over which operational jurisdiction will be transferred to an authority. A board member appointed pursuant to subsection (2)(a) must be a citizen of the United States and a resident of the area within the jurisdiction of the regional planning commission created under 1945 PA 281, MCL 125.11 to 125.25, in which the airport over which operational jurisdiction will be transferred is located. Except as permitted by subsection (2)(b), a person shall not be appointed under subsection (2) or (3) as a board member if he or she is, or was during the 12 months preceding the date of appointment, an elected public official or employee of this state or an agency or instrumentality of this state, a

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local government or an agency or instrumentality of a local government, or the federal government or an agency or instrumentality of the federal government.

(5) A board member appointed pursuant to subsection (2) or (3), a chief executive officer, and chief financial officer of an authority, shall, at time of appointment or hiring and subject to subsection (6), meet all of the following qualifications:

(a) Neither the board member or the chief executive officer or chief financial officer, nor the spouse or his or her siblings, children or their spouses, parents, or siblings or their spouses of the board member or the chief executive officer or chief financial officer, are actively engaged or employed in any other business, vocation, or employment of any civil aeronautics enterprise connected with the airport under the control of the authority.

(b) Neither the board member or the chief executive officer or chief financial officer, nor the spouse or his or her siblings, children or their spouses, parents, or siblings or their spouses of the board member or the chief executive officer or chief financial officer, have a combined 15% or greater direct pecuniary interest in any civil aeronautics enterprise connected with the airport under the control of the authority.

(c) The board member or the chief executive officer or chief financial officer would not be considered to have a conflict of interest under 1968 PA 318, MCL 15.301 to 15.310, in respect to any contract or subcontract involving the airport if the board member or the chief executive officer or chief financial officer were considered a state officer under 1968 PA 318, MCL 15.301 to 15.310.

(6) A board member who, at any time during his or her term of service, becomes in violation of subsection (5)(b) shall have 30 days to divest, or arrange for the divestment of, the interest that caused the violation. If the board member or his or her relative is still in violation of subsection (5)(b) after the expiration of the 30-day period, the entity that appointed that board member shall remove the board member from office.

(7) Notwithstanding any law or charter provision to the contrary, appointments by a local chief executive officer under subsection (2) shall not be subject to the approval by the legislative body of the local government.

(8) The board shall appoint a chief executive officer who shall be an ex officio member, without vote, of the board and shall not be considered in determining the presence of a quorum, who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such officials. The board may enter into a contract with the chief executive officer for a commercially reasonable length of time commensurate with the length of time for contracts of airport chief executive officers, directors, or managers with similar responsibilities at other airports or airport authorities within or without this state with a comparable number of annual enplanements.

(9) The chief executive officer shall appoint a chief financial officer who shall be the treasurer of the authority, who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such officials. Notwithstanding any law or charter provision to the contrary, it shall be the duty and right of the chief financial officer of the authority to receive all money belonging to the authority, or arising or received in connection with the airport over which operational jurisdiction has been transferred to the authority, from whatever source derived. Money of the authority shall be deposited, invested, and paid by the chief financial officer only in accordance with policies, procedures, ordinances or resolutions adopted by the board. Upon the approval date, the authority shall be considered to be the owner of all money or other property then or thereafter received by the treasurer of the local government or deposited in the treasury of a local government to the credit of the airport for which operational jurisdiction has been transferred to the authority. The authority shall be entitled to all interest and other earnings on those funds on and after the latter of the effective date of this chapter or the date on which the authority is created or incorporated. The treasurer of any local government receiving or having custody of money or other property belonging to an authority under this chapter shall promptly transfer the money and other property to the custody of the chief financial officer of the authority. The chief financial officer shall provide the board with copies of all reports made by the chief financial officer to the chief executive officer.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.112 Full term appointments; terms; expiration date; resignation; vacancy; removal; oath of office.

Sec. 112. (1) Upon the expiration of the term of an initial appointment under section 111(2) or (3), all full term appointments shall be for a term of 6 years. The expiration date of the term of office of a member of the board shall be on October 1 of the year in which the term is to expire, but a member of the board shall hold office until the board member's successor is appointed and qualified, or until resignation or removal. If a member of the board is unable to complete his or her term of office, a successor shall be appointed in the same manner as the original appointment to complete the term. A member of the board may resign by written

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notice to the authority. The resignation is effective upon its receipt by the secretary or chairperson of the authority or at a subsequent time as set forth in the notice of resignation.

(2) A member of the board may not be appointed to serve more than 2 consecutive full terms. For purposes of this subsection, an initial term under section 111(2) and an appointment to fill a vacancy in a term with more than 3 years remaining count as full terms.

(3) The appointing entity for any board member appointed under section 111(2) or (3) may only remove a board member appointed by the appointing entity for cause.

(4) Before assuming the duties of office, a member of the board shall qualify by taking and subscribing to the constitutional oath of office.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.113 First meeting of board; compliance with open meetings act; delegation of power; reimbursement of expenses; action by resolution or ordinance; voting.

Sec. 113. (1) Upon the appointment of at least 4 members of the board under section 111(2), the board may hold its first meeting. If less than 4 members of the board have been appointed under section 111(2) within 30 days after the date on which the authority is created, a majority of those board members appointed may hold the first meeting of the board after the expiration of that 30-day period. The first meeting of the board shall not be held more than 60 days after the creation date of the authority. Not later than 60 days after an authority is incorporated under section 110(3), the board of the authority shall hold its first meeting. At the first meeting, the board shall organize by electing a chairperson, a vice-chairperson, a secretary, and additional officers of the board as the board considers necessary. All officers of the board shall be elected annually by the board. All officers of the authority, except the chief executive officer and the chief financial officer, must be members of the board.

(2) The business that the board may perform shall be conducted at a public meeting of the board held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall adopt rules consistent with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275, governing its procedures and the holding of meetings.

(3) Except for those powers reserved or delegated to the chief executive officer of an authority by this chapter or by the board, the board shall not delegate any power of the board to any other officer or committee of the authority except as provided in section 114(3). The board may withdraw from the chief executive officer any power that the board had delegated to the chief executive officer.

(4) Members of a board may be reimbursed by an authority for actual and necessary expenses incurred in the discharge of their official duties. The members of the board shall not be compensated for service to the authority or attendance at any meetings.

(5) A board may act only by resolution or ordinance. A majority of the members of the board then in office, or of any committee of the board, shall constitute a quorum for the transaction of business. A vote of a majority of the members of the board serving at the time of the vote is necessary to approve the issuance by the authority of bonds, including special facilities bonds, or other obligations payable from revenues, including special facilities revenues, derived from the airport, or to approve or amend the annual budget of the authority or hire, remove or discharge, or set the salary of the chief executive officer. Except as otherwise provided in this chapter, a vote of the majority of the board members present at a meeting at which a quorum is present constitutes the action of the board or of the committee.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.114 Meetings; frequency; special meeting; system of accounts; reports; bond; audit committee; appointment; meetings; duty to recommend 3 independent certified public accounting firms; selection; contract terms and conditions; appointment and compensation of chief executive officer; duties and responsibilities; power and authority; contracting policies and procedures; conflicts of interest; ethics manual; airport noise and fumes mitigation.

Sec. 114. (1) After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The board shall meet not less than quarterly per year. The board chairperson shall call a special meeting upon request of 3 members of the board in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. A board shall keep a written or printed record of each meeting, which record and any other writing prepared, owned, used, in the possession of, or retained by the board in the performance of an official function shall be made available to the public in compliance with the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

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(2) A board shall provide for a system of accounts to conform to a uniform system required by law and for the auditing at least once a year of the accounts of the authority by an independent certified public accountant selected by the audit committee pursuant to subsection (3). A board shall meet any and all auditing or financial reporting requirements imposed by law and shall file a copy of its annual audit with the department and with the clerk of the house of representatives and the secretary of the senate. An authority shall provide the necessary reports to the local government that owns the airport over which operational jurisdiction has been transferred in a timely manner in order for the local government to be able to comply with the reporting requirements of the government finance officers association of the United States and Canada. A board shall require of the chief financial officer and chief executive officer of the authority a suitable bond of not less than $100,000.00 by a responsible bonding company, and the cost of the premium of the bond shall be paid by the authority.

(3) A board appointed under section 111(3) shall appoint an audit committee consisting of 3 members of the board. With respect to boards appointed pursuant to section 111(2), the board shall have a 3-member audit committee with each appointing entity represented on the board designating 1 board member appointee to serve on the audit committee. The audit committee shall hold its first meeting within 60 days after the creation or incorporation of the authority under this chapter. A majority of members appointed and designated as audit committee members by an appointing entity under this subsection may conduct the business of the committee. The audit committee shall meet not less than 4 times each year with the chief financial officer, the chief executive officer of the authority, and the authority's independent public auditors to review the reports related to the financial condition, operations, performance, and management of the authority and airport including, but not limited to, all contractors and subcontractors, and may also order special investigations or audits, the cost of which shall be reimbursed by the authority. The audit committee shall also review the activities and reports of the internal auditor of the authority who shall be appointed by the chief executive officer of the authority. The audit committee of a board appointed pursuant to section 111(2) shall once every 2 years, recommend 3 independent certified public accounting firms that, in the judgment of the audit committee, possess sufficient resources and qualifications to conduct annual financial audits of the accounts of the authority. Not less that 90 days prior to the first full fiscal year of the authority and the last fiscal year of each subsequent contract period for which financial audits will be conducted under section 114(2), the 3 recommendations of the audit committee shall be presented to the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred pursuant to this chapter. From the 3 recommendations of the audit committee, the legislative body of the local government may select, not more than 30 days after receipt of the recommendations of the audit committee, the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits for the succeeding 2 fiscal years of the accounts of the authority. If the legislative body does not select 1 of the recommended independent certified public accounting firms to conduct annual financial audits for the next 2 fiscal years of the authority within 30 days after receipt of the recommendations of the audit committee, the audit committee shall have the sole power to select the independent certified public accounting firm with whom the authority shall execute an agreement to conduct annual financial audits of the accounts of the authority for the next 2 fiscal years. The terms and conditions of a contract to be entered into with the independent certified public accounting firm selected by the legislative body of the local government shall be exclusively established by the authority. The legislative body of the local government shall not have the right or power to modify any proposed terms and conditions of a contract between the authority and an independent certified public accounting firm recommended by the audit committee. Neither the legislative body nor any member of the legislative body of the local government shall impose any requirement, restriction or condition upon, or solicit any agreement or contribution from, the independent certified public accounting firm or any member or employee of the independent certified public accounting firm, selected or considered by the legislative body of the local government. No charter provision or resolution of the local government shall contradict, supplement, or expand this subsection. A person may not prevent or prohibit the internal auditor or the audit committee from carrying out or completing any audit or investigation. The internal auditor and members of the audit committee shall be protected under the whistleblowers' protection act, 1980 PA 469, MCL 15.361 to 15.369.

(4) A board shall appoint and fix the compensation of a chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The board shall prescribe those duties and responsibilities of the chief executive officer of the authority that are in addition to the duties and responsibilities imposed upon the chief executive officer of the authority by this chapter. The chief executive officer of an authority shall serve at the pleasure of the board and the board may remove or discharge the chief executive officer of the authority by a vote of not less than the majority of the members of the board then serving. The chief executive officer of an authority shall supervise, and be responsible for, all of the

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following:

(a) The day-to-day operation of the airport, including the control, supervision, management, and oversight of the functions of the airport.

(b) The issuance of bonds and notes approved by the board.

(c) The negotiation and establishment of compensation and other terms and conditions of employment for employees of the authority.

(d) The appointment, dismissal, discipline, demotion, promotion, and classification of employees of the authority.

(e) The negotiation, supervision, and enforcement of contracts entered into by the authority, and the supervision of contractors and subcontractors of the authority in their performance of their duties.

(f) The appointment of an internal auditor who shall have professional qualifications commensurate with the responsibility of the jobs to be performed by such an official, and who shall:

(*i*) Report to the chief executive officer and provide information to the board and its audit committee as required under this chapter.

(*ii*) Receive and investigate any allegations that false or misleading information was received in evaluating the authority's internal accounting and administrative control system.

(*iii*) Conduct and supervise audits relating to financial activities of the authority's operations.

(*iv*) Recommend policies for activities to protect the authority's assets and to prevent and detect fraud and abuse.

(*v*) Conduct other audit and investigative activities as assigned by the board, the audit committee, or the chief executive committee.

(*vi*) Adhere to appropriate professional and auditing standards.

(*vii*) Provide to the audit committee on an annual basis a report prepared by the internal auditor on the evaluation of the authority's internal accounting and administrative control system. For the period reviewed, the report shall include, but not be limited to, both of the following:

(A) A description of any material inadequacy or weakness discovered in connection with the evaluation of the authority's internal accounting and administrative control system and a time schedule for correcting the internal accounting and administrative control system, described in detail.

(B) A listing of each audit or investigation performed by the internal auditor pursuant to this chapter.

(5) The chief executive officer of an authority shall have the power and authority to execute and deliver, and to delegate signatory power for, contracts, leases, obligations, and other instruments approved by the board or for which power to approve has been delegated to the chief executive officer of the authority. The chief executive officer of an authority shall have all powers incident to the performance of his or her duties that are prescribed by this chapter or by the board. The board may delegate additional powers to the chief executive officer of the authority not enumerated in this chapter. All actions of the chief executive officer of an authority shall be in conformance with the policies of the board and in compliance with law. The chief executive officer of an authority shall attend the meetings of the board and shall render to the board a regular report covering the activities and financial condition of the airport. If the chief executive officer of an authority is temporarily absent or disabled, the chief executive officer of the authority may designate a qualified person as acting chief executive officer of the authority to perform the duties of the office. If the chief executive officer of an authority fails or is unable to designate an acting chief executive officer of the authority, the board shall designate an acting chief executive officer of the authority for the period of absence or disability of the chief executive officer of the authority. The chief executive officer of the authority shall furnish the board with information or reports governing the operation of the airport as the board requires.

(6) The authority shall establish contracting policies and procedures providing for all of the following:

(a) Except for the negotiated construction contracts permitted under this subdivision, a contract shall not be awarded by an authority or the chief executive officer of the authority for the construction, repair, remodeling, or demolition of an airport facility unless the contract is let pursuant to a procedure that requires a competitive bidding. A negotiated construction contract shall not be required to be let by competitive bidding if the board or the chief executive officer of the authority with delegated authority to enter into contracts determines that any of the following apply:

(*i*) The negotiated contract amount is less than $50,000.00. However, if the contract amount, including change orders, subsequently exceeds $50,000.00, the authority shall detail, in writing, the reasons why the contract amount exceeded $50,000.00.

(*ii*) As determined in writing by the board or the chief executive officer with delegated authority to enter into contracts, the contract is for emergency repair or construction necessitated by a sudden, unforeseen occurrence or situation of a serious and urgent nature and is not for convenience or expediency.

(*iii*) As determined in writing by the board or the chief executive officer with delegated authority to enter

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into contracts, the repair or construction is necessary to ensure passenger safety or otherwise protect life or property.

(b) The authority shall establish policies and procedures for hiring professional service contractors.

(c) The authority shall utilize competitive bidding for all purchases and all other contracts unless the board, or, if authorized by the board to approve procurements, the chief executive officer of the authority, determines and details in writing the reason that competitive solicitation of bids or proposals is not appropriate, that procurement by competitive bids is not practicable to efficiently and effectively meet the authority's needs, or that another procurement method is in the public's best interests.

(7) The authority may enter into lease purchases or installment purchases for periods not exceeding the anticipated useful life of the items purchased. The authority may enter into a cooperative purchasing agreement with the state or other public entities for the purchase of goods, including, but not limited to, recycled goods, and services necessary for the authority.

(8) The chief executive officer of an authority shall comply with all federal and state contracting requirements pertaining to disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises and shall seek to ensure maximum participation of disadvantaged business enterprises, minority business enterprises, and other targeted business enterprises in contracting opportunities with the authority.

(9) Members of the board and officers, appointees, and employees of the authority are public servants under 1968 PA 317, MCL 15.321 to 15.330, and are subject to any other applicable law with respect to conflicts of interest. The board shall establish policies and procedures requiring periodic disclosure of relationships which may give rise to conflicts of interest. The board shall require that a member of the board or a chief executive officer or chief financial officer who has a direct interest in any matter before the authority disclose the member's or officer's interest and any reasons reasonably known to the member of the board or officer why the transaction may not be in the best interest of the public or the authority before the board takes any action with respect to the matter. The disclosure shall become part of the record of an authority's proceedings.

(10) An authority shall establish an ethics manual governing the conducting of airport business and the conduct of airport employees. An authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the authority to preclude the opportunity for and the occurrence of transactions by the authority that would create a conflict of interest involving members of the board and employees of the authority. At a minimum, these policies shall include compliance by each member of the board and employees of the authority who regularly exercise significant discretion over the award and management of authority procurements with policies governing all of the following:

(a) Immediate disclosure of the existence and nature of any financial interest that would reasonably be expected to create a conflict of interest.

(b) Withdrawal by an employee or member from participation in or discussion or evaluation of any recommendation or decision involving an authority procurement that would reasonably be expected to create a conflict of interest for that employee or member.

(11) An authority shall work collaboratively with appropriate local governmental units in the implementation of any federally sanctioned and funded programs for the mitigation of aircraft noise and fuel fumes.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.115 Preparation of annual budget.

Sec. 115. Before the beginning of each fiscal year, the board shall prepare a budget containing an itemized statement of the estimated current operational expenses and the expenses for capital outlay including funds for the operation and development of the airport under the jurisdiction of the board, and the amount necessary to pay the principal and interest of any outstanding bonds or other obligations of the authority maturing during the ensuing fiscal year or which have previously matured and are unpaid, and an estimate of the revenue of the authority from all sources for the ensuing fiscal year. The board shall adopt that budget in accordance with the uniform budgeting and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.116 Authority as public body corporate; powers; personal liability; transfer of operational jurisdiction; indemnification for local government with civil claim; imposition of fees or charges; airport revenues, facilities, or assets as security; prohibited actions; completion of airport or facility project; preparation, submission, and administration of

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grants; custodian of funds.

Sec. 116. (1) An authority is a public body corporate with the following powers:

(a) An authority may adopt a corporate seal.

(b) An authority may sue or be sued in any court of the state.

(c) An authority has the power and duty of planning, promoting, extending, maintaining, acquiring, purchasing, constructing, improving, repairing, enlarging, and operating all airports and airport facilities under the operational jurisdiction of or owned by the authority.

(d) An authority has the power to assume and perform the obligations and the covenants related to the airport that are contained in an agreement or other document between or by the local government that owns the airport for which operational jurisdiction has been transferred to the authority pursuant to this chapter and the state or the federal aviation administration relative to grants for the airport or airport facilities.

(e) An authority may take by grant, purchase, devise, or lease, or by the exercise of the right of eminent domain, or otherwise acquire and hold, real and personal property, in fee simple or any lesser interest or easement, as an authority may deem necessary either for the construction of any airport facilities or for the efficient operation or for the extension of any airport facilities acquired or constructed or to be constructed under this chapter, and, except as otherwise provided by this act, to hold in its name, lease, and dispose of all real and personal property owned by or under the operational jurisdiction of the authority. If land is acquired by condemnation, the provisions of the uniform condemnation procedures act, 1980 PA 87, MCL 213.51 to 213.76, or any successor statute, shall be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. The acquisition of any land by an authority for an airport or airport facilities in furtherance of the purposes of the authority, and the exercise of any other powers of the authority, are hereby declared as a matter of legislative determination to be public, governmental and municipal functions, purposes and uses exercised for a public purpose, and matters of public necessity.

(f) An authority may make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with any department or agency of the United States, with any state or local governmental agency, or with any other person, public or private, upon those terms and conditions acceptable to the authority consistent with section 114(6).

(g) An authority has the exclusive responsibility to study and plan any improvements, expansion, or enhancements that affect the airport.

(h) An authority may commission planning, engineering, economic, and other studies to provide information for making decisions about the location, design, management, and other features of the airport or airport facilities.

(i) An authority is responsible for developing all aspects of the airport and airport facilities, including, but not limited to, all of the following:

(*i*) The location of terminals, hangars, aids to air navigation, parking lots and structures, cargo facilities, and all other facilities and services necessary to serve passengers and other customers of the airport.

(*ii*) Street and highway access and egress with the objective of minimizing, to the extent practicable, traffic congestion on access routes in the vicinity of the airport.

(j) An authority may act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the federal aviation administration or any other agency of the United States or of this state, with respect to the airport under the operational jurisdiction of the authority, and to perform the duties and responsibilities previously assumed by the local government that owns the airport under the operational jurisdiction of the authority by virtue of its acceptance of grants from the federal aviation administration or any other agency of the United States or this state.

(k) An authority may enter into agreements to use the facilities or services of the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government as necessary or desirable to accomplish the purposes of this chapter for that consideration or pursuant to that cost allocation formula that may be acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state, including, but not limited to, policies of the FAA prohibiting revenue diversion or the payment of fees exceeding the value of services provided by a governmental agency.

(*l*) An authority may allow the state, any subdivision or department of the state, any county or municipality, or the federal government or any agency of the federal government to utilize airport facilities or the services of the authority as necessary or desirable to accomplish the purposes of this chapter, for

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consideration acceptable to the authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(m) An authority may adopt and enforce in a court of competent jurisdiction of this state reasonable rules, regulations, and ordinances for the orderly, safe, efficient, and sanitary operation and use of airport facilities owned by the authority or under its operational jurisdiction. The authority may establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this subdivision to the same extent as the local government that owns the airport.

(n) An authority may enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements with any person or persons for terms not exceeding 50 years, for granting the privilege of using or improving, or having access to the airport or any airport facility, or any portions of the airport or the authority's airport facilities, for commercial airline-related purposes consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(o) An authority may enter into exclusive or nonexclusive contracts, leases, or other arrangements not described in subdivision (n) for commercially reasonable terms consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(p) Subject to section 119, an authority may appoint and vest with police powers airport law enforcement officers, guards, or police officers under this chapter. The law enforcement officers, guards, or police officers of the authority shall have the full police powers and the authority of peace officers within the areas over which the authority has operational jurisdiction, including, but not limited to, the prevention and detection of crime, the power to investigate and enforce the laws of this state, rules, regulations, and ordinances issued by the authority, and, to the extent permitted or required by federal law and regulations, requirements of federal law and regulations governing airport security. The officers may issue summons, make arrests, and initiate criminal proceedings. An authority is responsible for all actions of its officers committed under color of their official position and authority.

(q) An authority may procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the authority.

(r) An authority may invest money of the authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

(s) Except as otherwise prohibited by this chapter, an authority shall have all the powers of a political subdivision under this act, but shall not levy or impose a tax or special assessment.

(t) An authority may exercise its powers and duties under this chapter notwithstanding any charter provision, ordinance, resolution, contract, regulation, or rule of a local government to the contrary. This subdivision does not apply to a contract entered into by a local government after the authority is created if the contract also has been approved or ratified by the authority. Nothing in this chapter shall be construed to limit the exercise of the powers of a local government in which an airport is located to zone property under the city and village zoning act, 1921 PA 207, MCL 125.581 to 125.600, or to engage in land planning under 1931 PA 285, MCL 125.31 to 125.45, with respect to property that is not part of the airport.

(u) An authority may fix, charge, and collect rates, fees, rentals, and charges within and for the use and operation of the airport or airports under the operational jurisdiction of the authority.

(2) A member of the board or an officer, appointee, or employee of the authority shall not be subject to personal liability when acting in good faith within the scope of his or her authority or on account of liability of the authority, and the board may defend and indemnify a member of the board or an officer, appointee, or employee of the authority against liability arising out of the discharge of his or her official duties. An authority may indemnify and procure insurance indemnifying members of the board and other officers and employees of the authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the authority. The authority may also purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the authority, whether or not the authority would have the power to indemnify the person against that liability under this subsection. An authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to defend and indemnify persons.

(3) An authority shall indemnify and hold harmless the local government that owns the airport over which operational jurisdiction has been transferred to the authority for any civil claim existing or any civil action or

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proceeding pending by or against the local government involving or relating to the airport, airport facilities, or any civil liability related to the obligations of the local government issued or incurred with respect to the airport which was pending at the time of, or which had been incurred prior to, the transfer of operational jurisdiction of the airport to the authority.

(4) Notwithstanding any other provision of law to the contrary, an authority does not have the power to impose or levy taxes, except the authority has the power to impose fees or charges permitted by federal law.

(5) Unless an authority obtains the approval of the legislative body of the local government that owns the airport over which operational jurisdiction has been transferred to the authority pursuant to section 117, the authority shall not incur any indebtedness pledging, on a parity or superior basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged.

(6) Upon the creation or incorporation of an authority under this chapter, the local government that owns the airport over which operational jurisdiction may be transferred pursuant to section 117 shall not pledge airport facilities or assets to secure any instrument of indebtedness except to secure airport revenue bonds issued for airport capital improvement projects after the creation or incorporation of the authority and prior to the approval date.

(7) An authority shall not take any action contrary to obligations assumed or entered into under federal rules or regulations or any agreement entered into or assumed with respect to state or federal grants.

(8) A local government shall not take any action contrary to obligations or covenants under applicable federal law, regulations, and assurances associated with the state or federal government. A local government, or an official of the local government acting in an official capacity, shall take no action, including, but not limited to, action pursuant to charter provision, ordinance, resolution, contract, regulation, or rule, to impede the exercise of powers or duties under this chapter.

(9) If a local government previously acted as a sponsor and action by, or concurrence of, the local government is required to complete a project related to the airport or airport facilities, the local government shall not withhold, condition, or delay concurrence with any authority action necessary to complete the project in accordance with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(10) The authority to which operational jurisdiction for an airport is transferred shall be the agent of a local government for the preparation, submission, and administration of all state or federal grants pending as of the approval date. The authority shall also be the custodian of all funds received or to be received by the local government or the authority for the projects for which the grants were awarded.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.117 Actions, commitments, and proceedings occurring on approval date; exclusive rights and authority; acquisitions or transfers.

Sec. 117. (1) All of the following occur on the approval date:

(a) The authority acquires, succeeds to, and assumes the exclusive right, responsibility, and authority to occupy, operate, control, and use the airport and the airport facilities of an airport owned by the local government on that date, including all lands, buildings, improvements, structures, aviation easements, rights of access, and all other privileges and appurtenances pertaining to the airport, subject only to those restrictions imposed by this act.

(b) The authority acquires and succeeds to all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used for purposes of the airport on that date by the local government that owned the airport. The officers of the local government that owns the airport under the operational jurisdiction of the authority shall execute those instruments of conveyance, assignment, and transfer as may be necessary or appropriate to accomplish the foregoing.

(c) The authority assumes, accepts, and becomes liable for all of the lawful obligations, promises, covenants, commitments, and other requirements in respect of the airport of the local government that owns the airport under the operational jurisdiction of the authority, whether known or unknown, contingent or matured, but excepting any full faith and credit pledge of the local government in respect of bonds issued by the local government for airport purposes, and shall perform all of the duties and obligations and shall be entitled to all of the rights of the local government in respect of the airport under any ordinances, agreements, or other instruments and under law. Consistent with this chapter, this assumption includes, and there shall be transferred to the authority, all licenses, permits, approvals, or awards related to the airport, all grant agreements, grant pre-applications, the right to receive the balance of any funds payable under the agreements, the right to receive any amounts, including PFCs, payable to the local government on the approval date and amounts paid to the local government after the approval date, as well as the benefit of

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contracts and agreements, and all of the local government's duties, liabilities, responsibilities, and obligations as sponsor of the airport, except for any obligation or liabilities contested in good faith by the authority.

(d) The authority assumes unfunded obligations to provide pensions or retiree health insurance in an amount and manner determined by a professional actuary acceptable to the authority and the local government. However, the authority shall not assume any such obligations in excess of the amount properly allocable to the airport over which the authority is exercising operational jurisdiction under the local government's allocation procedures in effect on the date the authority is created or incorporated, and the amount of obligations so assumed by the authority shall not exceed its pro rata share of such obligations, based upon the percentage which the amount of such obligations attributable to employees of the authority is of the amount of all such obligations prior to such assumption.

(2) All lawful actions, commitments, and proceedings, including, but not limited to, revenue bond financings for which a notice of intent resolution has been adopted, of the local government made, given, or undertaken before the date of assumption by the authority under this section are ratified, confirmed, and validated upon assumption by the authority. All actions, commitments, or proceedings undertaken shall, and all actions, commitments, or proceedings of the local government in respect of the airport in the process of being undertaken by, but not yet a commitment or obligation of, the local government in respect of the airport may, from and after the date of assumption by the authority under this section, be undertaken and completed by the authority in the manner and at the times provided in this chapter or other applicable law and in any lawful agreements made by the local government before the date of assumption by the authority under this section.

(3) The exclusive right and authority to occupy, operate, control, and use the airport facilities includes, but is not limited to, all of the following:

(a) Operational jurisdiction over all real property of the airport, including, but not limited to, all terminals, runways, taxiways, aprons, hangars, aids to air navigation, emergency vehicles or facilities, parking facilities for passengers and employees, and buildings and facilities used to operate, maintain, and manage the airport, subject to any liens on the real property and restrictions and limitations on the use of the real property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under leases, concessions, and other contracts for airport facilities.

(4) The acquisitions, assumptions, successions, or transfers described under this section include, but are not limited to, all of the following:

(a) All contracts with airlines, tenants, concessionaires, leaseholders, and others at the airport.

(b) All financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, airport revenue bonds, special facilities revenue bonds, and all bonded indebtedness associated with the airport.

(c) All cash balances and investments relating to or resulting from operations of the airport for which operational jurisdiction has been transferred to an authority, all funds held under an ordinance, resolution, or indenture related to or securing obligations of the local government that have been assumed by the authority, and all of the accounts receivable or choses in action arising from operations of the airport as well as all benefits of contracts and agreements.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.118 Operational jurisdiction over airport; transfer to authority; effect.

Sec. 118. (1) The transfer of the operational jurisdiction over an airport to the authority may not in any way impair any contracts with airlines, vendors, tenants, bondholders, or other parties in privity with the local government that owns the airport over which operational jurisdiction has been transferred to an authority.

(2) Upon the transfer of operational jurisdiction over an airport pursuant to section 117, a local government shall be relieved from all further costs and responsibility arising from or associated with control, operation, development, and maintenance of that airport, except as otherwise required under obligations retained by the local government under this chapter or as otherwise agreed by the local government.

(3) A local government that owns an airport for which an authority has been created or incorporated under this chapter shall comply with all of the following:

(a) Refrain from any action that would impair an authority's exercise of the powers granted to the authority under this chapter or that would impair the efficient operation and management of the airport.

(b) Refrain from any action to sell, transfer, or otherwise encumber or dispose of airport facilities owned by the local government for which operational jurisdiction has been transferred without the consent of the

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authority and, where necessary, the federal aviation administration.

(c) Take all action reasonably necessary to cure any defects in title to airport facilities over which an authority has been transferred operational jurisdiction.

(d) At the request of an authority that has been transferred operational jurisdiction of an airport owned by the local government, grant any license, easement, or right-of-way in connection with the airport to the extent the authority has not been empowered to take these actions.

(e) Upon creation or incorporation of an authority and before the approval date, conduct operations of the airport in the ordinary and usual course of business.

(f) Maintain and repair, including providing snow removal for, any road providing ingress and egress to the airport over which responsibility for maintenance and repair is retained by the local government pursuant to agreement or law.

(4) At the request of the authority, a local government that owns a qualified airport over which operational jurisdiction has been transferred to an authority shall provide the authority with transitional services previously performed by the local government and related to the operation of the qualified airport until the date the authority elects to assume these services. The reasonable cost of these services shall be paid by the authority.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.119 Election by employees to transfer to authority; requirements.

Sec. 119. (1) For employees who elect to transfer to the authority under subsection (2) and who are covered by the terms of a collective bargaining agreement with the local government that owns an airport over which operational jurisdiction will be transferred, the authority shall assume and be bound by those existing collective bargaining agreements for the remainder of the term of the agreement. A representative of the employees or a group of employees in the local government who represents or is entitled to represent the employees or a group of employees of the local government, pursuant to 1947 PA 336, MCL 423.201 to 423.217, shall continue to represent the employees or group of employees after the employees transfer to the authority and the authority shall honor all obligations of a public sector employer after the expiration of any collective bargaining agreement with respect to transferring employees.

(2) Local government employees employed at an airport from which operational jurisdiction will be transferred to an authority may agree to transfer to the employment of the authority on or before a date established by the authority. The date established by the authority shall not be later than the approval date. Local government employees, who do not agree to transfer to the employment of the authority, shall be reassigned within the local government. The local government shall not, as a result of the creation or incorporation of an authority for a period of not more than 1 year, layoff or reduce the pay or benefits of any employee of the local government into whose position a local government employee who was previously employed at the airport is reassigned. The authority shall consider any person hired by the authority to fill a position that had been previously filled with a local government employee who did not agree to transfer to the employment of the authority to be under the collective bargaining agreement covering, and to be represented by the collective bargaining representative of, the local government employee who did not agree to transfer to the authority. The authority shall accept the transfers without a break in employment, subject to all rights and benefits held by the transferring employees under a collective bargaining agreement. Transferring employees shall not be placed in a worse position by reason of the transfer for a period of 1 year after the approval date, or any longer period as may be required in connection with the assumption of any applicable collective bargaining agreement, with respect to wages, workers' compensation, pension, seniority, sick leave, vacation, or health and welfare insurance or any other term and condition of employment that a transferring employee may have under a collective bargaining agreement that the employee received as an employee of the local government. The rights and benefits protected by this subsection may be altered by a future collective bargaining agreement except that any employee who as of the effective date of this chapter has the right, by contract or statute, to submit any unresolved disputes to the procedures set forth in 1969 PA 312, MCL 423.231 to 423.247, shall continue to have that right, or, for employees not covered by collective bargaining agreements, by benefit plans as established and adopted by the authority. Employees who elect to transfer shall not by reason of the transfer have their accrued local government pension benefits or credits diminished. If a transferring employee is not vested in his or her local government pension rights at the time of transfer, his or her post-transfer service with the authority shall be credited toward vesting in any local government retirement system in which the transferring employee participated prior to the transfer, but the post-transfer service with the authority shall not be credited for any other purpose under the local government's retirement system, except as provided in subsections (3) and (4). An employee who elects to transfer to the authority may, upon return to employment with the local government within 1 year from the approval date, do so

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without loss of seniority unless contrary to a collective bargaining agreement. Notwithstanding any other provision of this section, a political appointee, other than a member of the board appointed under section 111, at an airport previously operated by the local government from which operational authority has been transferred to an authority shall not be placed in a worse position in regards to terms and conditions of employment until December 31 of the year in which the authority is created.

(3) If a local government employee described in this section elects to transfer to an authority or if a person is hired by the authority as a new employee after the date on which the authority assumes operational jurisdiction over an airport, the employee shall remain or become a participant in the local government retirement system until the authority has established its own retirement system or pension plan. During this period the employee remains or is a participant in the local government system, the employee's post-transfer service with the authority during this period and his or her post-transfer compensation from the authority during this period shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan.

(4) If a local government employee described in this section elects to transfer to the authority, then the transferred employee may elect to remain a participant in the local government retirement system in lieu of participation in any retirement system or pension plan of the authority. By electing to remain a participant in the local government system, the employee's post-transfer service with the authority and his or her post-transfer compensation from the authority shall be counted in determining both eligibility for and the amount of pension benefits that the employee will be eligible to receive from the local government system or plan. Any election to remain in a local government system or plan shall be made within 60 days following the date the authority has established its own retirement system or pension plan and shall be irrevocable. Employees eligible to make the election described in this subsection shall be those employees who immediately before their transfer date were participating in the local government system and who agree to make any employee contributions required for continuing participation in the local government system and also agree to meet all requirements and be subject to all conditions which, from time to time, apply to employees of the local government who participate in the local government system.

(5) For each employee meeting the requirements of subsection (4) who elects to remain a participant in the local retirement system, the authority shall, on a timely basis, contribute the following amounts, as applicable, to the trustees of that retirement system:

(a) An amount determined by the local government system's actuary toward amortization of unfunded actuarial accrued liabilities which, as of the transfer date, are reasonably allocated to that employee on the local government system's records.

(b) An amount determined by the local government system's actuary sufficient to fund the liability for all of that employee's retirement and other benefits under the system on a current basis, as those liabilities are accrued on and after the transfer date.

(c) An amount determined by the local government system's actuary equal to all actuarial losses net of actuarial gains, costs, and administrative expenses of the system which are reasonably allocated to the employee.

(d) An amount equal to the percentage of compensation that the local government would have contributed for the employee had he or she remained in the employ of the local government.

(e) An amount corresponding to what the local government would have contributed toward retiree health coverage for the employee. However, the authority shall succeed to all rights of the local government to modify, amend, replace, suspend, or discontinue the retiree health coverage being provided to the persons who retire from authority employment.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.120 Sources of revenue.

Sec. 120. (1) An authority may raise revenues to fund all of its activities, operations, and investments consistent with its purposes. However, an authority shall not levy a tax or impose a special assessment. The sources of revenue available to the authority may include, but are not limited to, fees, rents, or other charges the authority may fix, regulate, and collect for the airport facilities under the control of and services furnished by the authority, including fees, rentals, and charges fixed in connection with agreements entered into under section 116. The revenues raised by an authority may be pledged, in whole or in part, for the repayment of bonded indebtedness and other expenditures issued or incurred by the authority.

(2) To the extent practicable, an authority shall endeavor to maximize the revenues generated from enterprises located at the airport consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

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(3) The authority may make application for and receive loans, grants, guarantees, or other financial assistance in aid of airport facilities and the operation of the airport from any state, federal, county, or municipal government or agency or from any other source, public or private, including financial assistance for purposes of planning, constructing, improving, and operating the airport, for providing security at the airport, and for providing ground access to the airport.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.121 Other publicly owned airports; transfer of operational jurisdiction.

Sec. 121. The authority may accept the transfer of operational jurisdiction of other publicly owned airports that hold an airport operating certificate issued by the FAA under part 139 of chapter 14 of the code of federal regulations, within and without the local government. In accepting a transfer, the authority may assume no financial obligations other than those associated with the operation of the airport being transferred and with debt issued to finance improvements at the airport being transferred. If a governmental entity transfers operational jurisdiction over an airport to an authority under this section, the authority shall not sell or transfer any property of the governmental entity without the consent of the governmental entity that provided the transfer of operational jurisdiction under this section. An authority that operates a qualified airport shall not operate an airport that is located in a city having a population of more than 750,000.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.122 Issuance of bonds by authority.

Sec. 122. For the purpose of acquiring, purchasing, constructing, improving, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction is transferred pursuant to this chapter or is acquired by the authority, the authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred upon public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.139.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.123 Borrowing money and issuing municipal securities.

Sec. 123. The authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred upon municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.124 Bonds or other evidence of indebtedness; tax exemption.

Sec. 124. All bonds or other evidences of indebtedness issued by an authority under this chapter, and the interest thereon, are free and exempt from all taxation within the state, except for transfer and franchise taxes.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.125 Legislative body of local government; actions.

Sec. 125. (1) The legislative body of any local government that owns an airport over which the operational jurisdiction has been transferred to an authority is hereby authorized, with the consent of the authority, to take 1 or more of the following actions:

(a) Pledge its full faith and credit behind any obligation or evidence of indebtedness of the authority.

(b) Advance funds to the authority for working capital and other purposes of the authority on terms and conditions agreed to by the authority and the local government consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(c) Appropriate and grant funds to the authority in furtherance of its purposes.

(d) Grant and convey to the authority real or personal property of any kind or nature, or any interest in real or personal property, for the carrying out of the authorized purposes of the authority.

(2) A pledge made pursuant to this section shall be at the discretion of the legislative body of the local government and may be subject to an agreement providing for terms and conditions of the pledge and for repayment of any amount paid pursuant to the pledge as the authority and the local government may determine necessary and advisable consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or any other agency of the United States or this state.

(3) Any agreement by an authority to repay an advance made pursuant to this section, and any obligation incurred by the authority under that agreement, shall not be subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

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History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.125a Interest rate exchange or agreement.

Sec. 125a. (1) For the purpose of more effectively managing its debt service, an authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of obligations or other evidences of indebtedness or in connection with its then outstanding obligations or other evidences of indebtedness.

(2) In connection with entering into an interest rate exchange or swap, hedge, or similar agreement, the authority may create a reserve fund for the payment thereof.

(3) An agreement entered into pursuant to this section shall comply with all of the following:

(a) The agreement is not a debt of the authority entering into the agreement for any statutory or charter debt limitation purpose.

(b) The agreement is payable from general funds of the authority or, subject to any existing contracts, from any available money or revenue sources, including revenues that shall be specified by the agreement, securing the obligation or evidence of indebtedness in connection with the agreement.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.125b Contract between authority and bond holder; provisions.

Sec. 125b. (1) Notwithstanding any other provisions of this chapter or any other law, the provisions of all ordinances, resolutions, and other proceedings of the local government with respect to any outstanding bonds, notes, or any and all evidences of indebtedness or liability assumed by an authority pursuant to this chapter shall constitute a contract between the authority and the holders of the bonds, notes, or evidences of indebtedness or liability, and shall have their provisions enforceable against the authority or any or all of its successors or assigns, by mandamus or any other appropriate suit, action, or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(2) Bonds, notes, or any and all evidences of indebtedness or liability that are assumed by an authority under this chapter are payable solely from and secured solely by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government, and do not constitute a full faith and credit obligation of the authority.

(3) Nothing in this chapter or in any other law shall be held to relieve an authority from any bonded or other debt or liability lawfully contracted by the local government with respect to the airport and outstanding as of the effective date of the transfer of the operational jurisdiction over the airport to the authority.

(4) An authority shall not take any action to impair the rights or remedies of the holders of the bonds or other obligations of the local government that owns the airport that were lawfully issued prior to the transfer of operational jurisdiction of the airport to the authority.

(5) Upon the transfer of operational jurisdiction over the airport to an authority, trustees, paying agents, and registrars for any obligation of the local government that has been assumed by the authority pursuant to section 117 shall perform all of their duties and obligations and provide all notices related to those obligations as if the authority were the issuer of the obligations. These trustees, paying agents, and registrars shall care for and consider all revenues and funds pledged to secure obligations of the local government that have been assumed by the authority pursuant to section 117 as revenues and funds of the authority. The authority shall indemnify and hold harmless these trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

259.125c Severability.

Sec. 125c. If any portion of this chapter or the application of this chapter to any person or circumstances is found to be invalid by a court, that invalidity shall not affect the remaining portions or applications of this chapter, which can be given effect without the invalid portion or application, as long as the remaining portions are not determined by the court to be inoperable; and to this end, this chapter is declared to be severable.

History: Add. 2002, Act 90, Imd. Eff. Mar. 26, 2002.

CHAPTER VII

ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS AND OTHER AERONAUTICAL FACILITIES BY POLITICAL SUBDIVISIONS OF THIS STATE.

259.126 Airports; acquisition and operation by political subdivisions.

Sec. 126. Every political subdivision in this state is hereby authorized through its governing body to acquire property, real and personal, for the purpose of establishing, constructing, and enlarging airports,

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landing fields and other aeronautical facilities, and to acquire, establish, construct, enlarge, improve, maintain, equip, operate and regulate such airports, landing fields and other aeronautical facilities, and other property incidental to their operation, either within or without the territorial limits of such political subdivision, and within or without the state of Michigan, in the manner provided by the laws of this state for the acquisition of real property for public purposes. Acquisition may be by purchase, lease, gift, condemnation or dedication: Provided, That, except with respect to the enlargement of existing airports, landing fields and other aeronautical facilities, a verdict of necessity in any condemnation case pending on the effective date of this act, or hereafter instituted pursuant to the provisions of this section, shall not be rendered by the condemnation jury, in case the proposed site is wholly or partially located within a charter township of more than 35,000 population according to the latest census or is wholly or partially located within a political subdivision next adjoining such charter township and the proposed site is located in a county other than that in which the condemning authority is situated, until such time as evidence is presented to the court showing that the board of supervisors of the county within which the proposed site is wholly or partially located and the board of supervisors of the county within which the adjoining political subdivision is located have approved the acquisition and condemnation of such property for such purposes by a majority vote of its members elect.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.126;—Am. 1953, Act 39, Imd. Eff. May 3, 1953.

Former law: See sections 1, 2, 3, 4, and 6 of Act 182 of 1927, being CL 1929, §§ 4829, 4830, 4831, 4832, and 4834; Act 344 of 1939.

259.126a Aeronautical facilities; acquisition and operation by state of Wisconsin; reciprocity.

Sec. 126a. The governing body of a political subdivision in the state of Wisconsin whose laws permit, may acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain and operate airports, landing fields and other aeronautical facilities in this state, subject to all laws, rules and regulations of this state applicable to its political subdivisions in such aeronautical projects, but subject to the laws of Wisconsin in all matters relating to financing such projects. A political subdivision of the state of Wisconsin shall have the same privileges, rights and duties of like political subdivisions of this state. This section shall not apply unless the laws of Wisconsin permit political subdivisions of this state to acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, operate and otherwise control such airport, landing field and other aeronautical facilities in Wisconsin with all privileges, rights and duties applicable to the other political subdivisions of the state of Wisconsin in such aeronautical projects.

History: Add. 1967, Act 271, Eff. Nov. 2, 1967.

Administrative rules: R 259.201 et seq.; R 259.801 et seq. of the Michigan Administrative Code.

259.126b Political subdivision of state of Ohio; privileges, rights, and duties.

Sec. 126b. The governing body of a political subdivision in the state of Ohio whose laws permit may acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, and operate airports, landing fields, and other aeronautical facilities in this state, subject to all laws, rules, and regulations of this state applicable to its political subdivisions in such aeronautical projects, but subject to the laws of Ohio in all matters relating to financing of such projects. A political subdivision of the state of Ohio shall have the same privileges, rights, and duties of like political subdivisions of this state. This section does not apply unless the laws of Ohio permit political subdivisions of this state to acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, operate, and otherwise control an airport, landing field, and other aeronautical facility in Ohio with all privileges, rights, and duties applicable to the other political subdivisions of the state of Ohio in such aeronautical projects.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.126c Political subdivision of state of Indiana; privileges, rights, and duties.

Sec. 126c. The governing body of a political subdivision in the state of Indiana whose laws permit may acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, and operate airports, landing fields, and other aeronautical facilities in this state, subject to all laws, rules, and regulations of this state applicable to its political subdivisions in such aeronautical projects, but subject to the laws of Indiana in all matters relating to financing such projects. A political subdivision of the state of Indiana shall have the same privileges, rights, and duties of like political subdivisions of this state. This section does not apply unless the laws of Indiana permit political subdivisions of this state to acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, operate, and otherwise control an airport, landing field, and other aeronautical facility in Indiana with all privileges, rights, and duties applicable to the other political subdivisions of the state of Indiana in such aeronautical projects.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

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259.127 Air space rights.

Sec. 127. Where necessary, in order to provide unobstructed air space for the safe landing or taking off of aircraft utilizing airports, landing fields, or other aeronautical facilities acquired or operated under this act, every political subdivision of this state is authorized to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports, landing fields, and other aeronautical facilities, and such other airport protection privileges as are necessary to insure safe approaches to the landing and takeoff areas. Political subdivisions are also authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards, including the right of ingress and egress to or from airport hazards, for the purpose of maintaining and repairing the lights and marks.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.127;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.128 Encroachments on airport protection privileges declared public nuisance; abatement.

Sec. 128. Encroachments on airport protection privileges a public nuisance. It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt, or created any object, or plant, cause to be planted or permit to grow higher any tree or trees or other vegetation, which shall encroach upon any airport protection privileges acquired pursuant to the provisions of this chapter. Any such encroachment is declared to be a public nuisance and may be abated in the manner as is prescribed by law for the abatement of public nuisance.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.128.

259.129 Prior acquisitions; validation.

Sec. 129. Prior acquisition and operation of airport property validated. Any acquisition of property within or without the limits of any political subdivision of this state for airports, landing fields, or other aeronautical facilities, or of airport protection privileges and arrangements made for the operation of such facilities, heretofore made by any such political subdivision in any manner, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.129.

259.130 Political subdivisions; appropriation of funds.

Sec. 130. Political subdivisions may appropriate funds and levy tax for airports, landing fields and other aeronautical facilities. Every political subdivision of this state is hereby authorized to appropriate funds for acquisition, improvement, maintenance and equipping of airports, landing fields and other aeronautical facilities as provided in this act, and may levy tax on property within such political subdivisions subject to taxation for public purposes, as provided by law; but said tax shall never exceed in any 1 year 1 mill on the assessed valuation of said political subdivision: Provided, That funds of any political subdivision not already appropriated or earmarked for other purposes may be used for the herein authorized purposes upon the majority vote of the legislative body of any such political subdivision.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.130.

Former law: See section 7 of Act 182 of 1927, being CL 1929, § 4835.

259.131 Aeronautical facilities; general obligation bonds; revenue bonds; additional security; "revenues" defined.

Sec. 131. (1) The legislative body of any political subdivision in this state may submit to the qualified electors of the political subdivision at any regular or special election called for that purpose the question of the issuance of general obligation bonds of the political subdivision, the proceeds of which shall be used for the acquisition, construction, operation, maintenance, and equipping of airports and landing fields, including buildings, structures, or facilities relating to them and the necessary land for them. A majority vote of the qualified voters voting on the question shall authorize the issuance of the general obligation bonds. General obligation bonds issued under this act are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(2) Revenue bonds may be issued for the purposes set forth in subsection (1), and the legislative body of the political subdivision may pledge as security for the bonds all or any portion of the landing fees, concession fees, rents, charges, or any other revenues derived from the operation of the airport. The revenue bonds shall be issued in accordance with the applicable provisions of the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140. However, the fees, rents, or charges pledged that are fixed and established

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under the provisions of a lease or contract shall not be subject to revision or change except in the manner provided in the lease or contract. As additional security for the payment of the principal of and interest on any revenue bonds issued under the provisions of this section, any issuing political subdivision may, by resolution adopted by a majority vote of its governing body, agree that if the funds pledged for the payment of the revenue bonds are not sufficient to pay the principal and interest on the bonds as they become due, the political subdivision shall advance sufficient money out of its general funds for the payment of the principal and interest, if the proceeds of the revenue bonds are used exclusively within the territorial limits of the county in which the political subdivision is located, and the treasurer of the political subdivision shall promptly make the advancement. The political subdivision shall be reimbursed for any money advanced out of funds pledged for the payment of the revenue bonds subsequently paid or collected.

(3) Except for the additional security that may be agreed upon by resolution of the governing body as provided in this section, the principal of and interest on the revenue bonds shall be payable solely from the revenues described in this section. As used in this section, "revenues" means net revenues after operating expenses.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.131;—Am. 1955, Act 34, Imd. Eff. Apr. 19, 1955;—Am. 1956, Act 163, Imd. Eff. Apr. 16, 1956;—Am. 1957, Act 228, Imd. Eff. June 6, 1957;—Am. 1958, Act 194, Eff. Sept. 13, 1958;—Am. 2002, Act 342, Imd. Eff. May 23, 2002.

259.131a Repealed. 1996, Act 370, Imd. Eff. July 3, 1996.

Compiler's note: The repealed section pertained to issuance of capital city airport revenue bonds.

259.132 Declaration of public purpose and necessity.

Sec. 132. Declaration of public purpose and as a public necessity. The acquisition of any lands for the purpose of establishing airports, landing fields or other aeronautical facilities; the acquisition, of airport protection privileges; the acquisition, establishment, construction, enlargement, improvement, maintenance, equipment and operation of airports, landing fields and other aeronautical facilities, and the exercise of any other powers herein granted to political subdivisions of this state, are hereby declared to be public, governmental and municipal functions, exercised for a public purpose, and matters of public necessity.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.132.

Former law: See section 3 of Act 182 of 1927, being CL 1929, § 4831.

259.133 Additional powers of political subdivision establishing aeronautical facility.

Sec. 133. In addition to the general powers conferred by this act, a political subdivision that has established or establishes an airport, landing field, or other aeronautical facility may do 1 or more of the following:

(a) Vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation of the airport, landing field, or other aeronautical facility, in an officer, a board, or body of a political subdivision, by ordinance or resolution that prescribes the powers and duties of the officer, board, or body. In counties operating under the county road system with a population of more than 2,000,000, the board of county road commissioners may implement this section for that county.

(b) Employ a regular airport manager for the airport, landing field, or other aeronautical facility under its control, or in cases where an airport board or body is established, the airport manager may be employed by the board or body.

(c) Adopt and amend all necessary rules, regulations, and ordinances, for the management, government, and use of any properties under its control, whether within or outside of its territorial limits; appoint airport guards or police, with full police powers; establish penalties for the violation of the rules, regulations, and ordinances, and enforce the penalties.

(d) Adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports, landing fields, or other aeronautical facilities within the political subdivision or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules adopted pursuant to this subdivision shall be consistent with and conform as nearly as possible with the laws of this state and the rules of the state transportation department.

(e) Lease for a term of years, donate, or sell, the airport, landing field, or other aeronautical facility, or buildings and structures relating to the airport, landing field, or other aeronautical facility, or real property acquired or set apart for these purposes, to any person or persons, any other political subdivision or the state, or the federal government, or any department of a political subdivision, or the state or federal government, either exclusively or in common with others, for operation and public use; confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities; enter into leases, contracts, agreements, or grants of privileges of concessions with any person or persons, any other

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political subdivision or the state government or the federal government, or any department of a political subdivision or the state or federal government, for the operation, use, or occupancy, either exclusively or in common with others, of all or any part of the airport, landing field, or other aeronautical facility, including any buildings and structures of the airport, landing field, or aeronautical facility, under its control, for a term or terms not to exceed 50 years, establishing the charges, rentals, or fees at a fixed or variable rate binding upon the parties for the full term of the lease, contract, agreement, or grant, which lease, contract, agreement, or grant may provide for the resolution of disputes or for the fixing of variable terms through arbitration or similar procedure. The terms, charges, rentals, and fees shall be equal and uniform for the same type of facilities provided, services rendered, or privileges granted with no unjust discrimination between users of the same class for like facilities provided, services rendered, or privileges granted. However, the public shall not be deprived of its rightful, equal, and uniform use of facilities provided, services rendered, or privileges granted. Terms, charges, rentals, and fees may vary if necessary, to provide security and funds for payment of bonds to be issued as authorized by this act to finance improvements to any airport, or to allow for other differing costs of financing, construction of facilities, or maintenance and operation of the facility.

(f) Sell, donate, or lease any property, real or personal, acquired for such purposes and belonging to the political subdivision, which in the judgment of its governing body, may not be subsequently required for aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the political subdivision, governing the sale or leasing of similarly owned property.

(g) Determine the charges, rentals, or fees for the use of any properties under its control, and the charges for any services or accommodations, and the terms and conditions under which the properties may be used, which rentals, fees, charges, terms, and conditions shall be equal and uniform for the same type of use provided, services rendered, or accommodations granted with no unjust discrimination between users of the same class for like use provided, services rendered, or accommodations granted, except that any charges, rentals, and fees as may be fixed or determined by any lease, contract, agreement, or grant of privileges of concessions to which the political subdivision is a party or is the grantor, shall be binding upon all parties for the full term prescribed in the lease, contract, agreement, or grant unless the same is sooner modified or terminated by mutual consent of the parties. However, the public shall not be deprived of its rightful, equal, and uniform use of such property. Terms, charges, rentals, and fees may vary if necessary, to provide security and funds for payment of bonds to be issued as authorized by this act to finance improvements to any airport, or to allow for other differing costs of financing, construction of facilities, or maintenance and operation of any such facility. Liens may be attached and enforced by law, as provided in such cases, and their enforcement, for repairs to or improvements or storage or care of any personal property, to enforce the payment of the charges.

(h) Exercise all powers necessarily incidental to the exercise of the general and special powers granted under this section.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.133;—Am. 1955, Act 187, Eff. Oct. 14, 1955;—Am. 1956, Act 163, Imd. Eff. Apr. 16, 1956;—Am. 1959, Act 181, Eff. Mar. 19, 1960;—Am. 1968, Act 238, Imd. Eff. June 26, 1968;—Am. 1974, Act 261, Imd. Eff. Aug. 6, 1974;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2002, Act 35, Eff. May 15, 2002.

Former law: See section 1 of Act 182 of 1927, being CL 1929, § 4829; Act 344 of 1939; and Act 333 of 1941.

259.134 Joint operation; board, compensation, term; condemnation proceedings; expenditures.

Sec. 134. Joint operation. (a) All powers, rights and authority granted to any political subdivision in this act may be exercised and enjoyed by 2 or more of them, or by this state and 1 or more such political subdivisions, acting jointly, either within or without the territorial limits of either or any of them, and within or without this state; or by this state or any political subdivision acting jointly with any other state or political subdivision thereof, whether within or without this state; provided the laws of such other state permit such joint action; and contracts may be entered with each other for the herein provided and authorized joint action.

(b) Political subdivisions of this state acting jointly as herein authorized shall create a board from the inhabitants thereof for the purpose of acquiring property for, establishing, constructing, enlarging, improving, maintaining, equipping, operating and regulating the airports, landing fields and other aeronautical facilities, and airport protection privileges to be jointly acquired, controlled and operated. Such board shall consist of members to be appointed by the governing body of each political subdivision involved, the number to be appointed by each to be provided for by the agreement for the joint venture. Each member shall serve for such time and upon such terms as to compensation, if any, as may be provided for in the agreement.

(c) Such board may exercise, on behalf of the political subdivisions acting jointly by which it is appointed, all the powers of each such political subdivision granted by this act.

(d) Condemnation proceedings shall be instituted in the names of the political subdivisions jointly, and the

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property acquired shall be held by the political subdivisions as tenants in common.

(e) For the purpose of providing funds for necessary expenditures in carrying out the provisions of this act, a joint fund shall be created and maintained, into which each of the political subdivisions involved shall deposit its proportionate share as provided by the joint agreement; revenues in excess of cost of maintenance and operating expenses of the joint properties to be divided as may be provided in the original agreement for the joint venture.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.134.

Former law: See section 6 of Act 182 of 1927, being CL 1929, § 4834.

259.135 Federal or other assistance to political subdivisions; submittal of project application to administrator of federal aviation administration; commission as agent; terms and conditions of agency; disbursements.

Sec. 135. (1) A political subdivision of this state is empowered to accept federal or other assistance in the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports, landing fields, and other aeronautical facilities.

(2) A political subdivision of this state, whether acting alone or jointly with another political subdivision or with the state, shall not submit directly to the administrator of the federal aviation administration or its successor agency any project application under the provisions of an act of Congress for airport and airway systems, unless the project and the project application have been first approved by the commission.

(3) A political subdivision shall not directly accept, receive, receipt for, or disburse any funds granted by the United States for the purpose of acquisition, construction, enlargement, maintenance, equipment, or improvement of airports, landing fields, or other aeronautical facilities, but it shall designate the commission as its agent and in its behalf to accept, receive, receipt for, and disburse such funds. A political subdivision shall enter into an agreement with the commission which shall prescribe the terms and conditions of the agency in accordance with federal laws, rules, and regulations and the applicable laws of this state. Money paid over by the United States government for the acquisition, construction, improvement, enlargement, equipment, or maintenance of airports, landing fields, or other aeronautical facilities shall be channeled through the state treasury and disbursed for and in behalf of the political subdivision under the terms and conditions of the respective grants. The disbursements shall be made in accordance with the accounting laws and procedures of this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.135;—Am. 1948, Ex. Sess., Act 32, Imd. Eff. May 10, 1948;—Am. 1982, Act 466, Imd. Eff. Dec. 30, 1982.

259.136 Board of county commissioners; vote to provide aid.

Sec. 136. The county board of commissioners of any county may vote to provide aid for any publicly owned or operated airport, landing field, or other aeronautical facility within the county, and include the aid in the county tax, or provide for the payment of the aid from money available in the general fund of the county.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.136;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 7 of Act 182 of 1927; Act 103 of 1929, being CL 1929, § 4835.

CHAPTER VIIA.

ACQUISITION AND OPERATION OF AIRPORTS, LANDING FIELDS, AND OTHER AERONAUTICAL FACILITIES BY REGIONAL AIRPORT AUTHORITIES

259.137 Chapter short title.

Sec. 137. This chapter shall be known and may be cited as the "regional airport authority act".

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.138 Definitions.

Sec. 138. (1) Unless specified otherwise in this chapter, definitions in chapter II apply to terms used in this chapter.

(2) As used in this chapter:

(a) "Airport" means a publicly owned airport licensed by the department under section 86 and includes all airport facilities at the airport. An airport is publicly owned if the portion used for the landing and taking off of aircraft is owned, operated, controlled, leased to, or leased by the United States or an agency or department of the United States, this state, a local government, or another public corporation.

(b) "Airport facilities" means any of the following at an airport:

(*i*) Real or personal property, or an interest in real or personal property, used for the landing, taking off,

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taxiing, parking, or storing of aircraft, or for receiving or discharging passengers or cargo, an appurtenant area used for an airport building or other facility, and any appurtenant right-of-way.

(*ii*) Real or personal property, including an easement, used for over-flight, noise abatement, a clear zone, a side transition zone, an environmental mitigation requirement, utilities, a drainage system, a right-of-way, or any other requirement imposed as a condition of approving the acquisition, construction, expansion, or operation of other airport facilities, whether or not located within the boundaries of the local government.

(*iii*) Structures, buildings, and improvements, including aeronautical and nonaeronautical, commercial or noncommercial structures, concessions, roadways, beacons, markers, communication systems, and navigational aids.

(*iv*) Any other improvements or facilities necessary, useful, or intended for use in the operation of an airport.

(c) "Approval date" means, for airports certificated under 14 CFR part 139, the date of the issuance by the FAA to the regional authority assuming operational jurisdiction of the airport of a certificate under 14 CFR part 139 with respect to the airport, and the concurrence by the FAA of the designation of the regional authority as a sponsor of the airport, including the FAA's approval of the assignment of existing grant agreements to the regional authority, or, for an uncertificated airport, the date specified in the agreement pursuant to which the airport is to be transferred to the regional authority, as approved by the FAA.

(d) "Board" means the governing body of a regional authority appointed under section 140.

(e) "Chief executive officer" means the chief administrative officer of a regional authority.

(f) "Enplanement" means a domestic, territorial, or international revenue passenger who boards an aircraft that departs from the airport.

(g) "FAA" means the Federal Aviation Administration of the United States Department of Transportation, or any successor agency.

(h) "Fiscal year" means the annual period that is the fiscal year of the local government or another annual period established by the board.

(i) "Legislative body" means the elected body of a local government that has legislative powers.

(j) "Local government" means a county, city, township, or village that creates the regional authority.

(k) "Regional authority" means a regional airport authority created under section 139 and governed by a board.

(*l*) "Sponsor" means a public agency authorized by 49 USC 47101 to 47134 to submit requests for, accept, and be responsible for performing all of the assurances associated with accepting grant agreements with respect to airports from the FAA or this state, and to perform some duties and responsibilities previously assumed by the local government that owns or operates the airport before the transfer of operational jurisdiction of the airport to an authority created under this chapter by virtue of the local government's acceptance before the approval date of grants for the benefit of the airport from the FAA or another agency of the United States or this state.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.139 Authority as public body corporate; intent to incorporate regional authority; resolution; presumption of validity; rules prohibited.

Sec. 139. (1) An authority created under this section is a public body corporate for purposes of state and federal law and must comply with all of the following:

(a) The open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(b) The freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(c) The uniform budget and accounting act, 1968 PA 2, MCL 141.421 to 141.440a.

(2) A local government that owns or operates an airport may, by resolution, declare its intention to incorporate a regional authority. In the resolution of intent, the legislative body of the local government shall set a date for a public hearing on the adoption of a proposed resolution incorporating the regional authority. The public hearing must be held in accordance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. After the public hearing, if the legislative body of the local government intends to proceed with the incorporation of the regional authority, it must adopt, by majority vote of its members, a resolution adopting the articles of incorporation of the regional authority. The adoption of the resolution is subject to any applicable statutory or charter provisions with respect to the approval or disapproval by an officer of the local government and the adoption of an ordinance over the officer's veto. The articles of incorporation for the regional authority take effect on being filed with the secretary of state.

(3) The validity of the incorporation of a regional authority is conclusively presumed unless questioned in an original action filed in the court of appeals within 60 days after the creation or incorporation of the regional authority under this chapter. The court of appeals has original jurisdiction to hear an action under this

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subsection. The court shall hear the action in an expedited manner. The state transportation department is a necessary party in an action under this subsection.

(4) The department shall not promulgate rules under this chapter.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.140 Board; membership; terms; qualifications; appointment; expiration; resignation; vacancy; removal; first meeting; election of officers; withdrawal of power from chief executive officer; compensation; expenses; action of board by resolution or ordinance; vote; quorum.

Sec. 140. (1) An authority created under this chapter must be directed and governed by a board consisting of not fewer than 5 and not more than 9 members, who shall serve 3-year terms. The initial terms of the board members must be staggered so that the terms of not less than 20% of the members expire each year.

(2) The articles of incorporation of an authority created under this chapter must specify the number and qualifications of the members of the board. However, not more than 45% of the members may be elected officials, and at least 1 member must be a resident of a jurisdiction in this state located outside the boundaries of the local government. At a minimum, a board member must have experience in aviation, business, accounting, finance, marketing, engineering, law, real estate, economic development, management, or another field of value to the operation of the airport. A full-time paid employee of the local government is not eligible for appointment to the board.

(3) Within 60 days after incorporation of a regional authority, the members of the legislative body of the local government shall appoint the members of the board. Before assuming the duties of office, a member of the board must qualify by taking and subscribing to the constitutional oath of office.

(4) A member of the board whose term has expired shall hold office until the board member's successor is appointed and qualified, or until resignation or removal. If a member of the board is removed or is unable to complete his or her term of office, the legislative body shall appoint a successor to complete the term. A member of the board may resign by written notice to the regional authority. The resignation is effective on receipt by the secretary or chairperson of the regional authority or at a subsequent time as set forth in the notice of resignation. The regional authority shall promptly advise the local government in writing of any vacancy. The legislative body shall appoint a new member to fill the vacancy within 60 days after the local government is advised of the notice of resignation by the regional authority.

(5) The local government may only remove a board member for cause. Cause includes failure to attend at least 70% of the meetings of the board each fiscal year, conviction of a felony, breach of fiduciary duty to the regional authority, and other conduct as specified in the articles of incorporation or bylaws of the regional authority.

(6) Within 90 days after a regional authority is incorporated under section 139, the board of the regional authority shall hold its first meeting. At the first meeting, the board shall organize by electing a chairperson, a vice-chairperson, a secretary, and any additional officers that the board considers necessary. With the exception of the treasurer, all officers of the board must be elected annually by, and must be members of, the board.

(7) Except for those powers reserved or delegated to the chief executive officer of the regional authority by this chapter or by the board as provided in section 142(3), the board may withdraw from the chief executive officer any power that the board has delegated to the chief executive officer.

(8) A regional authority shall not compensate a member of the board for service to the authority or attendance at a meeting, but may reimburse a member for an actual and necessary expense incurred in the discharge of the member's official duties.

(9) A board may act only by resolution or ordinance. Unless the articles of incorporation or bylaws of the regional authority require otherwise, a vote of the majority of the board members present at a meeting of the board or a committee of the board at which a quorum is present constitutes the action of the board or committee.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.141 Meetings; audit committee.

Sec. 141. (1) After organization, a board shall adopt a schedule of regular meetings and adopt a regular meeting date, place, and time. The board shall meet not less than quarterly. A special meeting of the board may be scheduled as provided in the bylaws of the regional authority, but the board chairperson shall call a special meeting on request of 2 or more board members.

(2) A board shall appoint an audit committee consisting of at least 2 members of the board. The audit committee shall meet not less than annually with the chief financial officer, the chief executive officer, and

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the independent auditors of the regional authority to review reports related to the financial condition, operations, performance, and management of the regional authority and airport.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.142 Chief executive officer; chief financial officer; appointment; qualifications; duties and responsibilities; regional authority; procurement policies and procedures; purchasing contracts and agreements; members of board or officer, appointee, or employee of regional authority as public servant; ethics policy; personal liability; indemnification.

Sec. 142. (1) A board shall appoint a chief executive officer who must have professional qualifications commensurate with the responsibility of the jobs to be performed by chief executive officers. The chief executive officer is an ex officio member of the board, is not considered in determining the presence of a quorum, and does not have a vote. The chief executive officer serves at the pleasure of the board. The board may contract with the chief executive officer for a commercially reasonable length of time commensurate with the length of time for contracts of airport chief executive officers, directors, or managers with similar responsibilities at other airports or airport authorities in or outside of this state with a comparable number of annual enplanements. A contract under this subsection is terminable at will by the board.

(2) A chief executive officer shall appoint a chief financial officer who shall serve as the treasurer of the regional authority. The chief financial officer must have professional qualifications commensurate with the responsibility of the jobs to be performed by chief financial officers. Notwithstanding any law to the contrary, the chief financial officer shall receive all money belonging to the regional authority or arising or received in connection with the airport from whatever source derived. The chief financial officer shall deposit, invest, and pay money of the regional authority only in accordance with applicable state law and policies, procedures, ordinances, or resolutions adopted by the board. On and after the approval date, the regional authority is considered to be the owner of all money or other property previously or later received by the treasurer of the local government or deposited in the treasury of the local government to the credit of the airport for which operational jurisdiction has been transferred to the regional authority. The regional authority is entitled to all interest and other earnings on the money on and after the approval date. The treasurer of a local government that receives or has custody of money or other property that belongs to a regional authority shall promptly transfer the money or other property to the custody of the chief financial officer of the regional authority.

(3) The board shall require the chief financial officer and chief executive officer to post a suitable bond of not less than $100,000.00 by a responsible bonding company. The regional authority shall pay the premium of the bond.

(4) The board shall prescribe the duties and responsibilities of the chief executive officer that are in addition to the duties and responsibilities imposed on the chief executive officer by this chapter. The chief executive officer shall supervise, and is responsible for, all of the following:

(a) The day-to-day operation of the airport, including the control, supervision, management, and oversight of the functions of the airport.

(b) The issuance of bonds and notes as approved by the board.

(c) The negotiation, establishment and approval of compensation and other terms and conditions of employment for employees of the regional authority, within the budget approved by the board. However, any collective bargaining agreements for represented employees are subject to board approval.

(d) The appointment, dismissal, discipline, demotion, promotion, and classification of employees of the regional authority.

(e) The negotiation, supervision, and enforcement of other contracts as approved by the board and entered into by the regional authority and the supervision of contractors and subcontractors of the regional authority in their performance of their duties.

(5) The chief executive officer may execute and deliver, and delegate signatory power for, contracts, leases, obligations, and other instruments approved by the board or for which power to approve has been delegated to the chief executive officer of the regional authority by this chapter or by action of the board. The chief executive officer has all powers incident to the performance of his or her duties that are prescribed by this chapter or by the board. The board may delegate additional powers to the chief executive officer not enumerated in this chapter. If the chief executive officer is temporarily absent or disabled, he or she may designate a qualified person as acting chief executive officer to perform the duties of the office. If the chief executive officer fails or is unable to designate an acting chief executive officer, the board shall designate an acting chief executive officer for the period of absence or disability of the chief executive officer.

(6) A regional authority shall establish procurement policies and procedures consistent with the procurement policies of the FAA and any applicable state laws or rules, including any competitive bidding requirements.

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(7) A regional authority may enter into a lease purchase or installment purchase contract for a period not to exceed the anticipated useful life of the item purchased. The authority may enter into a cooperative purchasing agreement with this state or another public entity for the purchase of goods, including, but not limited to, recycled goods, and services necessary for the authority.

(8) A member of the board or an officer, appointee, or employee of a regional authority is a public servant under 1968 PA 317, MCL 15.321 to 15.330, and is subject to any other applicable law with respect to conflicts of interest. The board shall establish an ethics policy governing the conducting of airport business and the conduct of airport employees. A regional authority shall establish policies that are no less stringent than those provided for public officers and employees by 1973 PA 196, MCL 15.341 to 15.348, and coordinate efforts for the regional authority to preclude the opportunity for and the occurrence of transactions by the regional authority that would create a conflict of interest involving members of the board or employees of the authority.

(9) A member of the board or an officer, appointee, or employee of the regional authority is not subject to personal liability when acting in good faith within the scope of his or her authority and is not subject to liability for any liability of the regional authority. The board may defend and indemnify a member of the board or an officer, appointee, or employee of the regional authority against liability arising out of the discharge of his or her official duties. A regional authority may indemnify and procure insurance indemnifying members of the board and officers, appointees, and employees of the regional authority from personal loss or accountability for liability asserted by a person with regard to bonds or other obligations of the regional authority, or from any personal liability or accountability by reason of the issuance of the bonds or other obligations or by reason of any other action taken or the failure to act by the regional authority. The regional authority may also purchase and maintain insurance on behalf of any person against any liability asserted against the person and incurred by the person in any capacity or arising out of the status of the person as a member of the board or an officer or employee of the regional authority, whether or not the regional authority would have the power to indemnify the person against that liability under this subsection. A regional authority, pursuant to bylaw, contract, agreement, or resolution of its board, may obligate itself in advance to defend and indemnify persons.

(10) A regional authority shall indemnify and hold harmless the local government for any civil claim existing or any civil action or proceeding pending by or against the local government involving or relating to the airport, airport facilities, or any civil liability related to the obligations of the local government issued or incurred with respect to the airport that was pending at the time of, or that was incurred before, the transfer of operational jurisdiction of the airport to the regional authority.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.143 Regional authority; powers; limitations; actions by local government.

Sec. 143. (1) A regional authority may do any of the following:

(a) Adopt a corporate seal.

(b) Sue or be sued in any court of this state or file suit in any federal court.

(c) Plan, promote, extend, maintain, acquire, purchase, construct, install, improve, repair, enlarge, and operate all airports and airport facilities under the operational jurisdiction of or owned by the regional authority.

(d) Assume and perform the obligations and the covenants related to the airport that are contained in an agreement or other document by the local government or between the local government and the state or the FAA relative to grants for the airport or airport facilities.

(e) Acquire, by grant, purchase, devise, lease, the exercise of the right of eminent domain, or otherwise, and hold real and personal property, in fee simple or any lesser interest or by easement, as the regional authority considers necessary either for the construction of airport facilities or for the efficient operation or extension of any airport facilities acquired or constructed or to be constructed under this chapter, and, except as otherwise provided by this act, hold in its name, lease, and dispose of all real and personal property owned by or under the operational jurisdiction of the regional authority. The acquisition of land by a regional authority for an airport or airport facilities in furtherance of the purposes of the regional authority, and the exercise of any other powers of the regional authority, are public, governmental, and municipal functions, purposes and uses exercised for a public purpose, and matters of public necessity.

(f) Enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter with a department or agency of the United States, with a state or local governmental agency, or with another person, public or private, on terms and conditions acceptable to the regional authority consistent with section 142(6).

(g) Have and exercise exclusive responsibility to study and plan any improvements, expansion, or

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enhancements that affect the airport, and commission planning, engineering, economic, and other studies to provide information for making decisions about the location, design, management, and other features of the airport or airport facilities.

(h) Exercise responsibility for developing all aspects of the airport and airport facilities, including, but not limited to, all of the following:

(*i*) The location of terminals, hangars, aids to air navigation, parking lots and structures, cargo facilities, and all other facilities and services necessary to serve passengers and other customers of the airport.

(*ii*) Street and highway access and egress with the objective of minimizing, to the extent practicable, traffic congestion on access routes in the vicinity of the airport.

(*iii*) Participation in demonstration programs and economic development.

(i) Act as a sponsor and submit requests for, accept, and be responsible to perform all of the assurances associated with accepting grants from the FAA or another agency of the United States or of this state with respect to the airport under the operational jurisdiction of the regional authority, and perform the duties and responsibilities previously assumed by the local government by virtue of its acceptance of grants from the FAA or another agency of the United States or this state.

(j) Enter into agreements to use the facilities or services of this state, a subdivision or department of this state, a county or municipality, or the federal government or an agency of the federal government as necessary or desirable to accomplish the purposes of this chapter for consideration or pursuant to a cost-allocation formula in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state, including, but not limited to, policies of the FAA prohibiting revenue diversion or the payment of fees exceeding the value of services provided by a governmental agency.

(k) Allow this state, a subdivision or department of this state, a county or municipality, or the federal government or an agency of the federal government to use airport facilities or the services of the regional authority as necessary or desirable to accomplish the purposes of this chapter, for consideration acceptable to the regional authority in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(*l*) Adopt and enforce in a court of competent jurisdiction of this state reasonable rules, regulations, and ordinances for the orderly, safe, efficient, and sanitary operation and use of airport facilities, and establish civil and criminal penalties for the violation of rules, regulations, and ordinances authorized under this chapter to the same extent as the local government.

(m) Enter into exclusive or nonexclusive contracts, leases, franchises, or other arrangements with any person or persons for granting the privilege of using, improving, or having access to the airport, the airport facilities, or a portion of the airport or the airport facilities, for commercial airline-related purposes consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(n) Enter into exclusive or nonexclusive contracts, leases, or other arrangements not described in subdivision (m) for commercially reasonable terms consistent with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(o) Apply for and receive loans, grants, guarantees, or other financial assistance in aid of airport facilities and the operation of the airport from a state, federal, county, or municipal government or agency or from another source, public or private, including financial assistance for planning, constructing, improving, or operating the airport, for providing security at the airport, or for providing ground access to the airport.

(p) Appoint and vest with police powers airport law enforcement officers, guards, or police officers under this chapter. The law enforcement officers, guards, or police officers of the regional authority have the full police powers and authority of peace officers in the areas over which the regional authority has operational jurisdiction, including, but not limited to, the prevention and detection of crime, the power to investigate and enforce the laws of this state, rules, regulations, and ordinances issued by the regional authority, and, to the extent permitted or required by federal law and regulations, requirements of federal law and regulations governing airport security. The officers may issue summonses, make arrests, and initiate criminal proceedings. A regional authority is responsible for all actions of its officers committed under color of their official position and authority.

(q) Procure insurance or become a self-funded insurer against loss in connection with the property, assets, or activities of the regional authority.

(r) Invest money of the regional authority, consistent with applicable state law and the contractual obligations of the regional authority, at the board's discretion, in instruments, obligations, securities, or property determined proper by the board, and name and use depositories for its money.

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(s) Fix, charge, and collect rates, fees, rentals, and charges in and for the use and operation of the airport or airports under the operational jurisdiction of the regional authority.

(2) Except as otherwise prohibited by this chapter, a regional authority has all the powers of a political subdivision under this act. The powers granted to a regional authority are public and governmental functions.

(3) Except for the regional authority's exclusive jurisdiction over landing fields and other aeronautical facilities, this chapter does not limit the power of a local government in which an airport is located to zone property under the Michigan zoning enabling act, 2006 PA 110, MCL 125.3101 to 125.3702, or to engage in land planning under the Michigan planning enabling act, 2008 PA 33, MCL 125.3801 to 125.3885, with respect to property that is not part of the airport.

(4) Notwithstanding any other provision of law to the contrary, a regional authority shall not impose or levy taxes, except the regional authority may impose fees or charges permitted by federal law.

(5) Unless a regional authority obtains the approval of the legislative body, the regional authority shall not incur any indebtedness pledging, on a superior basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged. The local government may establish conditions under which the regional authority may incur indebtedness pledging, on a parity basis, any revenues from airport facilities that are otherwise pledged to secure any obligation, note, bond, or other instrument of indebtedness for which the full faith and credit of the local government has been pledged.

(6) On the creation or incorporation of an authority under this chapter, the local government shall not pledge airport facilities or assets to secure any instrument of indebtedness except to secure bonds issued for airport capital improvement projects after the creation or incorporation of the regional authority and before the approval date.

(7) A regional authority shall not take any action contrary to obligations assumed or entered into under state law or federal rules or regulations or any agreement entered into or assumed with respect to state or federal grants.

(8) A local government shall not take any action contrary to obligations or covenants under applicable state or federal law, regulations, and assurances associated with the state or federal government.

(9) If a local government previously acted as a sponsor and action by, or concurrence of, the local government is required to complete a project related to the airport or airport facilities, the local government shall not withhold, condition, or delay concurrence with any regional authority action necessary to complete the project in accordance with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(10) A regional authority shall serve as the agent of the local government for the preparation, submission, execution, and administration of any state or federal grants pending on the approval date. The regional authority shall also act as the custodian of all money received or to be received by the local government or the regional authority for the projects for which the grants were awarded.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.144 Approval date; powers and duties of regional authority and local government; assumption of actions, commitments, and proceedings by regional authority; right and authority to occupy, operate, control, and use airport facilities; acquisitions, assumptions, successions, or transfers.

Sec. 144. (1) All of the following occur on the approval date:

(a) The regional authority may acquire, and shall assume the exclusive right, responsibility, and authority to occupy, operate, control, and use, the airport and the airport facilities owned by the local government on that date, subject only to any restrictions imposed by this act.

(b) The local government shall convey title to or enter into a lease of the real property comprising the airport with the regional authority, which shall otherwise acquire and succeed to all rights, title, and interests in and to the fixtures, equipment, materials, furnishings, and other personal property owned and used for purposes of the airport on that date by the local government. The officers of the local government shall execute the instruments of conveyance, assignment, and transfer that are necessary and appropriate to comply with this subdivision.

(c) The regional authority shall assume, accept, and become solely liable for all of the lawful obligations, promises, covenants, commitments, and other requirements in respect of the airport of the local government, whether known or unknown, contingent or matured, except for any full faith and credit pledge of the local government in respect of bonds issued by the local government for airport purposes, and shall perform all of the duties and obligations and is entitled to all of the rights of the local government in respect of the airport under any ordinances, agreements, or other instruments and under law. Consistent with this chapter, this

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assumption includes, and any person shall transfer to the regional authority, all licenses, permits, approvals, or awards related to the airport; all grant agreements, grant preapplications, and the right to receive the balance of any money payable under the agreements; the right to receive any money, including any passenger facility charges, payable to the local government on the approval date and money paid to the local government after the approval date; the benefit of contracts and agreements; and all of the local government's duties, liabilities, responsibilities, and obligations as sponsor of the airport, except for any obligation or liabilities contested in good faith by the regional authority.

(2) All lawful actions, commitments, and proceedings, including, but not limited to, revenue bond financings for which a notice of intent resolution has been adopted, of the local government made, given, or undertaken before the date of assumption by the regional authority under this section are ratified, confirmed, and validated on assumption by the regional authority. All actions, commitments, or proceedings undertaken shall, and all actions, commitments, or proceedings of the local government in respect of the airport in the process of being undertaken by, but not yet a commitment or obligation of, the local government in respect of the airport may, from and after the date of assumption by the regional authority under this section, be undertaken and completed by the regional authority in the manner and at the times provided in this chapter or other applicable law and in any lawful agreements made by the local government before the date of assumption by the regional authority under this section.

(3) The exclusive right and authority to occupy, operate, control, and use the airport facilities includes, but is not limited to, all of the following:

(a) Operational jurisdiction over all real property of the airport, including, but not limited to, terminals, runways, taxiways, aprons, hangars, aids to air navigation, vehicles or facilities, parking facilities for passengers and employees, and buildings and facilities used to operate, maintain, and manage the airport, subject to any liens on the real property and restrictions and limitations on the use of the real property.

(b) The local government's right, title, and interest in, and all of the local government's responsibilities arising under, leases, concessions, and other contracts for airport facilities.

(4) The acquisitions, assumptions, successions, or transfers described under this section include, but are not limited to, all of the following:

(a) All contracts and other obligations with airlines, tenants, concessionaires, leaseholders, and others at the airport.

(b) All financial obligations secured by revenues and fees generated from the operations of the airport, including, but not limited to, airport revenue bonds, special facilities revenue bonds, and all bonded indebtedness associated with the airport.

(c) All cash balances and investments relating to or resulting from operations of the airport for which operational jurisdiction has been transferred to a regional authority, all money held under an ordinance, resolution, or indenture related to or securing obligations of the local government that have been assumed by the regional authority, all of the accounts receivable or choses in action arising from operations of the airport, and all benefits of contracts and agreements.

(d) All office equipment, including, but not limited to, computers, records and files, software, and software licenses required for financial management, personnel management, accounting and inventory systems, and general administration.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.145 Transfer of operational jurisdiction over airport to regional authority; contracts not impaired; relief of local government from certain costs and responsibilities; duties of local government; transitional services; payment of costs.

Sec. 145. (1) The transfer of the operational jurisdiction over an airport to a regional authority may not in any way impair any contract with an airline, vendor, tenant, bondholder, or other party in privity with the local government.

(2) On the transfer of operational jurisdiction over an airport under section 144, the local government is relieved from all further costs and responsibility arising from or associated with control, operation, development, and maintenance of the airport, except as otherwise required under obligations retained by the local government under this chapter or as otherwise agreed by the local government.

(3) The local government shall comply with all of the following:

(a) Refrain from any action that would impair the regional authority's exercise of the powers granted to the regional authority under this chapter or that could cause the regional authority to violate its rate or bond covenants.

(b) Refrain from any action to sell, transfer, or otherwise encumber or dispose of airport facilities owned by the local government without the consent of the regional authority and, if necessary, the FAA and the

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department.

(c) Take all action reasonably necessary to cure any defects in title to airport facilities transferred to the regional authority.

(d) On incorporation of a regional authority and before the approval date, conduct operations of the airport in the ordinary and usual course of business.

(e) Maintain and repair, including provide snow removal for, any road that provides ingress and egress to the airport over which responsibility for maintenance and repair is retained by the local government pursuant to agreement or law.

(4) At the request of a regional authority, the local government may provide the regional authority with transitional services previously performed by the local government and related to the operation of the airport until the date the regional authority elects to assume the services. The regional authority shall pay the cost of the services in compliance with its obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state, including, but not limited to, policies of the FAA that prohibit revenue diversion or the payment of fees that exceed the value of services provided by a governmental agency.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.146 Employees; transfer to regional authority; dates; terms of employment; collective bargaining agreement; regional authority as employer; retirement system or pension plan; transfer of amounts under subsection (3); assumption of retiree health benefit or payment obligations by regional authority; eligibility of employee hired by regional authority to participate in benefit plan; definitions.

Sec. 146. (1) Employees at an airport may transfer to the regional authority to which operational jurisdiction of the airport will be transferred as provided in this section on 1 or more dates agreed to by the regional authority and the local government. The date or dates must be as soon as administratively feasible, but not later than 180 days after the approval date. The initial terms of employment, including for purposes of pension and other benefits, for transferring employees must be substantially similar to the terms of employment for the employees immediately before the transfer. The regional authority shall offer to enter into a collective bargaining agreement covering transferring employees who on their transfer date were covered by a collective bargaining agreement with the local government. The agreement offered by the regional authority must have substantially similar terms of employment as the local government collective bargaining agreement and remain in effect for the same period. The regional authority shall become the employer of transferring employees on the date of transfer without a break in employment and shall recognize the length of service of the transferring employees with the local government for purposes of the regional authority's benefit plans and programs. The local government is not an employer of any employee at the airport after the transfer date. The accrued local government pension benefits or credits of a transferring employee must not be diminished because of the transfer. Instead, the pension benefits and credits must be transferred to the retirement system or pension plan established by the regional authority as provided in subsections (2) and (3).

(2) By the approval date, the regional authority shall establish a retirement system or pension plan that initially provides benefits to each transferring employee that are substantially similar to the benefits provided by the local government's retirement system or pension plan before the approval date. The regional authority's retirement system or pension plan shall credit a transferring employee for his or her prior employment with the local government, including for purposes of eligibility, vesting, and accruals, and the employee shall make any mandatory employee contribution to the regional authority's retirement system or pension plan.

(3) The local government shall, as soon as administratively feasible, but not later than 180 days after all employee transfers under subsection (1), transfer to the trustees of the regional authority retirement system or pension plan both of the following:

(a) For defined benefit plans, all accrued benefits, all accrued liabilities, and a share of the assets of the local government's plan sufficient to fund the transferring employees' accrued benefits to the extent that the benefits have been funded by the local government on or before the transfer date.

(b) For defined contribution plans, the amount credited to each transferring employee's account in the local government's retirement system or pension plan on or before the transfer date. For purposes of this subparagraph, the local government shall fully vest the account of the transferring employee on the day immediately preceding the transfer date and shall make contributions on behalf of the transferring employee for the portion of the transfer year in which the employee was employed by the local government and eligible to participate in the plans regardless of any allocation requirements that otherwise might prevent the transferring employee from receiving a contribution for the year of the transfer.

(4) The local government shall transfer the amounts to be transferred under subsection (3) in cash or in

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some other form acceptable to the trustees. The transfer of money to the trustees under this subsection terminates the local government's obligation to the transferring employees and the transferring employees' rights under the local government's retirement system and pension plans.

(5) If the local government has an obligation to provide retiree health benefits or payments to transferring employees, the regional authority shall assume the obligations. The regional authority shall not assume obligations in excess of the amount properly allocable to the transferring employees. The local government shall, as soon as administratively feasible but not later than 180 days after all employee transfers under subsection (1), transfer to the regional authority an amount sufficient to fund the transferring employees' accrued benefits to the extent that the benefits have been funded by the local government on or before the transfer date. The regional authority shall transfer the amounts required to be transferred under this subsection to a qualifying entity established by the regional authority in cash, or in some other form acceptable to the qualifying entity. The transfer of money to a qualifying entity established by the regional authority under this subsection terminates the local government's obligations to the transferring employees and the transferring employees' rights to receive the benefits from the local government.

(6) This section only applies to local government employees who transfer their employment to the regional authority in accordance with this section.

(7) An employee hired by the regional authority, other than a transferring employee, is eligible to participate in the benefit plans established by the regional authority, in accordance with and subject to the terms of the plans as established by the regional authority, in its sole discretion.

(8) As used in this section:

(a) "Transfer date" means the earlier of the date of transfer or the deadline for transfer of employment to the regional authority.

(b) "Transferring employee" means an employee at the airport who timely transfers to the regional authority by the transfer date.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.147 Transfer of operational jurisdiction of other publicly owned airports to regional authority.

Sec. 147. A regional authority may accept the transfer of operational jurisdiction of other publicly owned airports, in and outside of the local government. In accepting a transfer, the regional authority shall not assume financial obligations other than those associated with the operation of the airport being transferred and with debt issued to finance improvements at the airport being transferred.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.148 Issuance of bonds, notes, or other evidences of indebtedness by regional authority.

Sec. 148. (1) For the purpose of acquiring, purchasing, constructing, improving, installing, enlarging, furnishing, equipping, reequipping, or repairing airports and airport facilities for which operational jurisdiction is transferred under this chapter or is acquired by the regional authority, a regional authority may issue self-liquidating bonds of the authority in accordance with and exercise all of the powers conferred on public corporations by the revenue bond act of 1933, 1933 PA 94, MCL 141.101 to 141.140.

(2) A regional authority may borrow money and issue municipal securities in accordance with and exercise all of the powers conferred on municipalities by the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(3) All bonds or other evidences of indebtedness issued by a regional authority under this chapter, and the interest on them, are free and exempt from all taxation in this state, except inheritance and estate taxes and taxes on gains realized from the sale, payment, or other disposition of them.

(4) On request of the board of a regional authority, the legislative body may take 1 or more of the following actions:

(a) Pledge the full faith and credit of the local government behind any obligation or evidence of indebtedness of the regional authority.

(b) Advance money to the regional authority for working capital and other purposes of the regional authority on terms and conditions agreed to by the regional authority and the local government consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(c) Appropriate and grant money to the regional authority in furtherance of its purposes.

(d) Grant and convey to the regional authority real or personal property of any kind or nature, or any interest in real or personal property, for carrying out the authorized purposes of the regional authority.

(5) A pledge made under subsection (4) must be at the discretion of the legislative body and may be

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subject to an agreement providing for terms and conditions of the pledge and for repayment of any amount paid under the pledge as the regional authority and the local government determine to be necessary and advisable consistent with obligations under applicable federal law, regulations, and assurances associated with accepting grants from the FAA or another agency of the United States or this state.

(6) An agreement by an authority to repay an advance made under this section and any obligation incurred by the regional authority under the agreement is not subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

(7) For the purpose of more effectively managing its debt service, a regional authority may enter into an interest rate exchange or swap, hedge, or similar agreement or agreements in connection with the issuance or proposed issuance of obligations or other evidences of indebtedness or in connection with its then outstanding obligations or other evidences of indebtedness. The authority may create a reserve fund for the payment of the interest rate exchange or swap, hedge, or similar agreement.

(8) An agreement entered into under this section must comply with all of the following requirements:

(a) The agreement is not a debt of the regional authority entering into the agreement for any statutory debt limitation purpose.

(b) The agreement is payable from general funds of the regional authority or, subject to any existing contracts, from any available money or revenue sources, including revenues that are specified by the agreement, securing the obligation or evidence of indebtedness in connection with the agreement.

(9) Notwithstanding anything in this chapter or any other law to the contrary, all ordinances, resolutions, and other proceedings of the local government with respect to any outstanding bonds, notes, or evidences of indebtedness or liability assumed by a regional authority under this chapter constitute a contract between the regional authority and the holders of the bonds, notes, or evidences of indebtedness or liability and must have their provisions enforceable against the regional authority or any or all of its successors or assigns, by mandamus or any other appropriate action or proceeding in law or in equity in any court of competent jurisdiction in accordance with law.

(10) Bonds, notes, or evidences of indebtedness or liability that are assumed by a regional authority under this chapter are payable solely from and secured solely by the sources of revenue that were pledged to those bonds, notes, or evidences of indebtedness or liability under the ordinance, resolution, or other proceedings of the local government.

(11) This chapter and any other law do not relieve a regional authority from any bonded or other debt or liability lawfully contracted by the local government with respect to the airport and outstanding on the effective date of the transfer of the operational jurisdiction over the airport to the regional authority.

(12) A regional authority shall not take any action to impair the rights or remedies of the holders of the bonds or other obligations of the local government that owns the airport that were lawfully issued before the transfer of operational jurisdiction of the airport to the regional authority.

(13) Beginning on the approval date, trustees, paying agents, and registrars for any obligation of the local government that has been assumed by the regional authority under section 144 shall perform all of their duties and obligations and provide all notices related to the obligations as if the regional authority were the issuer of the obligations. The trustees, paying agents, and registrars shall care for and consider all revenues and money pledged to secure obligations of the local government that have been assumed by the regional authority under section 144 as revenues and money of the regional authority. The regional authority shall indemnify and hold harmless the trustees, paying agents, and registrars from liability incurred in compliance with this subsection.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

259.149 Purposes of regional authority; effectuation; payment of taxes or assessments not required.

Sec. 149. The effectuation of the authorized purposes of a regional authority must be in all respects for the benefit of the people of the region the airport serves and in order to meet present and future state and regional needs with respect to the provision of adequate, safe, and efficient airport facilities and services to the public and to promote the economic development and well-being of this state. By performing an essential governmental function, the regional authority is not required to pay taxes or assessments of any kind or nature whatsoever on any property required or used for airport or airport facility purposes or on any rates, fees, rentals, receipts, or income at any time received by it.

History: Add. 2015, Act 95, Imd. Eff. June 30, 2015.

CHAPTER VIII

APPROACH PROTECTION FOR AIRPORTS, LANDING FIELDS AND OTHER AERONAUTICAL FACILITIES.

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259.151 State plan for approach protection areas.

Sec. 151. (1) The commission may create and establish a state plan for approach protection areas surrounding airports, landing fields, and other aeronautical facilities, by establishing standards of height and use to which any structure or obstruction, whether natural or human-made, may be erected or maintained within a distance from the boundaries of any airport, landing field or other aeronautical facility necessary for public safety.

(2) The airport manager of an airport licensed under this act shall promptly file all of the following with any city, village, township, or county that is located in whole or in part within the approach protection area:

(a) A copy of the airport approach plan for the airport, if any.

(b) A copy of the airport layout plan for the airport, if any.

(c) A registration of the airport's name and mailing address for the purposes of receipt of notice under section 4 of the city and village zoning act, 1921 PA 207, MCL 125.584, section 9 of the county zoning act, 1943 PA 183, MCL 125.209, or section 9 of the township zoning act, 1943 PA 184, MCL 125.279.

(3) The filing under subsection (2) shall be made with the zoning board, zoning commission, or other commission appointed to recommend zoning regulations or, if there is no body exercising the powers of such a commission, with the legislative body of the city, village, township, or county.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.151;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2000, Act 382, Imd. Eff. Jan. 2, 2001;—Am. 2002, Act 35, Eff. May 15, 2002.

259.152 Determination of hazard; notice to owner.

Sec. 152. Determination of hazard, notice to owner. In the interests of safety to airmen, aircraft, and persons and property upon the lands and waters of this state, upon the commission's determination that any obstruction within the approach protection area is a hazard, the commission shall notify the owner, or the airport body designated by the owner, or by any such owners acting jointly, that such determination of hazard has been made, and issue an order for the abatement of the hazard.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.152.

259.153 Order to abate hazard; failure to comply.

Sec. 153. Upon receipt of an order to abate a hazard from the commission, the owner of any public-owned airport, landing field, or other aeronautical facility shall immediately institute proper proceedings under the applicable effective laws of this state or ordinances of the political subdivisions owning the facilities, to effectuate the order. Failure upon the part of any owner of a public-owned airport, landing field, or other aeronautical facility to abate the hazard as determined by the commission in its order, shall make the owner liable to either restrictive use of, or the entire closing of, the airport, landing field, or other aeronautical facility.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.153;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.154 Execution of order to abate hazard; privately owned airport; failure to comply.

Sec. 154. Execution of order to abate hazard; failure to comply; private owners of public airports. Where an airport is privately-owned but its facilities are open to the public, and the airport, landing field or other aeronautical facility is determined to be public in character and use, the order to abate hazards of the commission shall be served upon both the owner and the political subdivision having jurisdiction in the area upon which the airport, landing field or other aeronautical facility is established. Both the owner and such political subdivision shall immediately begin proceedings under the appropriate effective laws of this state or ordinances of the political subdivision to effectuate the abatement of the hazard. Failure to comply shall make the owner liable to either restrictive use of, or the entire closing of, such facility, in the interest of the safety, health and welfare of the public, and the safe use of aeronautical facilities in this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.154.

259.155 Hazards surrounding state-owned airport, field, and facility.

Sec. 155. Whenever any obstructions of whatever nature shall be determined to be a hazard adjacent to or surrounding a state-owned airport, landing field, or other aeronautical facility, the commission shall notify the state administrative board of the hazard with an order for its abatement, and the state administrative board may institute proper proceedings in the name of and for the state of Michigan for the abatement of the hazard. Failure to effectively comply with an order shall subject the airport, landing field, or other aeronautical facility to either restrictive use of the airport, landing field, or other aeronautical facility, or its entire closing, in the interest of the safety, health, and welfare of the public, and the safe use of aeronautical facilities in this

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state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.155;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.156 Encroachments upon approach protection areas declared public nuisance.

Sec. 156. Encroachments upon approach protection areas as public nuisances. It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt, or created any object, or plant, cause to be planted or permit to grow higher any tree or trees or other vegetation, which shall encroach upon any approach protection area determined by the Michigan aeronautics commission in the state plan for approach protection areas. Any such encroachment is hereby declared to be a public nuisance and may be abated in the manner prescribed by law for the abatement of public nuisances.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.156.

CHAPTER IX

PENAL PROVISIONS—JURISDICTION OF CRIMES, TORTS, CONTRACTS.

259.176 Violation as state civil infraction; fine.

Sec. 176. Except as otherwise provided in this act, a person who violates this act is responsible for a state civil infraction as provided for in chapter 88 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.8801 to 600.8835 of the Michigan Compiled Laws, and is subject to a civil fine of not more than $500.00.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.176;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 6 of Act 182 of 1927, being CL 1929, § 4834; section 5 of Act 63 of 1931.

259.176a Suspension or revocation of license, certificate, or letter of authority; grounds.

Sec. 176a. The commission or its authorized representative, after consideration of the issues of fact and after hearing held, may suspend or permanently revoke, or both, a license, certificate, or letter of authority of any person who does any of the following:

(a) Knowingly forges, counterfeits, alters, or falsely makes a certificate authorized to be issued under this act or the rules promulgated under this act, or uses or attempts to use any such certificate.

(b) Knowingly makes a false statement in an application for a license or registration or in a report required by the commission.

(c) Violates a condition or provision of a license or letter of authority issued by the commission.

(d) Fails to render reports requested by, and within the time limits prescribed by, the commission.

(e) Fails to maintain the minimum standards determined by the commission.

(f) Commits an act on the part of a flight school by a flight instructor or representative that is contrary to public safety or to the proper training of students enrolled in a flight school.

(g) Fails to comply, in whole or part, with any rule promulgated by the commission.

(h) Fails to abate a hazard certified by the commission.

History: Add. 1996, Act 370, Imd. Eff. July 3, 1996.

259.177 Jurisdiction of crimes and torts.

Sec. 177. Jurisdiction of crimes and torts. All crimes, torts and other wrongs committed by or against an airman or passenger while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft while in flight over this state constitutes a tort crime or other wrong by or against the owner of such aircraft, shall be determined by the laws of this state.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.177.

Former law: See section 7 of Act 224 of 1923, being CL 1929, § 4817.

259.178 Contracts made during flight; effect.

Sec. 178. Contracts made during flight. All contractual and other legal relations entered into by airmen or passengers while in flight over this state shall have the same effect as if entered into on the land or water beneath.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.178.

Former law: See section 8 of Act 224 of 1923, being CL 1929, § 4818.

259.179 Unlawful methods of hunting; violation as state civil infraction; penalty.

Sec. 179. (1) A person shall not hunt, pursue, or kill any wild waterfowl or other birds or animals by any

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means whatever during the time the person is upon any kind of aircraft.

(2) A person who violates this section is subject to a state civil infraction as provided for in section 176, and is prohibited from obtaining or possessing a hunting license for a period of 1 year.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.179;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.180 Reckless operation of aircraft as misdemeanor; penalty.

Sec. 180. A person who operates any aircraft within the airspace over, above, and upon the lands and waters of the state, carelessly and heedlessly in willful or wanton disregard of the rights or safety of others, or without due caution and circumspection and in a manner so as to endanger or be likely to endanger any person or property, is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than $500.00, or community service of not more than 30 days, or any combination of these penalties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.180;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.180a Liability for injury occasioned by negligent operation of aircraft.

Sec. 180a. (1) Except as otherwise provided in subsection (2), the owner or operator or the person or organization responsible for the maintenance or use of an aircraft shall be liable for any injury occasioned by the negligent operation of the aircraft, whether the negligence consists of a violation of statute, or in the failure to observe ordinary care in the operation of the aircraft, as the rules of the common law require.

(2) The owner of an aircraft shall not be liable for an injury occasioned by the negligent operation of the aircraft, as described in subsection (1), unless the aircraft was being operated with the owner's express or implied consent or knowledge at the time the injury occurred.

(3) “Person or organization responsible for the maintenance or use of an aircraft” does not include a mechanic who is an independent contractor and who has performed work on or furnished materials, supplies, or equipment for an aircraft, or any employee of the mechanic.

History: Add. 1958, Act 114, Eff. Sept. 13, 1958;—Am. 1988, Act 427, Eff. Mar. 30, 1989.

Constitutionality: The aviation guest passenger exception is unconstitutional. Longnecker v Noordyk-Mooney, Inc, 394 Mich 696; 232 NW2d 654 (1975).

259.181 Tampering with markings of airports, landing fields, and aeronautical facilities; violation as misdemeanor; penalty.

Sec. 181. A person shall not tamper with, alter, destroy, remove, carry away, or cause to be carried away any objects used for the marking of licensed airports, landing fields, or other aeronautical facilities, or in any way change their position or location, except by the direction of the proper authorities charged with the maintenance and operation of the facilities. A person who violates this section or has illegally in his or her possession any objects or devices used for marking of airports, landing fields, or other aeronautical facilities is guilty of a misdemeanor punishable by imprisonment for not more than 90 days, a fine of not more than $500.00, or community service of not more than 30 days, or any combination of these penalties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.181;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.182 Allowing domestic animals or fowl on airport facility.

Sec. 182. The owner or keeper of any domestic animal or fowl shall not allow the domestic animal or fowl to run at large and enter or be upon any airport, landing field, or other aeronautical facility.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.182;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.183 Conduct constituting felony; penalty.

Sec. 183. A person who willfully and without authority takes possession of or uses an aircraft, or unlawfully removes or takes any component parts of an aircraft, and a person who assists in, or is a party to taking illegal possession of or use of an aircraft or component parts belonging to another, and a person who willfully and unlawfully makes an aircraft unsafe, and a person who assists in, or is a party to making an aircraft unsafe, is guilty of a felony punishable by imprisonment for not more than 5 years, a fine of not more than $2,000.00, or community service of not more than 6 months, or any combination of these penalties.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.183;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

259.184 Conduct requiring authorization by airport management; violation as misdemeanor; penalty.

Sec. 184. (1) A person shall not trespass upon the area within the boundary of an approved or licensed airport, landing field, or other aeronautical facility, or operate or cause to be operated a vehicle or device, or

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conduct an activity upon or across a licensed airport, landing field, or other aeronautical facility, unless that operation or activity is authorized by the airport management.

(2) A person who violates this section is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than $1,000.00, or both.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.184;—Am. 1976, Act 191, Imd. Eff. July 8, 1976;—Am. 1996, Act 370, Imd. Eff. July 3, 1996;—Am. 2006, Act 454, Eff. Mar. 30, 2007.

259.185 Operation of aircraft while under influence of intoxicating liquor or controlled substance.

Sec. 185. (1) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who is under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state. A peace officer may, without a warrant, arrest a person when the peace officer has reasonable cause to believe that the person was, at the time of an accident, the operator or crew member of an aircraft involved in the accident and was operating or acting or attempting to act as a crew member of the aircraft over or upon the lands or waters of this state while under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(2) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who has an alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state.

(3) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, shall not operate an aircraft or act or attempt to act as a crew member of an aircraft over or upon the lands or waters of this state within 8 hours after the consumption of an intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(4) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who operates an aircraft or acts as a crew member of an aircraft in violation of subsection (1), (2), or (3) and by the operation of that aircraft or by serving as a crew member of that aircraft causes the death of another person is guilty of a felony, punishable by imprisonment for not more than 15 years or a fine of not less than $2,500.00 or more than $10,000.00, or both.

(5) A person, whether or not the person is the holder of a certificate of competency issued pursuant to section 83, who operates an aircraft or acts as a crew member of an aircraft in violation of subsection (1), (2), or (3) and by the operation of that aircraft or by serving as a crew member of that aircraft causes a serious impairment of a body function of another person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not less than $1,000.00 or more than $5,000.00, or both. As used in this subsection, “serious impairment of a body function” includes, but is not limited to, 1 or more of the following:

(a) Loss of a limb or use of a limb.

(b) Loss of a hand, foot, finger, or thumb or use of a hand, foot, finger, or thumb.

(c) Loss of an eye or ear or use of an eye or ear.

(d) Loss or substantial impairment of a bodily function.

(e) Serious visible disfigurement.

(f) A comatose state that lasts for more than 3 days.

(g) Measurable brain damage or mental impairment.

(h) A skull fracture or other serious bone fracture.

(i) Subdural hemorrhage or subdural hematoma.

(6) Except as otherwise provided, a person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than $100.00 or more than $500.00, or both, together with costs of the prosecution.

(7) A person who violates this section or a local ordinance substantially corresponding to subsection (1), (2), or (3) within 7 years of a prior conviction may be sentenced to imprisonment for not more than 1 year, or a fine of not less than $200.00 or more than $1,000.00, or both, together with costs of the prosecution. For

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purposes of this section, “prior conviction” means a conviction under this section, a local ordinance substantially corresponding to subsection (1), (2), or (3) or a law of another state substantially corresponding to subsection (1), (2), (3), (4), or (5).

(8) A person who violates this section or a local ordinance substantially corresponding to subsection (1), (2), or (3) within 10 years of 2 or more prior convictions, as defined in subsection (7), is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not less than $500.00 or more than $5,000.00, or both, together with costs of the prosecution.

(9) As part of the sentence for a violation of this section or a local ordinance substantially corresponding to subsection (1), (2), or (3), the court may order the person to perform service to the community, as designated by the court, without compensation, for a period not to exceed 45 days. The person shall reimburse the state or appropriate local unit of government for the cost of insurance incurred by the state or local unit of government as a result of the person's activities under this subsection.

(10) Before imposing sentence for a violation of this section or a local ordinance substantially corresponding to subsection (1), (2), or (3), the court shall order the person to undergo screening and assessment by a person or agency designated by the office of substance abuse services, to determine whether the person is likely to benefit from rehabilitative services, including alcohol or drug education and alcohol or drug treatment programs. As part of the sentence, the court may order the person to participate in and successfully complete 1 or more appropriate rehabilitative programs. The person shall pay for the costs of the screening, assessment, and rehabilitative services.

(11) Before accepting a plea of guilty or nolo contendere under this section, the court shall advise the accused of the statutory consequences possible as the result of a plea of guilty or nolo contendere in respect to the penalty imposed for violation of this section.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.186 Prohibited conduct by owner of aircraft or person in charge or in control of aircraft.

Sec. 186. The owner of an aircraft or the person in charge or in control of an aircraft shall not knowingly permit the aircraft to be operated over or upon the lands or waters of this state by a person who is under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or who consumed an intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, within 8 hours before operating the aircraft or acting or attempting to act as a crew member of an aircraft. A person who violates this section is guilty of a misdemeanor, punishable by imprisonment for not more than 93 days, or a fine of not less than $100.00 or more than $500.00, or both, together with costs of the prosecution.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.187 Chemical test generally.

Sec. 187. (1) The amount of alcohol or the presence of a controlled substance, or both, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in the operator's blood at the time alleged as shown by chemical analysis of that person's blood, urine, or breath is admissible into evidence in a criminal prosecution for a violation of section 185, 186, or of a local ordinance substantially corresponding to section 185(1), (2), or (3), or section 186.

(2) If a test is given, the results of the test shall be made available to the person charged or the person's attorney upon written request to the prosecution, with a copy of the request filed with the court. The prosecution shall furnish the report at least 2 days before the day of the trial and the results shall be offered as evidence by the prosecution in a criminal proceeding. Failure to fully comply with the request shall bar the admission of the results into evidence by the prosecution.

(3) Except in a prosecution relating solely to a violation of section 185(2), it shall be presumed that the operator was under the influence of intoxicating liquor if the person's blood at the time contained 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine at the time of testing as shown by chemical analysis of that person's blood, urine, or breath.

(4) A sample or specimen of urine or breath shall be taken and collected in a reasonable manner. Only a licensed physician, or an individual operating under the delegation of a licensed physician under section 16215 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.16215 of the Michigan Compiled Laws, and qualified to withdraw blood acting in a medical environment, at the request of a peace officer, may withdraw blood for the purpose of determining the amount of alcohol or the presence of

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a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in the person's blood, as provided in this act. Liability for a crime or civil damages predicated on the act of withdrawing blood and related procedures shall not attach to a licensed physician or individual operating under the delegation of a licensed physician who withdraws or analyzes blood or assists in the withdrawal or analysis in accordance with this act unless the withdrawal or an analysis is performed in a negligent manner.

(5) The tests shall be administered at the request of a peace officer having reasonable grounds to believe the person has committed a crime described in subsection (1). A person who takes a chemical test administered at the request of a peace officer, as provided in this section, shall be given a reasonable opportunity to have a person of his or her own choosing administer 1 of the chemical tests described in this section within a reasonable time after his or her detention, and the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant. If the person charged is administered a chemical test by a person of his or her own choosing, the person charged shall be responsible for obtaining a chemical analysis of the test sample. The person charged shall be informed that he or she has the right to demand that a person of his or her own choosing administer 1 of the tests provided for in subsection (1), that the results of the test shall be admissible and shall be considered with other competent evidence in determining the innocence or guilt of the defendant, and that the person charged shall be responsible for obtaining a chemical analysis of the test sample.

(6) The person charged shall be advised of the following:

(a) That if the person refuses the lawful request of a peace officer to take a test described in this section, a test shall not be given without a court order.

(b) That a written report will be forwarded by the peace officer to the federal aviation district office having jurisdiction over the county in which the person refused to submit to the test.

(c) That the person may be subject to sanctions as provided under federal law and regulations promulgated pursuant to federal law.

(7) This section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the person was under the influence of intoxicating liquor or a controlled substance, or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or a combination of intoxicating liquor and a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, or whether the person had an alcohol content of 0.02 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine, or whether the person acted or attempted to act as a crew member of an aircraft or operated an aircraft within 8 hours after the consumption of an intoxicating liquor or a controlled substance or any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

(8) If after an accident the operator of an aircraft or a crew member of an aircraft involved in the accident is transported to a medical facility and a sample of the person's blood is withdrawn at that time for the purpose of medical treatment, the result of a chemical analysis of that sample shall be admissible in a criminal prosecution for a crime described in subsection (1) to show the amount of alcohol or the presence of a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in the person's blood at the time alleged, regardless of whether the person had been offered or had refused a chemical test. The medical facility or person performing the chemical analysis shall disclose the results of the analysis to a prosecuting attorney who requests the results for use in a criminal prosecution as provided in this subsection. A medical facility or person disclosing information in compliance with this subsection shall not be civilly or criminally liable for making the disclosure.

(9) If after an accident the operator of an aircraft or a crew member of an aircraft involved in the accident is deceased, a sample of the decedent's blood shall be withdrawn in a manner directed by the medical examiner for the purpose of determining blood alcohol content or presence of a controlled substance, or both, or the presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1985, Act 185, Imd. Eff. Dec. 20, 1985;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.188 Chemical test; consent; administration.

Sec. 188. (1) A person who operates or who is a crew member of an aircraft over or upon the lands or waters of this state is considered to have given consent to chemical tests of his or her blood, breath, or urine for the purpose of determining the amount of alcohol or the presence of a controlled substance, or both, or the

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presence of any drug or combination of drugs that renders a person incapable of safely operating an aircraft or acting as a crew member of an aircraft, in his or her blood if he person is arrested for a violation of section 185 or a local ordinance substantially corresponding to section 185(1), (2), or (3).

(2) A person who is afflicted with hemophilia, diabetes, or a condition requiring the use of an anticoagulant under the direction of a physician shall not be considered to have given consent to the withdrawal of blood.

(3) The tests shall be administered as provided in section 187.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.189 Chemical test; refusal; report.

Sec. 189. If a person refuses the lawful request of a peace officer to submit to a chemical test offered pursuant to section 187, a test shall not be given without a court order. A written report shall be forwarded by the peace officer to the federal aviation commission's general aviation district office having jurisdiction over the county in which the person refused to submit to the test. The report shall state that the officer had reasonable grounds to believe that the person committed a crime described in section 188, and that the person refused to submit to the test upon the request of the peace officer and was advised of the consequences of the refusal. The form of the report shall be prescribed and furnished by the Michigan aeronautics commission.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986;—Am. 1995, Act 62, Eff. Oct. 1, 1995.

259.190 Rules for administration of chemical tests.

Sec. 190. Within 180 days after the effective date of this section, the department of state police shall present for public hearing pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, being sections 24.201 to 24.328 of the Michigan Compiled Laws, uniform rules for the administration of chemical tests for the purposes of this act.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986.

259.191 Report of conviction.

Sec. 191. If a person is convicted of a violation of section 185 or of a local ordinance substantially corresponding to section 185(1), (2), or (3), a report of the conviction shall be forwarded by the court in which the conviction occurred to the federal aviation commission's general aviation district office having jurisdiction over the county in which the violation occurred. The form of the report shall be prescribed and furnished by the Michigan aeronautics commission.

History: Add. 1985, Act 81, Eff. Mar. 31, 1986.

CHAPTER X
MISCELLANEOUS PROVISIONS.

259.201 Aeronautics commission; orders.

Sec. 201. If the commission rejects an application for permission to operate an aeronautical facility, flight school, or flying club, or if the commission rejects an application for permission to act as an airport manager, or if the commission issues an order requiring certain things to be done, the commission shall set forth its reasons and shall state the requirements to be met before approval is given or the order modified or changed. If the commission considers it necessary, the commission may order restrictions on the use of or on the closing of any aeronautical facility, flight school, or flying club, or may require an airport manager to cease operations, until all of the requirements determined by the commission have been complied with.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.201;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 4 of Act 177 of 1929, being CL 1929, § 4804; Act 53 of 1931.

259.202 Aeronautics commission; orders; appeal.

Sec. 202. A person who is aggrieved by an order of the commission may, within 10 days after the issuance of the order, appeal to, or have the action of the commission reviewed by, the circuit court of Ingham county, at Lansing, Michigan, in the manner provided for the review of the orders of other administrative bodies of this state, and rules of law applicable to such appeals or reviews shall apply.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.202;—Am. 1996, Act 370, Imd. Eff. July 3, 1996.

Former law: See section 7 of Act 177 of 1929, being CL 1929, § 4807.

Administrative rules: R 259.201 et seq.; R 259.801 et seq.; R 259.1101 et seq. of the Michigan Administrative Code.

259.203 Fuel privilege tax; imposition; collection and remittance; refund; purchase of fuel by

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unregistered person; imposition of tax on aviation fuel.

Sec. 203. (1) A privilege tax at the rate of 3 cents per gallon is imposed on all fuel sold or used in producing or generating power for propelling aircraft using the aeronautical facilities on the lands and waters of this state. The tax must be collected and remitted in the same manner and method and at the same time as prescribed by law for the collection of the gasoline tax imposed on all gasoline used in producing or generating power for propelling motor vehicles used on the public highways of this state under the motor fuel tax act, 2000 PA 403, MCL 207.1001 to 207.1170. For the tax imposed under this subsection, a refund of 1-1/2 cents per gallon must be made to airline operators who show proof within 6 months after purchase that they are operating interstate on scheduled operations.

(2) If a person required to register with the department of treasury under section 94 of the motor fuel tax act, 2000 PA 403, MCL 207.1094, is not registered, the person shall not purchase fuel under this act at the rate imposed by subsection (1), but shall pay the applicable rate imposed on motor fuel by section 8 of the motor fuel tax act, 2000 PA 403, MCL 207.1008.

(3) The tax imposed under subsection (1) is not imposed on aviation fuel if the purchaser has certified in writing to the seller that the aviation fuel is being purchased solely for the purpose of formulating leaded racing fuel as that term is defined in section 4 of the motor fuel tax act, 2000 PA 403, MCL 207.1004. Aviation fuel qualifying under this subsection must be identified on shipping papers and invoices as "aviation fuel exempt for LRF".

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.203;—Am. 1957, Act 123, Eff. Sept. 27, 1957;—Am. 2000, Act 404, Imd. Eff. Jan. 8, 2001;—Am. 2008, Act 25, Eff. May 12, 2008;—Am. 2015, Act 260, Eff. Mar. 22, 2016.

Former law: See section 2 of Act 160 of 1931.

259.204 Aircraft fuels; storing, dispensing, and selling; rules and regulations; violation as misdemeanor.

Sec. 204. Every person dealing at wholesale or retail in aircraft fuels shall acquire and dispense the fuels in accordance with the laws of this state and the rules and regulations of the bureau of fire services created in section 1b of the fire prevention code, 1941 PA 207, MCL 29.1b, or the department of environmental quality pertaining to storing, dispensing, and selling volatile fuels. Violation of this section is a misdemeanor.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.204;—Am. 2006, Act 193, Imd. Eff. June 19, 2006.

Compiler's note: For transfer of powers and duties of state fire marshal to department of labor and economic growth, bureau of construction codes and fire safety, by type II transfer, see E.R.O. No. 2003-1, compiled at MCL 445.2011.

259.205 Garage keeper lien.

Sec. 205. A garage keeper who in pursuance of any contract, expressed or implied, written or unwritten, furnishes any labor, material, or supplies has a lien upon any aircraft stored, maintained, supplied, or repaired by him or her for the proper charges due for the storage, maintenance, keeping, and repair of the aircraft and for gasoline or aviation fuel, electric current, or other accessories and supplies furnished or expenses bestowed or labor performed on the aircraft at the request or with the consent of the registered owner of the aircraft, whether the owner is a conditional sale vendee or a mortgagor remaining in possession or otherwise. The garage keeper may detain the aircraft at any time it is in his or her possession within 90 days after performing the last labor or furnishing the last supplies for which the lien is claimed. The lien, to the extent it is for labor and material furnished in making repairs upon an aircraft, has priority over all other liens upon the aircraft.

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.205;—Am. 2002, Act 35, Eff. May 15, 2002.

259.205a Garage keeper lien; priority.

Sec. 205a. (1) If the vehicle subject to a lien under section 1 is an aircraft, the garage keeper's lien shall take priority over any prior lien unless the prior lienholder pays to the garage keeper the amount of the lien attributable to labor and materials, or the following applicable amount, whichever is less:

(a) $5,000.00 in the case of an aircraft that has a single engine of less than 150 horsepower.

(b) $10,000.00 in the case of an aircraft that has a single engine of 150 or more horsepower.

(c) $20,000.00 in the case of a multiengine, nonturbocharged aircraft, or an aircraft that is rated at less than 6,000 pounds maximum certificated gross takeoff weight.

(d) $40,000.00 in the case of a multiengine turbocharged aircraft, or an aircraft that is rated at 6,000 pounds or more maximum certificated gross takeoff weight.

(e) $100,000.00 in the case of a turboprop or turbojet aircraft.

(2) A payment made to a garage keeper under subsection (1) shall be added to the amount of the lien of the prior lienholder who made the payment, and shall be subtracted from the amount of the garage keeper's lien.

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(3) The garage keeper's lien established in this act is the sole lien available to a garage keeper as to an aircraft, and the common law garage keeper's lien as to an aircraft is abolished.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.205b Garage keeper lien; filing of lien claim; sale; notice; purchase; disposition of surplus.

Sec. 205b. (1) If the charges described in section 1 for an aircraft are not paid when due, the garage keeper may, within 60 days after the last work or service is performed, file with the federal aviation administration aircraft registry, a claim of lien, duly acknowledged, stating the name and address of the lien claimant, the amount due, and describing the aircraft by make, model, serial number, and registration number. If charges described in section 1 for an aircraft are not paid within 60 days after a claim of lien together with an itemized statement of the account is delivered to the registered owner of the aircraft by personal service or service by registered or certified mail addressed to the last known address of the registered owner of the aircraft, and a record of the lien described above has been filed with the federal aviation administration aircraft registry, the garage keeper may sell the aircraft at public auction. The sale shall be held not less than 20 days or more than 60 days after the expiration of the 60-day period.

(2) Not later than 20 days before any sale is held, the garage keeper shall give written notice of the time and place of the sale to the federal aviation administration aircraft registry, to any lienholder as shown by the records of the federal aviation administration aircraft registry, and to the registered owner of the aircraft. Notice to the federal aviation administration aircraft registry and the lienholders shall be given by first-class mail, addressed to the federal aviation administration aircraft registry, and to the address of the lienholders. Notice to the registered owner of the aircraft shall be given personally or by certified mail, directly to the last known address of the registered owner. Notice of the time and place of the sale also shall be posted in a conspicuous place at the place of the sale and at every airport within a 25-mile radius of the place of the sale.

(3) The garage keeper may bid for and purchase the aircraft at the sale. If the garage keeper directly or indirectly purchases the aircraft at the sale, the proceeds of the sale shall be determined to be either the amount paid by the garage keeper or the fair cash market value of the aircraft as determined by a neutral aircraft appraiser immediately before the time of sale, whichever is the greater.

(4) Any surplus received at the sale, after all charges of the garage keeper have been paid and satisfied and all costs of sale have been deducted, shall be returned to any lienholder who has a properly recorded security interest in the aircraft or part of the aircraft before distribution of the proceeds of the sale is complete, and the balance shall be returned to the registered owner of the aircraft.

History: Add. 2002, Act 35, Eff. May 15, 2002.

259.206 Operation of aircraft by lessee; notice of insurance coverage; violation; remedies; “lessee” defined.

Sec. 206. (1) A person who in the course of business rents an aircraft to a lessee, at the time of entering into the rental agreement, shall notify the lessee in writing of the extent the lessor's insurance will cover the operation of the aircraft by the lessee. If a person violates this section, the lessee may bring an action for either of the following:

(a) To void the agreement.

(b) To recover damages in the amount of $500.00, or actual damages, whichever is greater.

(2) The remedies provided in subsection (1) shall be in addition to any other remedies provided by law, and shall not limit a person's right to use any other cause of action available under law.

(3) As used in this section, “lessee” means a person renting an aircraft from another, regardless of the form of the rental agreement.

History: Add. 1988, Act 96, Eff. July 1, 1988.

Compiler's note: Former section 206 of this act was not compiled.

259.208 Aeronautics code of the state of Michigan; short title.

Sec. 208. This act shall be known and may be cited as “Aeronautics code of the state of Michigan.”

History: 1945, Act 327, Imd. Eff. May 28, 1945;—CL 1948, 259.208.

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