

## CHAPTER 259. AVIATION

### 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.

(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 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.

(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.

**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 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 Repealed. 2018, Act 297, Imd. Eff. June 29, 2018.**

**Compiler's note:** The repealed section pertained to aeronautics commission biennial report to governor.

### **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 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 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.

(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 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 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.

(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.

(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 the individual's duties or while going to or returning from the individual's duties.

(c) A member of the United States Army, Air Force, Navy, Marine Corps, Space Force, 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.

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

(f) A court officer while engaged in the court officer's duties as authorized by a court.

(g) An airline or airport employee as authorized by the employee's 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 a portion of an airport defined in an airport security program approved by the Transportation Security Administration under 49 CFR 1542.101 that provides passengers access to boarding aircraft and to which the access generally is controlled by the Transportation Security Administration, or by an aircraft operator under 49 CFR part 1544 or a foreign air carrier under 49 CFR part 1546, through the screening of individuals and property.

**History:** Add. 2001, Act 225, Eff. Apr. 1, 2002;—Am. 2023, Act 219, Eff. Feb. 13, 2024.

### **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 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 \$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 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.

**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.

#### **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 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 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 FACILITIES 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, 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 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 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 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.

(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 than 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 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 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 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 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 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 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 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 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.

(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.

**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.**

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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, 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.

#### **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 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 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 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, 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 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 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.

(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 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.

(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 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 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 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 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.

### **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 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 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 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 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 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 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 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.

(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.

**AIRPORT DEVELOPMENT**  
**Act 107 of 1969**

AN ACT to authorize the department of state highways and transportation, through the aeronautics commission, to make loans to counties, cities, townships, and incorporated villages, or any combination thereof, and to establish a revolving fund for the purpose of airport development; and to authorize the commission to prescribe rules for granting loans and repayment of loans.

**History:** 1969, Act 107, Imd. Eff. July 24, 1969;—Am. 1975, Act 192, Imd. Eff. Aug. 8, 1975.

*The People of the State of Michigan enact:*

**259.251 Continuing airport loan program; creation; administration; purpose.**

Sec. 1. A continuing airport loan program is created to be administered by the department of state highways and transportation through the aeronautics commission for the purpose of making loans to counties, cities, townships, and incorporated villages, or any combination thereof to assist in the construction and improvement of publicly owned airports and landing fields.

**History:** 1969, Act 107, Imd. Eff. July 24, 1969;—Am. 1975, Act 192, Imd. Eff. Aug. 8, 1975.

**259.252 Revolving loan account; appropriation, administration.**

Sec. 2. The sum of \$250,000.00 is appropriated from the state aeronautics fund to be administered by the aeronautics commission for the establishment of a revolving loan account to implement the provisions of this act.

**History:** 1969, Act 107, Imd. Eff. July 24, 1969.

**259.253 Loans; rules; limitation; repayment period; interest rate; collection and disposition of repayments and interest.**

Sec. 3. The commission shall promulgate rules pursuant to Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws, for making loans pursuant to section 1 not to exceed 90% of the local share of the project cost, or \$100,000.00, whichever is the lesser. The loan shall be repaid within 10 years and shall bear an annual interest rate as established by the state treasurer in the year of the loan. The annual interest rate shall not exceed 6%. The repayments shall be collected by the commission and credited to the revolving loan account established in section 2. The interest shall be collected annually by the commission and credited to the state aeronautics fund.

**History:** 1969, Act 107, Imd. Eff. July 24, 1969;—Am. 1975, Act 192, Imd. Eff. Aug. 8, 1975;—Am. 1978, Act 134, Imd. Eff. May 4, 1978;—Am. 1980, Act 45, Imd. Eff. Mar. 19, 1980.

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

**259.254 Aeronautics commission; report to legislature, time, contents.**

Sec. 4. At the end of each fiscal year, the commission shall submit to the legislature a report showing total funds available for loans, itemization of loans made, and repayment of loans and interest received.

**History:** 1969, Act 107, Imd. Eff. July 24, 1969.

**259.255 Supplemental construction of act.**

Sec. 5. This act shall be construed as supplemental to the laws of this state relative to improvement of airports.

**History:** 1969, Act 107, Imd. Eff. July 24, 1969.

**UNMANNED AIRCRAFT SYSTEMS ACT**  
**Act 436 of 2016**

AN ACT to provide for the operation and regulation of unmanned aircraft systems in this state; to create the unmanned aircraft systems task force; to provide for the powers and duties of state and local governmental officers and entities; and to prohibit conduct related to the operation of unmanned aircraft systems and prescribe penalties.

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

*The People of the State of Michigan enact:*

**259.301 Short title.**

Sec. 1. This act shall be known and may be cited as the "unmanned aircraft systems act".

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

**259.303 Definitions.**

Sec. 3. As used in this act:

(a) "Commission" means the Michigan aeronautics commission created by section 26 of the aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.26.

(b) "Department" means, unless expressly provided otherwise, the state transportation department.

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

(d) "Political subdivision" means a county, city, village, township, or other political subdivision, public corporation, authority, or district in this state.

(e) "Unmanned aircraft" means an aircraft flown by a remote pilot via a ground control system, or autonomously through use of an on-board computer, communication links, and any additional equipment that is necessary for the unmanned aircraft to operate safely.

(f) "Unmanned aircraft system" means an unmanned aircraft and all of the associated support equipment, control station, data links, telemetry, communications, navigation equipment, and other equipment necessary to operate the unmanned aircraft.

**History:** 2016, Act 436, Eff. Apr. 4, 2017;—Am. 2018, Act 446, Eff. Mar. 29, 2019.

**259.305 Political subdivision; ordinance, regulation, or resolution limitations; powers; federal preemption; conflict with other sections of law; petition for fixed site facility designation; applicability.**

Sec. 5. (1) Except as expressly authorized by statute, a political subdivision shall not enact or enforce an ordinance or resolution that regulates the ownership or operation of unmanned aircraft or otherwise engage in the regulation of the ownership or operation of unmanned aircraft.

(2) Subject to subsection (6), a political subdivision that prohibits by ordinance, regulation, or resolution the operation of nonemergency motor vehicles in the political subdivision may enact and enforce an ordinance, regulation, or resolution that is necessary and proper to prohibit the knowing and intentional operation of an unmanned aircraft in a manner that interferes with the safe use of a horse in a commercial activity, including, but not limited to, the use of horse-drawn carriages, wagons, or carts or horse-riding activities. An ordinance, regulation, or resolution adopted under this subsection must allow for the operation of an unmanned aircraft for any of the following purposes if that operation does not result in a knowing and intentional interference with the safe use of a horse in a commercial activity as described in this subsection and is in compliance with the regulations, authorizations, or exemptions of the United States Federal Aviation Administration:

(a) Newsgathering by a Federal Communications Commission licensee.

(b) Insurance purposes by an insurer or insurance adjuster.

(c) Maintenance performed by a public utility or an independent transmission company.

(d) Law enforcement.

(3) This act does not prohibit a political subdivision from promulgating rules, regulations, and ordinances for the use of unmanned aircraft systems by the political subdivision within the boundaries of the political subdivision.

(4) This act does not affect federal preemption of state law.

(5) If this act conflicts with section 40111c or 40112 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.40111c and 324.40112, those sections control.

(6) A political subdivision that prohibits the operation of nonemergency motor vehicles shall petition the United States Federal Aviation Administration for designation as a fixed site facility under section 2209 of the FAA extension, safety, and security act of 2016, Public Law 114-190, not later than 12 months after the effective date of the rules and regulations promulgated by the United States Federal Aviation Administration that govern the processing of petitions for designation as a fixed site facility. Subsection (2) does not apply after the effective date of a fixed site designation issued by the United States Federal Aviation Administration under section 2209 of the FAA extension, safety, and security act of 2016, Public Law 114-190, that applies to a political subdivision that prohibits the operation of nonemergency motor vehicles.

(7) As used in this section:

(a) "Independent transmission company" means a person, partnership, corporation, association, or other legal entity, or its successors or assigns, engaged in this state in the transmission of electricity using facilities it owns that have been divested to the entity by an electric utility that was engaged in the generation, transmission, and distribution of electricity in this state on December 31, 2000, and is independent of an electric utility or an affiliate of the utility, generating or distributing electricity to retail customers in this state.

(b) "Public utility" means a company or other entity providing steam, heat, electric, power, gas, water, wastewater, telecommunications, video, cable, or internet access services.

**History:** 2016, Act 436, Eff. Apr. 4, 2017;—Am. 2019, Act 32, Imd. Eff. June 25, 2019.

**259.307 Prohibited use of an unmanned aircraft system; exceptions; permit, license, order, or other decree; notice of state-owned or operated; consent; information exempt from freedom of information act; applicability.**

Sec. 7. (1) Except as otherwise provided in subsection (6), a department, agency, board, or commission of this state or a person under a contract with or acting at the direction or on behalf of a department, agency, board, or commission of this state shall not use an unmanned aircraft system to surveil, inspect, or gather evidence or collect information about a facility that is subject to a permit, license, or order issued by or a decree or other requirement governed by that department, agency, board, or commission unless any of the following apply:

(a) The owner or operator of the facility has given express consent for the use of an unmanned aircraft system for the purposes described in this subsection in a particular instance.

(b) The department, agency, board, commission, or person is acting under a valid search warrant and the use of the unmanned aircraft system is strictly limited to the subject matter and scope of that warrant.

(c) The department, agency, board, or commission has reason to believe that there may be an imminent threat to public health, safety, property, or the natural resources of the state from the facility and the use of the unmanned aircraft system is strictly limited to the investigation of that imminent threat.

(d) The department, agency, board, commission, or person is inspecting a roadway, highway, airport, airport approach corridor, port, or similar infrastructure.

(2) An unmanned aircraft system that is used as described in subsection (1) must be clearly marked as a state-owned or operated aircraft unless it is an unmanned aircraft system operated in accordance with subsection (3).

(3) For any use that is governed by subsection (1)(a), both of the following apply:

(a) Subject to subdivision (b), the consent of the owner or operator may be conditioned on the use of an unmanned aircraft system that is owned and operated by that owner or operator under, and in compliance with, Federal Aviation Administration regulations, authorizations, or exemptions. The department, agency, board, commission, or person under contract with or acting at the direction or on behalf of the department, agency, board, or commission shall allow, under its direct supervision, the use of the unmanned aircraft system by the owner or operator to conduct the surveillance, inspection, evidence gathering, or information collecting under this section, if doing so will gather information of a quality and nature sufficient for the intended purpose of the surveillance, inspection, evidence gathering, or information collection.

(b) If the owner or operator provides consent on the condition described in subdivision (a), or if the owner or operator withholds consent, the owner or operator shall provide to the department, agency, board, or commission a statement, in writing, that indicates the health and safety reasons for providing consent on the condition described in subdivision (a) or withholding consent.

(4) Any surveillance, inspection, evidence gathering, or information collecting conducted under subsection (1)(c) shall be under the direct supervision of the department, agency, board, or commission.

(5) Any data, including videos, photographic images, or geospatial data, collected by the operation of an unmanned aircraft system concerning a facility described in subsection (1) shall be furnished promptly to the facility's owner or operator upon request and shall be rebuttably presumed to be not subject to disclosure under the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(6) This section does not apply to a law enforcement agency operating an unmanned aircraft system as part of a law enforcement investigation.

**History:** Add. 2018, Act 442, Eff. Mar. 21, 2019.

### **259.311 Operation of unmanned aircraft system; person authorized by Federal Aviation Administration.**

Sec. 11. A person that is authorized by the Federal Aviation Administration to operate unmanned aircraft systems for commercial purposes may operate an unmanned aircraft system in this state if the unmanned aircraft system is operated in a manner consistent with federal law.

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

### **259.313 Operation of unmanned aircraft system; manner.**

Sec. 13. A person may operate an unmanned aircraft system in this state for recreational purposes if the unmanned aircraft system is operated in a manner consistent with federal law for the operation of a model aircraft.

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

### **259.320 Criminal liability; offense committed with aid of an unmanned aircraft system; exception.**

Sec. 20. (1) A person is guilty of an offense committed with the aid of an unmanned aircraft system if the unmanned aircraft system is under the person's control and the activity performed with the aid of the unmanned aircraft system would have given rise to criminal liability under the penal law of this state if it was performed directly by the person without the aid of an unmanned aircraft system.

(2) Notwithstanding subsection (1), and except as provided in sections 21 and 22 and section 45a(1) of the Michigan penal code, 1931 PA 328, MCL 750.45a, solely flying an unmanned aircraft system through navigable airspace in accordance with federal law does not give rise to criminal liability under the penal law of this state.

**History:** Add. 2018, Act 444, Eff. Mar. 21, 2019.

### **259.321 Operation of unmanned aircraft system; interference with official duties prohibited.**

Sec. 21. An individual shall not knowingly and intentionally operate an unmanned aircraft system in a manner that interferes with the official duties of any of the following:

(a) A law enforcement official, as that term is defined in section 7 of chapter III of the code of criminal procedure, 1927 PA 175, MCL 763.7.

(b) A firefighter.

(c) Emergency medical services personnel, as that term is defined in section 20904 of the public health code, 1978 PA 368, MCL 333.20904.

(d) Search and rescue personnel.

(e) A state correctional officer, as that term is defined in section 2 of the correctional officers' training act of 1982, 1982 PA 415, MCL 791.502, or any other individual employed by the department of corrections.

(f) A local corrections officer, as that term is defined in section 2 of the local corrections officers training act, 2003 PA 125, MCL 791.532.

**History:** 2016, Act 436, Eff. Apr. 4, 2017;—Am. 2018, Act 468, Eff. Mar. 27, 2019.

### **259.322 Operation of unmanned aircraft system; harassment, violation of order, or invasion of privacy prohibited; definition; individual registered as sex offender.**

Sec. 22. (1) A person shall not knowingly and intentionally operate an unmanned aircraft system to subject an individual to harassment. As used in this subsection, "harassment" means that term as defined in section 411h or 411i of the Michigan penal code, 1931 PA 328, MCL 750.411h and 750.411i.

(2) A person shall not knowingly and intentionally operate an unmanned aircraft system within a distance that, if the person were to do so personally rather than through remote operation of an unmanned aircraft, would be a violation of a restraining order or other judicial order.

(3) A person shall not knowingly and intentionally operate an unmanned aircraft system to violate section 539j of the Michigan penal code, 1931 PA 328, MCL 750.539j, or to otherwise capture photographs, video, or audio recordings of an individual in a manner that would invade the individual's reasonable expectation of privacy.

(4) An individual who is required to register as a sex offender under the sex offenders registration act, 1994 PA 295, MCL 28.721 to 28.736, shall not operate an unmanned aircraft system to knowingly and



intentionally follow, contact, or capture images of another individual, if the individual's sentence in a criminal case would prohibit the individual from following, contacting, or capturing the image of the other individual.

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

### **259.323 Violation as misdemeanor; penalty; other violation of law.**

Sec. 23. (1) An individual who violates section 21 or 22 is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$500.00, or both.

(2) This section does not affect the ability to investigate or to arrest, prosecute, or convict an individual for any other violation of a law of this state.

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

### **259.330 Michigan aeronautics commission; duties; departmental support.**

Sec. 30. (1) The commission shall do all of the following:

(a) Provide advice to other departments and agencies of this state about the use of unmanned aircraft systems and related technology.

(b) Provide advice to the public about all of the following:

(i) Regulation of unmanned aircraft systems by the federal government and by this state.

(ii) Safe operating principles for unmanned aircraft systems.

(iii) Restrictions on the use of unmanned aircraft systems.

(iv) Any other matters within the scope of the commission's authority under this act.

(c) Provide education and information to departments and agencies of this state, political subdivisions, and the general public about unmanned aircraft systems.

(d) Receive and consider comments from persons in this state that are interested in or affected by the use of unmanned aircraft systems.

(3) The departments and agencies of this state shall provide support to the commission as necessary and as requested for the commission to perform its duties under this act. In addition to the state transportation department's provision of support, the following departments shall provide primary support to the commission:

(a) The department of state police.

(b) The department of natural resources.

(c) The department of corrections.

(d) The department of agriculture and rural development.

(e) The department of licensing and regulatory affairs.

**History:** Add. 2018, Act 446, Eff. Mar. 29, 2019.

### **259.331 Unmanned aircraft systems task force.**

Sec. 31. (1) The unmanned aircraft systems task force is created to develop statewide policy recommendations on the operation, use, and regulation of unmanned aircraft systems in this state.

(2) Within 90 days after the effective date of this act, the governor shall appoint initial members of the unmanned aircraft systems task force. The individuals appointed to the unmanned aircraft systems task force by the governor, initially and subsequently, must comprise 1 member from each of the following agencies or interest groups:

(a) A member from the state transportation department nominated by the director of the state transportation department.

(b) A member from the division of the state transportation department that performs bridge inspections and road work, nominated by the director of the state transportation department.

(c) A member from the department of state police, nominated by the director of the department of state police.

(d) A member from the department of natural resources, nominated by the director of the department of natural resources.

(e) A member from the department of agriculture and rural development, nominated by the director of the department of agriculture and rural development.

(f) A member from the department of licensing and regulatory affairs nominated by the director of the department of licensing and regulatory affairs.

(g) A member from the department of corrections, nominated by the director of the department of corrections.

(h) An unmanned aircraft systems technical commercial representative.

(i) An unmanned aircraft systems manufacturing industry representative.

(j) A member who is licensed by the Federal Aviation Administration to operate unmanned aircraft that weigh less than 55 pounds.

(k) A member who represents airports in this state, nominated by the director of the state transportation department.

(l) A member from the Michigan Municipal League, nominated by the executive director of the Michigan Municipal League.

(m) A law enforcement official from a municipality, nominated by a statewide police chiefs association.

(n) A member who represents county sheriffs, nominated by the president of the Michigan Sheriffs' Association.

(o) A member of a statewide agricultural association, nominated by the president of the association.

(p) A member of a statewide retail association, nominated by the president of the association.

(q) A member of a statewide manufacturing trade association, nominated by the president or chief executive officer of the association.

(r) A member of a statewide property and casualty insurance association, nominated by the president or chief executive officer of the association.

(s) A member of a statewide association that represents real estate brokers licensed in this state, nominated by the president of the association.

(t) A member of a statewide surveying association, nominated by the president of the association.

(u) A member of a statewide freight railroad association, nominated by the president of the association.

(v) A member of a statewide broadcasters association, nominated by the president of the association.

(w) A member who represents persons that operate key facilities, as that term is defined in section 552c of the Michigan penal code, 1931 PA 328, MCL 750.552c.

(x) A member who is knowledgeable about the operation of public utilities who represents public utilities in the Upper Peninsula, nominated by the chairman of the public service commission.

(y) A member who is knowledgeable about the operation of public utilities who represents public utilities in the Lower Peninsula, nominated by the chairman of the public service commission.

(z) A member who represents the Mackinac Bridge Authority, nominated by the authority.

(aa) A member who represents the city of Mackinac Island.

(3) Initial nominations to the unmanned aircraft systems task force must be submitted to the governor within 60 days after the effective date of this act. The governor shall make the initial appointments within 30 days after the close of nominations.

(4) Members of the unmanned aircraft systems task force shall serve for terms of 4 years or until a successor is appointed, whichever is later, except that of the initial members appointed, 6 members, as designated by the governor, shall serve for 1 year, 6 members, as designated by the governor, shall serve for 2 years, and 7 members, as designated by the governor, shall serve for 3 years.

(5) If a vacancy occurs on the unmanned aircraft systems task force, the governor shall make an appointment for the unexpired term in the same manner as the original appointment.

(6) The governor may remove a member of the unmanned aircraft systems task force for incompetence, dereliction of duty, malfeasance, misfeasance, or nonfeasance in office, or any other good cause.

(7) The member from the state transportation department shall chair the unmanned aircraft systems task force and serve as a liaison to the governor and the standing committees in the house and senate that mainly deal with transportation issues. The unmanned aircraft systems task force shall meet as necessary to complete the duties of the task force. Meetings of the unmanned aircraft systems task force must be held in the central part of this state.

(8) A majority of the members of the unmanned aircraft systems task force constitute a quorum for the transaction of business at a meeting of the task force. A majority of the members present and serving are required for official action of the task force.

(9) The unmanned aircraft systems task force shall conduct its business at public meetings of the task force held in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

(10) A writing prepared, owned, used, in the possession of, or retained by the unmanned aircraft systems task force in the performance of an official function is subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

(11) The members of the unmanned aircraft systems task force must receive no compensation for serving as members of the task force.

(12) The unmanned aircraft systems task force shall consider commercial and private uses of unmanned aircraft systems, landowner and privacy rights, as well as general rules and regulations for safe operation of unmanned aircraft systems, and prepare comprehensive recommendations for the safe and lawful operation of unmanned aircraft systems in this state. The recommendations must include, but not be limited to,

recommendations regarding the protection of public and private property interests and the use of unmanned aircraft systems over public property.

(13) The state transportation department shall provide administrative support to the unmanned aircraft systems task force.

(14) The unmanned aircraft systems task force shall submit a report with recommendations to the governor and the standing committees in the house and senate that mainly deal with transportation issues within 3 months after the first meeting of the task force.

(15) After submitting the report required under subsection (14), the unmanned aircraft systems task force shall meet not less than once every 18 months to consider any new developments or problems that may require further consideration and recommendations by the task force.

**History:** 2016, Act 436, Eff. Apr. 4, 2017.

**SPECIAL AERONAUTICAL PLANNING FUND**  
**Act 328 of 1945**

AN ACT to create a fund for the purpose of advancement to the state board of aeronautics of moneys for planning, surveys, engineering services, and development of airports and landing fields; to provide for disbursement of said fund; and to make an appropriation therefor.

**History:** 1945, Act 328, Imd. Eff. May 28, 1945.

*The People of the State of Michigan enact:*

**259.401 Appropriation; purpose.**

Sec. 1. There is hereby appropriated from the general fund the sum of \$250,000.00 for the fiscal year ending June 30, 1945, to the state administrative board to be expended as provided in this act.

**History:** 1945, Act 328, Imd. Eff. May 28, 1945;—CL 1948, 259.401.

**259.402 Special aeronautical planning fund; expenditure.**

Sec. 2. Said appropriation shall be credited to a special fund to be known as the "special aeronautical planning fund". Moneys may be released from said special fund from time to time by the state administrative board to the director of aeronautics, upon his request for planning, survey, engineering services and development of airports and landing fields within this state.

**History:** 1945, Act 328, Imd. Eff. May 28, 1945;—CL 1948, 259.402.

**AIRPORT ZONING ACT**  
**Act 23 of 1950 (Ex. Sess.)**

AN ACT to empower and direct the Michigan aeronautics commission to adopt airport approach plans for publicly owned airports within this state; to empower the Michigan aeronautics commission, municipalities, and other political subdivisions to promulgate, adopt, establish, administer, and enforce airport zoning regulations limiting the height of structures and objects of natural growth, and otherwise regulating the use of property in the vicinity of publicly owned airports, and to acquire, by purchase, grant, condemnation, or otherwise, air rights and other interests in land; to provide for the establishment of zoning commissions, administrative agencies, and boards of appeals to administer the provisions of this act, and to provide for their organization and procedure and appeals therefrom; and to provide penalties and remedies for violations of this act or ordinances or regulations made under the authority herein conferred; to provide for reciprocity with adjoining states maintaining and operating airports; and to repeal any inconsistent act or parts of acts.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950;—Am. 1976, Act 158, Imd. Eff. June 17, 1976.

*The People of the State of Michigan enact:*

**259.431 Airport zoning act; definitions.**

Sec. 1. For the purpose of this act the words, terms and phrases set forth in sections 2 through 10, inclusive, shall have the meanings prescribed in such sections.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.432 Airport; publicly owned; definitions.**

Sec. 2. The term "airport", when used in this act means any location which is used for the landing or taking off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or acquired for airport buildings or other airport facilities, and all appurtenant rights-of-way, either heretofore or hereafter established. An airport is "publicly owned" if the portion thereof used for the landing and taking off of aircraft is owned, operated, controlled, leased to or leased by the United States, any agency or department thereof, this state or any municipality or other political subdivision of this state, or any other governing body, public agency or other public corporation.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.433 Airport hazard; definition.**

Sec. 3. The term "airport hazard", when used in this act means any structure or tree or use of land or of appurtenances thereof which obstructs the air space required for the safe flight of aircraft in landing or taking off at an airport or is otherwise hazardous or creates hazards to such safe landing or taking off of aircraft.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.434 Airport hazard area; definition.**

Sec. 4. The term "airport hazard area", when used in this act means any area of land or water, or both, upon which an airport hazard might be established if not prevented as provided in this act, including any such area which has been declared to be an "airport hazard area" by the Michigan aeronautics commission in connection with any airport approach plan adopted by said commission.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.435 Commission; definition.**

Sec. 5. The term "commission", when used in this act means the Michigan aeronautics commission, or any successor thereto established by law.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.436 Political subdivision; definition.**

Sec. 6. The term "political subdivision", when used in this act means any county, city, village or township of this state, and any other political subdivision, public corporation, authority, or district in this state which is or may hereafter be authorized by law to construct, enlarge, improve, maintain, equip, operate and regulate airports.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.437 Person; definition.**

Sec. 7. The term "person", when used in this act means any individual, firm, partnership, corporation, company, association, joint stock association, municipal corporation or other body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.438 State; definition.**

Sec. 8. The term "state" when used in this act means the state of Michigan.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.439 Structure; definition.**

Sec. 9. The term "structure", when used in this act means any object constructed or installed by man, including, but without limitation, buildings, towers, smoke stacks and overhead transmission lines, but not including highways and their appurtenances.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.440 Tree; definition.**

Sec. 10. The term "tree", when used in this act, means any object of natural growth.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.441 Airport hazard declared nuisance; prevention.**

Sec. 11. It is hereby found that an airport hazard endangers the lives and property of the general public, of users of the airport and of occupants of land in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (a) That the creation or establishment or maintenance of an airport hazard is a public nuisance and an injury to the community served by the airport in question; and (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, abatement, or marking or lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property rights therein.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.442 Airport approach plan; adoption by aeronautics commission, considerations.**

Sec. 12. The commission shall formulate, adopt and revise, when necessary, an airport approach plan for each publicly owned airport in this state. Each such plan shall indicate and determine the circumstances in which structures and trees are or would be airport hazards, the airport hazard area within which measures for the protection of the airport's aerial approaches should be taken, and what the height limits and other objectives of such measures should be. In adopting or revising any such plans, the commission shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport, the nature of the terrain, the height of existing structures and trees above the level of the airport, and the possibility of lowering or removing existing obstructions; and the commission may obtain and consider the views of the agency of the federal government charged with the fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at the airport.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.443 Airport hazard area; determination; zoning regulations; "development" defined.**

Sec. 13. (1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area wholly or partly within its territorial limits or jurisdiction may make an official determination that the area is in fact an airport hazard area and may thereupon adopt, administer, and enforce, in the interest of public safety and in the manner and upon the conditions prescribed in this act, airport zoning regulations for that part of the airport hazard area which is within its territorial limits or jurisdiction. The regulations may divide the area into zones, and, within those zones, may specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) A political subdivision in which is wholly or partially located an airport hazard area, may adopt, administer, and enforce zoning regulations for that part of an airport hazard area within the political subdivision's territorial limits or jurisdiction to protect public health and safety. The political subdivision may divide the area into zones and specify within the zones the land uses or developments permitted. As used in

this subsection, "development" means an activity which materially alters or affects the existing conditions or use on any land.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950;—Am. 1976, Act 158, Imd. Eff. June 17, 1976.

#### **259.444 Joint airport zoning board; creation; powers; membership.**

Sec. 14. In each case where (a) an airport is owned, operated, controlled, leased to, or leased by a political subdivision and an airport hazard area appertaining to the airport is located wholly or partly outside the territorial limits or jurisdiction of the political subdivision, or (b) an airport hazard area is located wholly or partly within the territorial limits or jurisdiction of 2 or more political subdivisions, whether or not the particular airport in connection with which the airport hazard area exists is owned, operated, controlled, leased to, or leased by 1 or more of the political subdivisions, all the political subdivisions involved, including the political subdivision which is the owner, operator, controller, lessee, or lessor of the airport, shall, by ordinance or by resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question, as that vested by section 13 in the political subdivision or political subdivisions within which the hazard area is wholly or partly located. Each joint board shall have as members 2 representatives appointed by the governing body of each political subdivision participating in its creation and in addition, another member to be elected by a majority of the members so appointed. This section shall not require the creation of a joint airport zoning board whenever a county, acting through its governing body or any county agency which is by law authorized to maintain, operate, and improve airports, adopts airport zoning regulations applicable to an airport hazard area located entirely within the territorial limits or jurisdiction of the county and the airport zoning regulations shall supersede any other airport zoning regulations applicable to the same airport zoning area.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950;—Am. 1976, Act 158, Imd. Eff. June 17, 1976.

#### **259.445 Airport zoning regulations; incorporation into zoning ordinance.**

Sec. 15. In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof, may be incorporated in and made a part of such comprehensive zoning regulations, and may be administered and enforced as an integral part thereof.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.446 Airport zoning regulations; amendment.**

Sec. 16. Every airport zoning regulation for an airport hazard area existing in connection with a publicly owned airport shall be designed to effectuate the commission's airport approach plan, as amended by it, whenever necessary, for such publicly owned airport, and said regulations shall likewise be amended, when necessary, to conform to any revision of the applicable airport approach plan that may be made by the commission.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.447 Airport hazard; definition and certification by aeronautics commission; joint airport zoning board, appointment, meetings, powers, compensation and expenses, expenditures.**

Sec. 17. In each case where an airport hazard area exists in connection with a publicly owned airport and suitable airport zoning regulations have not been adopted, administered and enforced for such airport hazard area in a form and manner deemed reasonably adequate by the commission for the purposes of this act, the commission on behalf of this state shall define and determine such airport hazard area and certify such determination to the board of supervisors of the county or counties within which such airport hazard area is located and to the political subdivision authorized by law to maintain, operate, improve and regulate such airport, hereinafter referred to in this section as the airport operating agency. Whereupon and within 90 days thereafter, the board of supervisors of each county involved shall appoint 3 members and the operating agency and the commission shall each appoint 1 member to a board which shall constitute a joint airport zoning board. Two of the members appointed by the board of supervisors of each county involved shall be from a township or townships within which the hazard area is located and 1 shall be from that part of the county outside the townships where the hazard area is located. Within 120 days after such certification such airport zoning board shall meet and organize and thereafter function in the same manner and with the same powers as joint airport zoning boards provided for under section 14 of this act. Members of joint zoning boards created pursuant to the provisions of this section shall be compensated for services actually rendered at a rate established by the airport operating agency and approved by the commission, and shall be reimbursed for any

actual and necessary expenses incurred by them in the performance of their duties.

Subject to the approval of the airport operating agency, each joint board created pursuant to the provisions of this section is hereby authorized to make such expenditures, to employ such servants and to engage such professional and consultant services as are necessary to carry out the provisions of this act. All expenses of such joint boards, including the compensation of its members, shall be paid by the airport operating agency. Provided, however, That the commission and the board of supervisors of any county involved, or any of them, are hereby authorized to participate in and contribute toward such compensation and expenses in such amounts and to such extent as may be fixed or provided by agreement.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.448 Airport zoning regulations; conflict, determination by commission.**

Sec. 18. In the event of conflict between any airport zoning regulations adopted under this act and any other zoning regulations applicable to the same area, whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, or by a joint airport zoning board, and whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, those limitations or requirements which may be determined by the commission to be most conducive to airport and air travel safety shall govern and prevail.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.449 Airport zoning regulations; public hearing on adoption or amendment, notice.**

Sec. 19. No airport zoning regulations shall be adopted, amended, or changed under this act except by action of the governing body of the political subdivision in question, or by action of the joint board provided for in sections 14 or 17, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in a newspaper of general circulation, in the political subdivision or subdivisions in which is located wholly or partly, the airport hazard area to be zoned, or, if no newspaper is generally circulated in any such political subdivision, then in a newspaper of general circulation in the county in which such political subdivision is located.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.450 Airport zoning commission; appointment, reports and hearings.**

Sec. 20. Prior to the initial zoning of any airport hazard area under this act, the governing body of the political subdivision or the joint airport zoning board which is to adopt the regulations shall appoint a body, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such airport zoning commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the governing body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of such airport zoning commission. Where a city plan commission or comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.451 Airport zoning regulations; reasonableness, considerations.**

Sec. 21. All airport zoning regulations adopted under this act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. In determining what regulations it may adopt, each political subdivision and joint airport zoning board, shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the traffic pattern and regulations affecting flying operations at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.452 Airport zoning regulations; removal or alteration of structures or trees prohibited, exception.**

Sec. 22. No airport zoning regulations adopted under this act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any non-conforming use, except as provided in sections 23 and 25.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.453 Airport zoning regulations; construction permits for new structures required.**

Sec. 23. Any airport zoning regulations adopted under this act shall require that a permit be obtained



before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or substantially repaired. All such regulations shall further provide that before any non-conforming structure or tree may be replaced, substantially altered or substantially repaired, rebuilt, allowed to grow higher, or replanted, a permit authorizing such replacement, change or repair must be secured from the administrative agency authorized to administer and enforce the regulations. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a non-conforming structure or tree or non-conforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for permit is made. Whenever an administrative agency determines that a non-conforming use or non-conforming structure or tree has been abandoned or more than 80 per cent torn down, destroyed, deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.454 Airport zoning regulations; variance.**

Sec. 24. (1) A person desiring to erect a structure, or increase the height of a structure, or permit the growth of a tree, or otherwise use property in violation of the airport zoning regulations adopted under this act, may apply to the board of appeals, for a variance from the zoning regulations in question. The board of appeals shall allow a variance if a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations. However, a variance may be granted subject to any reasonable condition or condition subsequent that the board of appeals considers necessary to effectuate the purposes of this act. A variance shall not conflict with a general zoning ordinance or regulation of a political subdivision. However, a variance may conflict with a zoning ordinance or regulation adopted exclusively for airport zoning purposes.

(2) A variance from an airport zoning regulation may be applied for and granted pursuant to section 4 of the uniform condemnation procedures act, 1980 PA 87, MCL 213.54, and this act.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950;—Am. 2000, Act 16, Imd. Eff. Mar. 8, 2000.

#### **259.454a Constructing, establishing, rebuilding, or changing, altering, or repairing structure or replanting tree; permit or variance considered as granted.**

Sec. 24a. An application for a permit or variance under section 23 or 24, respectively, to construct, establish, rebuild, or substantially change, alter, or repair a structure or to replant a tree or allow a tree to grow tall shall be considered to be granted if all of the following apply:

(a) The applicant has been granted a permit for the activity under the tall structure act, 1959 PA 259, MCL 259.481 to 259.493.

(b) The applicant has been granted any necessary permits or other approvals for the activity from the federal aviation administration.

(c) Ninety days have elapsed since the application was filed pursuant to the procedures specified in the applicable airport zoning regulations and the administrative agency authorized to enforce the airport zoning regulations has neither granted nor denied the application.

**History:** Add. 2009, Act 89, Imd. Eff. Sept. 10, 2009.

#### **259.455 Airport zoning regulations; variances, markers and lights required.**

Sec. 25. In granting any permit under section 23 or variance under section 24, any administrative agency or board of appeals may, if it deems such action advisable to effectuate the purposes of this act and reasonable in view of the surrounding circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the state or the political subdivision, as the case may be, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.456 Airport zoning regulations; administration and enforcement.**

Sec. 26. All airport zoning regulations adopted under this act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of any political subdivision adopting the regulations or one of the political subdivisions which participated in the creation of the joint zoning board adopting the regulations, if satisfactory to that political subdivision; but in no case shall such administrative

agency be or include any member of the board of appeals. The duties of any administrative agency designated pursuant to this act shall include that of hearing and deciding all permits under section 23 but such agency shall not have or exercise any of the powers herein granted to the board of appeals.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.457 Board of appeals; provision, powers.**

Sec. 27. All airport zoning regulations adopted under the provisions of this act shall provide for a board of appeals to have and exercise the following powers:

- (a) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the zoning regulations, as provided in section 29;
- (b) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations;
- (c) To hear and decide specific variances under section 24.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.458 Board of appeals; members, appointment, terms, officers, removals, rules, meetings, records, subpoenas.**

Sec. 28. Where a zoning board of appeals already exists it may be appointed as the board of appeals under this act. Otherwise, the board of appeals shall consist of 5 members, each to be appointed for a term of 3 years and until his successor is appointed and qualified, 1 of whom shall be designated as chairman and 1 of whom shall be designated as vice-chairman, which appointments shall be made by the governing body of the political subdivision adopting the regulations, or by the joint airport zoning board adopting the regulations, as the case may be; and said members shall be removable by the appointing body for cause shown, upon written charges and after notice and opportunity for public hearing before the appointing body.

The concurring vote of a majority of the members of the board of appeals shall be sufficient for all purposes including the reversal of any order, requirement, decision or determination of the administrative agency, or a decision in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

The board shall adopt rules concerning its organization and procedure and other authorized matters, consistent with the provisions of this act, and in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths or affirmations and issue subpoenas to compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the offices of the board and shall be a public record.

In case of disobedience of a subpoena, the board or its duly authorized agents may invoke the aid of any circuit court of the state of Michigan in requiring the attendance and testimony of witnesses and the production of books, records and papers pertaining to the question involved. Any of the circuit courts of the state within the jurisdiction of which such inquiry is carried on may, in case of contumacy or refusal to obey a subpoena, issue an order requiring such person to appear before said board or its duly authorized agents and to produce books, records and papers if so ordered and give evidence touching the matter in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.459 Appeals; filing, hearing, notice.**

Sec. 29. In cases where airport zoning regulations are adopted by a political subdivision or joint airport zoning board under sections 13, 14, 15 or 17, any person, including the commission on behalf of the state, aggrieved by any decision of an administrative agency made in its administration of airport zoning regulations adopted under this act, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the board of appeals authorized to hear and decide appeals from the decisions of such administrative agency.

All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases, proceedings shall not be stayed otherwise than by order of the board on notice to the agency from which the appeal is taken and on due cause shown.

The board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

The board may, in conformity with the provisions of this act, reverse or affirm, wholly or partly, or modify, the order, requirement, decisions, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.460 Appeals; petitions for review by circuit court.**

Sec. 30. Any person, including the commission, on behalf of and in the name of the state, aggrieved by any decision of a board of appeals, or any governing body of a political subdivision or any joint airport zoning board who is of the opinion that a decision of a board of appeals is erroneous, after first exhausting the remedies provided by such board, may present to the circuit court in any county in which the board transacts its business, a verified petition setting forth that the decision is erroneous, in whole or in part, and specifying the grounds of the error. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board. When petitions for review are filed in qualified courts located in different counties, the court in which a petition is filed first shall have exclusive jurisdiction of the matter.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.461 Board of appeals; certiorari; jurisdiction of court.**

Sec. 31. Upon presentation of such petition the court may allow a writ of certiorari directed to the board of appeals to review such decisions of the board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, or notice to the board and on due cause shown, grant a restraining order.

The board of appeals shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the board of appeals. The findings of fact of the board if supported by substantial evidence, shall be accepted by the court as conclusive.

In any case in which airport zoning regulations adopted under this act, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

#### **259.462 Approach protection; acquisition of property by aeronautics commission.**

Sec. 32. In any case in which: (a) it is desired to remove, lower, or otherwise terminate a non-conforming structure, tree or use; or (b) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this act; or (c) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the commission, on behalf of and in the name of the state, within the limitation of available appropriations, or each political subdivision within which the property or non-conforming use is wholly or partly located or the political subdivision owning, operating, controlling or which is lessee or lessor of the airport or is served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which the commission, on behalf of and in the name of the state, or political subdivisions are authorized to acquire real property for public purposes, such air right, aviation easement, or other estate or interest in the property or non-conforming structure or use in question as may be necessary to effectuate the purposes of this act.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.463 Violation of act or regulations; penalty.**

Sec. 33. Any person who shall violate this act or any regulations, orders, or rulings promulgated or made pursuant to this act, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than \$100.00 and imprisonment for a term not to exceed 90 days, and each day a violation continues to exist after notice shall constitute a separate offense. In addition, the political subdivision or joint airport zoning board adopting airport zoning regulations under this act may institute in the circuit court of any county in which the airport hazard area is located, in whole or in part, in connection with which such airport zoning regulations were adopted, an action to prevent, restrain, correct or abate any violation of this act, or of airport zoning regulations adopted under this act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order to fully effectuate the purposes of this act and of the regulations adopted and orders and rulings made pursuant thereto.

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.464 Airport zoning act; short title.**

Sec. 34. This act shall be known and may be cited as the "Airport Zoning Act."

**History:** 1950, Ex. Sess., Act 23, Imd. Eff. June 7, 1950.

**259.465 Powers and duties of contiguous political subdivision in adjoining state as to airports, landing fields, and other aeronautical facilities.**

Sec. 35. The governing body of a contiguous political subdivision in an adjoining state 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 with a political subdivision thereof, subject to the laws and rules of this state applicable to its political subdivisions in aeronautical projects and subject to the laws of the other state in matters relating to financing the projects. A political subdivision of an adjoining state shall have the same privileges, rights, and duties of a like political subdivision of this state. This section shall not apply unless the laws of the adjoining state permit political subdivisions of this state to acquire, establish, construct, enlarge, own, control, lease, equip, improve, maintain, operate, and otherwise control airports, landing fields, and other aeronautical facilities in the adjoining state with all privileges, rights, and duties applicable to the other political subdivisions of that state in aeronautical projects.

**History:** Add. 1976, Act 158, Imd. Eff. June 17, 1976.

**TALL STRUCTURE ACT**  
**Act 259 of 1959**

AN ACT to promote the safety, welfare, and protection of persons and property in the air and on the ground by regulating the height, location, and visual and aural identification characteristics of certain structures; to provide for the powers and duties of certain state agencies; and to provide penalties for the violation of this act.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

*The People of the State of Michigan enact:*

**259.481 Definitions.**

Sec. 1. As used in this act:

(a) "Airport" means a structure or an area of land or water that is designed and set aside for the landing and taking off of aircraft, is utilized or to be utilized by and in the interest of the public for the landing and taking off of aircraft, and is licensed by the commission.

(b) "Anemometer" means an instrument for measuring and recording the speed of wind.

(c) "Approach surface" means an imaginary plane longitudinally centered on a runway's centerline extended, and extending outward and upward from each end of that runway's primary surface, which plane has the specifications described in section 2c.

(d) "Commission" means the Michigan aeronautics commission.

(e) "Conical surface" means an imaginary plane extending outward and upward from the perimeter of a runway's horizontal surface at 1 of the following slopes, as applicable:

(i) If the airport at which the runway is located has a published instrument approach procedure, at a slope of 50 to 1.

(ii) If subparagraph (i) does not apply, at a slope of 20 to 1.

(f) "FAA" means the Federal Aviation Administration or a successor agency to the Federal Aviation Administration.

(g) "Heliport approach surface" means an imaginary plane projecting outward and upward from the perimeter of a heliport primary surface at a slope of 8 to 1.

(h) "Heliport primary surface" means an imaginary plane that is at the elevation established for a heliport coinciding in size and shape with the designated takeoff and landing area of that heliport.

(i) "Horizontal surface" means an imaginary horizontal plane 150 feet above the elevation established for an airport, the perimeter of which plane is constructed as described in section 2e.

(j) "Meteorological tower" means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted for the purposes of documenting wind resources for the operation of a wind turbine generator.

(k) "Minimum obstruction clearance altitude" means the lowest FAA published altitude that assures acceptable navigational signal coverage and that is in effect between radio fixes on a low altitude airway, on an off-airway route, or, if the altitude meets obstacle clearance requirements for the entire route segment, on a route segment.

(l) "Nonprecision approach procedure" means a straight-in instrument approach in which an electronic glide slope is not provided.

(m) "Permit" means a permit issued by the commission under this act.

(n) "Person" means an individual, firm, partnership, corporation, association, or body politic. Person includes a trustee, receiver, assignee, or other similar representative of a person.

(o) "Precision approach procedure" means a standard instrument approach in which an electronic glide slope is provided.

(p) "Primary surface" means an imaginary plane longitudinally centered on a runway, which plane has the specifications described in section 2b.

(q) "Runway" means the portion of an airport designated as either of the following:

(i) An area used for the landing or takeoff of aircraft.

(ii) An area proposed, and approved by the commission, to be used for the landing or takeoff of aircraft.

(r) "Structure" means an object constructed or installed, including, but not limited to, a building, tower, antenna, smokestack, or overhead transmission line.

(s) "Transitional surface" means an imaginary plane perpendicular to a runway centerline and to that centerline extended through the runway's primary surface and approach surface, which plane extends outward and upward from each side of the runway's primary surface and approach surface at a slope of 7 to 1 for the

distances described in section 2d.

(t) "Utility runway" means a runway that is constructed for and intended to be used by propeller-driven aircraft with a maximum gross weight of 12,500 pounds or less.

(u) "Visual approach procedure" means an approach in which an aircraft on an instrument flight rules flight plan, operating in visual flight rules conditions under the control of an air traffic control authorization, may proceed to the airport of destination in visual flight rules conditions.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987;—Am. 2016, Act 28, Eff. May 30, 2016.

**259.482 Permit required for construction of certain structures.**

Sec. 2. Without a permit issued by the commission, a person shall not construct any of the following:

(a) A structure regulated under section 2a or 4.

(b) A structure that is, or that increases the height of an existing structure, higher than 200 feet above the ground elevation at the structure's site or higher than an imaginary plane extending outward and upward at any of the following slopes:

(i) For an airport with at least 1 runway that is more than 3,200 feet in length, 100 to 1 for a horizontal distance of 20,000 feet from the nearest point of the nearest runway.

(ii) For an airport whose longest runway is 3,200 feet or less in length, excluding heliports, 50 to 1 for a horizontal distance of 10,000 feet from the nearest point of the nearest runway.

(iii) For a heliport, 25 to 1 for a horizontal distance of 5,000 feet from the nearest point of the nearest landing and takeoff area.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

**259.482a Issuance of permit allowing construction, replacement, or increase in height of certain structures; conditions.**

Sec. 2a. (1) The commission shall not issue a permit allowing construction, replacement, or an increase in height of a structure that violates the requirements of an applicable zoning ordinance adopted by a political subdivision under the airport zoning act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, unless the applicant has obtained the approval of a variance from the ordinance and an airspace study has been conducted by the commission resulting in a finding of noninterference to air navigation.

(2) Unless an airspace study has been made by the commission resulting in a finding of noninterference to air navigation, the commission shall not issue a permit allowing construction of any of the following structures, or replacement of or an increase in the height of a structure that creates any of the following structures:

(a) A structure that is over 500 feet above ground elevation at the structure's site and that is within 2 miles of a well-defined natural landmark such as a shoreline or river; a manmade landmark such as a railroad, canal, or road; or a low altitude airway.

(b) A structure of a height that would increase the minimum obstruction clearance altitude, the minimum safe altitude prescribed by the FAA, or the minimum altitude required for a safe instrument approach.

(c) A structure that would encroach into a runway's primary surface.

(d) A structure of a height that would penetrate a runway's approach surface.

(e) A structure of a height that would penetrate a runway's transitional surface.

(f) A structure of a height that would penetrate a runway's horizontal surface.

(g) A structure of a height that would penetrate a runway's conical surface.

(h) A structure that would encroach into a heliport primary surface.

(i) A structure of a height that would penetrate a heliport approach surface.

**History:** Add. 1986, Act 296, Eff. Apr. 1, 1987;—Am. 2016, Act 28, Eff. May 30, 2016.

**259.482b Width of primary surface; length of primary surface; elevation.**

Sec. 2b. (1) Based upon the most precise approach available or planned for either end of a runway, the width of the primary surface is 1 of the following:

- (a) For a utility runway that permits only a visual approach..... 250 feet
- (b) For a utility runway that permits a nonprecision instrument approach..... 500 feet
- (c) For other than a utility runway that permits only a visual approach..... 500 feet
- (d) For other than a utility runway that permits a nonprecision instrument approach and for which the FAA has established a visibility minimum that is greater than 3/4 of a statute mile..... 500 feet

- (e) For other than a utility runway that permits a nonprecision instrument approach and for which the FAA has established a visibility minimum that is as low as 3/4 of a statute mile or less..... 1,000 feet
- (f) For a runway that permits a precision instrument approach..... 1,000 feet
  - (2) Based upon the type of runway surface, the length of the primary surface is 1 of the following:
    - (a) For a runway with a prepared hard surface or for which there are plans for a prepared hard surface, the length of the runway plus 200 feet beyond each end of the runway.
    - (b) For a runway other than a runway described in subdivision (a), the length of the runway.
    - (3) The elevation of a point on a primary surface is the same as the elevation of the point on the runway's centerline nearest to the point on the primary surface.

**History:** Add. 1986, Act 296, Eff. Apr. 1, 1987.

**259.482c Width of approach surface; outward and upward extension of approach surface.**

Sec. 2c. (1) Based upon the most precise approach available or planned for the end of a runway, the width of the approach surface at the end of the primary surface equals the width of the primary surface and expands uniformly to the following maximum width:

- (a) For the end of a utility runway, which end has only a visual approach procedure..... 1,200 feet
- (b) For the end of other than a utility runway, which end has only a visual approach procedure..... 1,500 feet
- (c) For the end of a utility runway, which end has a nonprecision instrument approach procedure..... 2,000 feet
- (d) For the end of other than a utility runway, which end has a nonprecision instrument approach procedure and a visibility minimum established by the FAA that is greater than 3/4 of a statute mile..... 3,500 feet
- (e) For the end of other than a utility runway, which end has a nonprecision instrument approach procedure and a visibility minimum established by the FAA that is 3/4 of a statute mile or less..... 4,000 feet
- (f) For the end of a runway, which end has a precision approach procedure..... 16,000 feet

(2) Based upon the most precise approach available or planned for the end of a runway, the approach surface extends outward and upward at the following slope for the following distance:

- (a) For the end of a utility runway regardless of the available or planned approach, or for the end of other than a utility runway which end has only a visual approach procedure, a slope of 20 to 1 for 5,000 feet from the end of the primary surface.
- (b) For the end of other than a utility runway, which end has a nonprecision instrument approach procedure, a slope of 34 to 1 for 10,000 feet from the end of the primary surface.
- (c) For the end of other than a utility runway, which end has a precision instrument approach procedure, a slope of 50 to 1 for 10,000 feet from the end of the primary surface and, from that point, a slope of 40 to 1 for an additional 40,000 feet.

**History:** Add. 1986, Act 296, Eff. Apr. 1, 1987.

**259.482d Extension of transitional surface.**

Sec. 2d. (1) Except as provided in subsection (2), a runway's transitional surface extends to the intersection of the transitional surface with the horizontal surface.

(2) For a runway that has a precision instrument approach, the transitional surface beginning at the side of a runway's approach surface extends for 5,000 feet measured horizontally from the side of the approach surface.

**History:** Add. 1986, Act 296, Eff. Apr. 1, 1987;—Am. 2016, Act 28, Eff. May 30, 2016.

**259.482e Perimeter of horizontal surface.**

Sec. 2e. The perimeter of a horizontal surface is constructed by swinging an arc with a radius as specified by this section from the center point of each end of the primary surface of each runway of an airport and connecting adjacent arcs by a line tangent to those arcs. The radius of an arc for a utility runway or for other than a utility runway with a visual approach equals 5,000 feet. The radius of an arc for any other runway equals 10,000 feet. The radius of the arc specified for the end of a runway shall not be less than the longest radius for the other end of the runway. If a 5,000 foot arc is encompassed by a tangent connecting adjacent 10,000 foot arcs, the 5,000 foot arc shall be disregarded in constructing the perimeter of the horizontal

surface.

**History:** Add. 1986, Act 296, Eff. Apr. 1, 1987.

**259.482f Meteorological tower; requirements; database of locations; information to be provided by owner; marking; removal.**

Sec. 2f. (1) A meteorological tower that is 50 feet in height above the ground or higher and the appearance of which is not otherwise regulated by state or federal law must comply with all of the following:

(a) The tower must be painted in equal, alternating bands of orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the tower.

(b) The tower must have 1 or more 7-foot safety sleeves placed at each anchor point that extend from the anchor point along each guy wire attached to the anchor point.

(c) The tower must have at least 1 orange marker ball attached to each guy wire at the highest point that does not affect the stability of the tower and the measurement of wind speed.

(2) The commission may establish, maintain, and publish a database that contains locations of all existing meteorological towers.

(3) Within 60 days after the effective date of this section, an owner of any existing meteorological tower erected in this state shall provide the commission with all of the following:

(a) The global positioning system coordinates of the center of the meteorological tower.

(b) The elevation of the site, in feet.

(c) The structure's height above ground level, in feet.

(d) The owner's or lessee's name, address, telephone number, and electronic mail address, if any.

(e) The name of any owner's representative.

(4) Within 1 year after the effective date of this section, an owner of an existing meteorological tower erected in this state shall mark the tower as required by subsection (1).

(5) Ten days or more before the erection of a new meteorological tower, an owner of the tower shall provide to the commission the information required under subsection (3) and certification by the owner that the tower has been marked in accordance with this section.

(6) Within 10 days after the removal of a meteorological tower, an owner of the tower shall notify the commission of the removal.

**History:** Add. 2016, Act 28, Eff. May 30, 2016.

**259.483 Building permits; public utility structures, emergency repair.**

Sec. 3. No application for a permit shall be required for the emergency repair or replacement of nonconforming public utility structures, other than buildings, to insure continuity of proper customer service, when the height of such structures is not increased by such emergency repair or replacement: Provided further, That any combination of circumstances calling for immediate action or remedy in the repair or replacement of such nonconforming public utility structures shall be deemed an emergency.

**History:** 1959, Act 259, Eff. Mar. 19, 1960.

**259.484 Structure extending more than 1,000 feet above ground elevation at structure's site; conditions to issuance of permit to erect, add to, or replace.**

Sec. 4. (1) Unless the commission conducts an airspace study and finds noninterference to air navigation, the commission shall not issue a permit to erect, add to, or replace a structure that will extend more than 1,000 feet above ground elevation at the structure's site. A person shall not erect, add to, or replace a structure for which a permit is required, which structure exceeds the height allowed by the permit.

(2) The commission may issue a permit to erect or add to a structure that will extend more than 1,000 feet above the ground elevation at the site of the structure proposed to be erected or added to if the proposed structure will not be higher than 50 feet above the height of the highest structure in existence on March 19, 1960, which highest structure is within a distance of 1 mile from the location of the structure proposed to be erected or added to.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

**259.485 Application for permit; statement of location and maximum height; applicability of height restrictions.**

Sec. 5. (1) It is not necessary that ownership of, option for, or other possessory right to a specific location site be held by the applicant before application for a permit is filed with the commission. A permit, among other things, shall state the specific location and the maximum height allowed for the structure.

(2) The height restrictions of this act do not apply to the alteration of a structure owned by an applicant



who is before the federal communications commission under the federal communications commission's mass media docket numbers 80-90 and 84-231, which alteration is a result of those proceedings.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

**259.486 Permit; specification of visual or aural identification; compliance with federal laws or regulations; operation during daylight hours; high intensity white obstruction lights; demolition or removal of structure; violation.**

Sec. 6. (1) A permit must specify the obstruction markers, markings, lighting, or other visual or aural identification required to be installed on or in the vicinity of the structure, if any. The identification characteristics required must conform to federal laws and regulations. Notwithstanding any federal guidelines, and on consideration of the relevant facts, a permit may require lighting to be operational during daylight hours.

(2) Unless waived by the commission because of federal permit requirements or other valid reasons, the obstruction lights for a structure more than 800 feet above the ground elevation at the structure's site must be high intensity white obstruction lights and must be operational during daylight hours, in addition to any nighttime lighting requirement.

(3) If ordered by the commission, the owner of a nonconforming structure that is permanently out of service or partially dismantled, destroyed, deteriorated, or decayed shall demolish or remove the structure.

(4) Failure to maintain obstruction lights in an operable condition is a violation of this act.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987;—Am. 2016, Act 28, Eff. May 30, 2016.

**259.487 Application for permit; investigation; considerations; notice of determination; hearing.**

Sec. 7. (1) On receiving an application for a permit, the commission shall investigate as necessary to process the application properly under this act. In an investigation under this section, the commission shall consider the safety and welfare of persons and property in the air and on the ground and that consideration must be paramount to a consideration of economic and technical factors.

(2) If, on investigation, the commission determines that a permit should not be issued or that the height or location should be other than as applied for, the commission shall notify the applicant in writing of the commission's determination. The notification may be served by delivering it personally to the applicant or by sending it by first-class mail to the applicant at the address specified in the application. The determination is final 30 days after notification of the determination is served, unless the applicant, within the 30-day period, requests in writing that a hearing be held before the commission with reference to the application. The commission shall make a hearing under this section open to the public. Any person interested may appear and be heard either in person or by counsel and may present pertinent evidence and testimony.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987;—Am. 2016, Act 28, Eff. May 30, 2016.

**259.488 Building permits; conduct, controlling statute and rules for conduct of public hearings.**

Sec. 8. All public hearings shall be conducted as prescribed by Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Compiled Laws of 1948, and the rules and regulations promulgated thereunder.

**History:** 1959, Act 259, Eff. Mar. 19, 1960.

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

**259.489 Appeal.**

Sec. 9. Within 10 days after the issuance of an order or rule of the commission, a person aggrieved by the order or rule may appeal to or have the action of the commission reviewed by the circuit court of Ingham county in the manner provided for the review of orders of other administrative bodies of this state.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

**259.490 Action to enjoin, restrain, correct, or abate violation.**

Sec. 10. In addition to any other remedy, the commission may institute in a court of competent jurisdiction an action to enjoin, restrain, correct, or abate a violation of this act or of a rule or order of the commission issued pursuant to this act. The court may grant the relief necessary under this act and the rules and orders of the commission issued pursuant to this act.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

**259.491 Rules; forms.**

Sec. 11. The commission shall adopt and promulgate, and may from time to time amend or rescind, reasonable rules for the administration of this act in accordance with 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. Publication and distribution of changes in the rules shall be at the commission's expense. The commission shall prescribe and furnish forms necessary for the administration of this act.

**History:** 1959, Act 259, Eff. Mar. 19, 1960;—Am. 1986, Act 296, Eff. Apr. 1, 1987.

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

**259.492 Violation of act; penalty.**

Sec. 12. Whoever violates or fails to comply with the provisions of this act shall be guilty of a misdemeanor punishable by a fine of not more than \$500.00, or by imprisonment for not more than 1 year, or both. Each day that such violation or failure continues is a separate offense.

**History:** 1959, Act 259, Eff. Mar. 19, 1960.

**259.493 Tall structure act; short title.**

Sec. 13. This act shall be known and may be cited as the "tall structure act".

**History:** 1959, Act 259, Eff. Mar. 19, 1960.

**MICHIGAN AVIATION MATCHING FUND  
Act 329 of 1945**

**259.501-259.509 Repealed. 1949, Act 298, Imd. Eff. June 16, 1949;—1976, Act 191, Imd. Eff. July 8, 1976.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 206 of 1951**

**259.511-259.517 Repealed. 1976, Act 191, Imd. Eff. July 8, 1976.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 206 of 1952**

**259.521-259.527 Expired. 1952, Act 206, Eff. July 1, 1953.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 222 of 1953**

**259.531-259.537 Expired. 1953, Act 222, Eff. July 1, 1954.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 266 of 1955**

**259.541-259.547 Expired. 1955, Act 266, Eff. July 1, 1956.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 204 of 1956**

**259.551-259.557 Expired. 1956, Act 204, Eff. July 1, 1957.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 271 of 1957**

**259.561-259.566 Expired. 1957, Act 271, Eff. July 1, 1958.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND**

**Act 255 of 1959**

**259.571-259.576 Expired. 1959, Act 255, Eff. July 1, 1960.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 130 of 1960**

**259.581-259.586 Expired. 1960, Act 130, Eff. July 1, 1961.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 168 of 1961**

**259.591-259.596 Expired. 1961, Act 168, Eff. July 1, 1962.**

**LANSING AIRPORT; LEASE OF LANDS**  
**Act 296 of 1931**

AN ACT to authorize the state administrative board to lease certain lands to the city of Lansing for use as an airport.

**History:** 1931, Act 296, Imd. Eff. June 8, 1931.

*The People of the State of Michigan enact:*

**259.601 Lease of lands to Lansing for airport; state administrative board authority, term, description of lands.**

Sec. 1. The state administrative board is hereby authorized to lease to the city of Lansing for a period of 25 years the tract of land now under the jurisdiction and held by the boys' vocational school and now being used for airport purposes and described as, the southwest 1/4 of section 31; west 1/2 of the southeast 1/4 of section 31; the south 1/2 of northwest 1/4 of section 31; the southwest 1/4 of the northeast 1/4 of section 31 of Dewitt township, T5N, R2W, except the right-of-way of the Pere Marquette railroad and the land south of said right-of-way being 338 acres more or less.

**History:** 1931, Act 296, Imd. Eff. June 8, 1931;—CL 1948, 259.601.

**259.602 Lease of lands to Lansing for airport; conditions.**

Sec. 2. Such lease shall be upon the following conditions:

(a) Such property shall be used as an airport and landing field and the city of Lansing shall improve and maintain it as such.

(b) The city of Lansing shall pay to the state the sum of 1,000 dollars as an annual rental during the term of such lease.

(c) The state shall reserve the right to use the same for the purpose of an airport and landing field and to that end to build and maintain 1 hangar.

(d) At the expiration of the lease herein authorized to be made, the state administrative board may sell the land described upon such terms and at such price as it may deem proper, but based on the established value of lands in that vicinity at that time. The city of Lansing is hereby given an option to purchase said property at the time named and at the price to be fixed as herein set forth.

**History:** 1931, Act 296, Imd. Eff. June 8, 1931;—CL 1948, 259.602.

**CAPITAL CITY AIRPORT TERMINAL BUILDING**  
**Act 143 of 1956**

**259.611-259.617 Repealed. 1970, Act 73, Imd. Eff. July 16, 1970.**

## COMMUNITY AIRPORTS Act 206 of 1957

AN ACT to authorize 2 or more counties, cities, townships and incorporated villages, or any combination thereof, to incorporate an airport authority for the planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining and operating the landing, navigational and building facilities necessary thereto of 1 or more community airports; to provide for changes in the membership therein; to authorize an authority or the counties, cities, townships and incorporated villages that form an authority to levy taxes for such purposes; to provide for the operation and maintenance and issuing notes therefor; to authorize condemnation proceedings; and to prescribe penalties and provide remedies.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1987, Act 153, Imd. Eff. Oct. 29, 1987;—Am. 1998, Act 174, Eff. Mar. 23, 1999.

**Popular name:** Community Airport Authority Act

*The People of the State of Michigan enact:*

### **259.621 Airport authority; formation; purpose; selection and location of site for physical facilities.**

Sec. 1. Any 2 or more counties, cities, incorporated villages, or townships, or any combination thereof, by resolution of their respective legislative bodies, may join to form an airport authority for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating the landing, navigational, and building facilities necessary thereto, either within or without their limits, of 1 or more community airports. A site for the physical facilities of the airport authority shall not be selected without the approval of 2/3 of the total membership of the airport authority board and shall be located within the boundaries of the airport authority.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1958, Act 216, Eff. Sept. 13, 1958;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

### **259.622 Airport authority; body corporate, powers.**

Sec. 2. The airport authority shall be a body corporate with power to sue or be sued in any court of this state and may exercise any and all powers necessary and incident to the acquisition, construction, improvement, enlargement, extension, ownership, maintenance and operation of the landing, navigational and building facilities necessary thereto of 1 or more community airports.

**History:** 1957, Act 206, Eff. Sept. 27, 1957.

**Popular name:** Community Airport Authority Act

### **259.623 Resolution creating airport authority; county, city, incorporated village, or township subsequently becoming member of airport authority; release from membership; resolutions; conditions.**

Sec. 3. (1) The resolution creating the airport authority shall designate the counties, cities, incorporated villages, and townships to be included therein and shall set forth the fact that a sum of money not to exceed 1 mill of their assessed valuation as last equalized by the state may be requested and certified by the airport authority board annually for the purpose of planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating the necessary landing, navigational, and building facilities of 1 or more community airports. The resolution also shall provide that the requested money or any portion of the requested money may be pledged by the governing body of the airport authority for the payment of revenue bonds under Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws. The authority shall be deemed to be a charter authority within the meaning of section 6 of article 9 of the state constitution of 1963. The resolution may provide that the airport authority shall become operative if a specified number of the proposed number of members bodies approve it. The resolution may fix a time within which the respective local units must act in order to be included in the airport authority. The resolution may designate a date for the appointed representatives to convene.

(2) Any county, city, incorporated village, or township may subsequently become a member of any airport authority formed under this act upon resolution adopted by the governing body of the municipality and acceptance by resolution adopted by majority vote of the entire governing board of the airport authority. Any county, city, incorporated village, or township which is or becomes a member of an airport authority, upon

request and upon resolution of its governing body, duly accepted by a 2/3 majority vote of the entire governing board of the airport authority, may be released from membership in the airport authority. A county, city, incorporated village, or township may not be released from membership in any airport authority formed under this act until all outstanding obligations of the airport authority that have been incurred after the time of the admission to membership of the county, city, incorporated village, or township and that part of prior obligations as may be agreed to by the board and the governing body of the county, city, incorporated village, or township have been paid, or adequate provision has been made for the payment thereof.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

**259.624 Ad valorem property tax; authorization; limitation; computing total tax to be levied; approval of tax by electors; use of revenues.**

Sec. 4. (1) The legislative bodies of the counties, cities, incorporated villages, and townships creating the airport authority may raise by an ad valorem property tax, to be levied on the taxable property within their respective jurisdictions, a sum of money to be used to assist in the planning, promoting, acquiring, constructing, improving, enlarging, extending, owning, maintaining, and operating the landing, navigational, and building facilities necessary thereto of the community airport authorized by this act. The tax shall not exceed 1 mill on each dollar of the state equalized valuation of each county, city, incorporated village, or township. In computing the total tax to be levied, the assessed valuation of any unit of government joining the airport authority shall not be used more than once.

(2) The ad valorem property tax authorized by this section shall not be levied unless approved by the majority of the qualified electors of the member local unit voting thereon. A tax approved pursuant to this subsection may be levied until the local unit is released from membership in the authority or until the authority is dissolved, whichever occurs first. However, this subsection shall not be considered to prohibit the use of revenues from ad valorem property tax levies of mills within the member local unit's charter or statutory limitation to pay an appropriation required by the airport authority.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1958, Act 216, Eff. Sept. 13, 1958;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

**259.625 Airport authority board; number, appointment, and representation of members; election of officers; conducting business at public meeting; public notice; appointment of committees; selection and employment of officers and employees; engaging necessary services; reimbursement of expenses.**

Sec. 5. The airport authority shall be directed and governed by an airport authority board consisting of not less than 4 members, the appointment and representation of which shall consider population as well as other factors and shall be specified in each of the resolutions creating the airport authority. On the date appointed in the adopting resolutions, or not more than 30 days after the creation of the airport authority, the members appointed to the airport authority board shall convene to elect a temporary chairperson and secretary. As soon as possible the full airport authority board shall hold its first meeting and organize by electing a chairperson and vice-chairperson who shall be members of the board, and a secretary and treasurer who need not be members. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended. The board may also appoint an executive committee, consisting of the chairperson and 2 other members, to carry on the active administrative duties of the airport authority, which executive committee shall hold office during the pleasure of the airport authority board. The airport authority board may also appoint an airport advisory committee whose duty shall be to advise the airport authority board in regard to technical problems of airport operation and in regard to state and federal policies. The airport authority board may also select and employ other officers and employees and engage services as shall be considered necessary. A member of the airport authority board shall serve without compensation but shall be reimbursed for actual expenses incurred in the discharge of official duties.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1958, Act 216, Eff. Sept. 13, 1958;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1978, Act 410, Imd. Eff. Sept. 28, 1978;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

**259.626 Airport authority board; meetings; quorum; record; availability of writings to public; system of accounts; treasurer; bond; rules and policies.**

Sec. 6. After organization the airport authority board shall hold meetings at the call of the chairperson. The chairperson shall call a meeting upon request of 3 members of the board. A majority of the appointed members shall constitute a quorum. The 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 Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The board shall also 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 treasurer by a competent certified public accountant. The board shall require of the treasurer a suitable bond by a responsible bonding company, the bond to be paid for by the board. The airport advisory committee, with the approval of the airport authority board, shall adopt rules and policies governing the professional work of an airport and the eligibility and qualifications of the airport's staffs, which may conform, as nearly as practicable, to the applicable standards recommended by the American association of airport executives, the federal aviation administration, and the civil aeronautics board.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1978, Act 410, Imd. Eff. Sept. 28, 1978;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

**259.627 Airport authority board; preparation, contents, and adoption of budget; determining fair and equitable share of each county, city, and township; appropriation by village; payment of sums certified by board; liability; reports.**

Sec. 7. (1) Not later than April 1 of each year the airport authority board shall prepare a budget containing an itemized statement of the estimated current expenses and the expenses for capital outlay, including 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 estimated revenue of the airport authority from all sources for the ensuing fiscal year. Airport authorities consisting only of 2 or more counties shall have until September 1 of each year to prepare this budget. The board shall adopt such budget as shall be deemed necessary and shall ascertain what appropriations are required from the several counties, cities, townships, and villages to meet their respective shares of the amount of the budget in excess of the estimated revenues.

(2) In determining the fair and equitable share of each county, city, and township, the board shall establish the ratio that the state equalized valuation of each for the year in which the appropriation is required bears to the total state equalized valuation for the year in which the appropriation is required of all the counties, cities, and townships included in the airport authority and use the applicable ratio in determining the amount of appropriation required from a county, city, or township. Any village included in the airport authority shall appropriate its proportionate share of the amount apportioned to the township in which it is located, and in determining the division between the township and village, the amount of their respective state equalized valuations for the year the appropriation is required shall be used as the basis for the determination. The board shall certify to each participating county, city, township, and village the amount to be raised by them, and the respective counties, cities, townships, and villages shall include such amounts in their next ensuing budgets and shall pay the amounts so certified from any funds they have available or from the proceeds of a tax which they are authorized to levy, in an amount sufficient therefor, but not exceeding 1 mill. Payment of sums so certified shall be due and payable to the airport authority 120 days subsequent to the date upon which local taxes become due and payable in counties, cities, villages, and townships participating in the airport authority. Each county, city, township, and village shall be liable for the amount so certified.

(3) The board shall also render to each participating county, city, township, and village, on each July 1, during the operation of the airport a certified report of the operation of the airport. Each report shall state the condition of the finances, the amount of money expended, and the money received from all sources. The board shall also file a copy of the report with the department of treasury together with any other information the department of treasury may require. Within 30 days after the formation of any new airport authority, and annually on July 1 thereafter, the airport authority board shall file with the secretary of state a report as the secretary of state may require, showing the date of formation, the names of the member communities, and any other information as the report may call for.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982;—Am. 1983, Act 182, Imd. Eff. Oct. 25, 1983.

**259.627a Applicability of section; levy of ad valorem property tax; election; resolution; form of proposition; collection; certification; payment; expenses; adoption of budget; dissolution of authority.**

Sec. 7a. (1) This section applies only to an authority formed under this act that is composed of 1 county and another member or members all located wholly within the boundaries of that county. This section shall apply to such an authority in addition to any provisions of this act that are not inconsistent with this section, and in case of a conflict between this section and any other provisions of this act which are inconsistent with this section, this section shall prevail.

(2) Sections 4 and 7 shall not apply to an authority governed by this section, except that the revenue from the tax authorized to be levied pursuant to this section may be used for the same purposes described in section 4 for which the revenue may be used from a tax authorized to be levied pursuant to section 4. A member of the authority may voluntarily make an appropriation to the authority. The board of an authority governed by this section may levy an ad valorem property tax on taxable property within the county at a rate of not to exceed 1 mill upon approval of the majority of the qualified electors within the county voting on the question.

(3) An election on the question of whether to levy a tax authorized pursuant to subsection (2) may be called by resolution of the board of the authority. The secretary of the board of the authority shall file a copy of the resolution of the board calling the election with the county clerk, the county election scheduling committee, and the board of county election commissioners not less than 45 days before the date of the election. The resolution calling the election shall contain the proposition to be submitted to the electors. The calling of an election in the manner provided in this section, but prior to the effective date of this section, is ratified. Approval by the electors of a proposition in substantially the following form shall constitute authorization for the authority to impose the tax and to use the proceeds for any 1 or more of the purposes described in section 4:

"Shall the \_\_\_\_\_ Authority be authorized to levy upon property in \_\_\_\_\_ County a tax not to exceed \_\_\_\_\_ mill (\$\_\_\_\_\_ per \$1,000.00) in any 1 year, on assessed valuation as finally equalized, to be used to assist in acquiring, constructing, improving, enlarging, owning, maintaining, and operating property and facilities at \_\_\_\_\_ Airport(s)?

Yes \_\_\_\_\_  
No \_\_\_\_\_".

The county clerk, each city and township clerk, and all other county, city, and township officials, shall undertake those steps to properly submit the proposition to the electors in the county at the election specified in the resolution of the authority. The election shall be conducted and canvassed in accordance with the Michigan election law, Act No. 116 of the Public Acts of 1954, being sections 168.1 to 168.992 of the Michigan Compiled Laws. The results of the election shall be certified to the board of the authority promptly after the date of the election. The authority shall not call more than 1 election within a calendar year for the approval of the tax authorized by subsection (2) without the approval of the legislative bodies of a majority of the members of the authority. If no election or nomination to any state, county, district, or other local office is on the ballot in a given political subdivision within the county on the day of the election regarding the airport authority proposition, and if in that subdivision there is no ballot proposition, proposal, or question submitted by that subdivision, the authority shall pay all, or if the authority proposition is not the only proposition, proposal, or question before the electorate, a pro rata portion of the reasonable costs of the election incurred by that political subdivision as determined by the county clerk.

(4) The tax authorized by this section shall be levied and collected as are all ad valorem property taxes in the state, and the secretary of the board of the authority shall at the appropriate times certify to the proper tax assessing or collecting officers of each city and township in the county the amount of taxes to be levied and collected each year for the authority by each city and township. The board of the authority shall determine on which tax roll of the city or township, if there is more than 1 roll, that the tax authorized by this section shall be collected. However, the tax shall not be levied on a July tax roll unless certified by the authority not later than the immediately preceding June 15, and shall not be levied on a December tax roll unless certified not later than the immediately preceding October 1, except that a tax authorized by this section and approved at an election held on November 3, 1987, may be levied on a December 1987 tax roll. Each tax assessing and collecting officer shall levy and collect the taxes certified by the authority and pay those taxes to the county treasurer in accordance with the same schedule as is applicable pursuant to section 43 of the general property tax act, Act No. 206 of the Public Acts of 1893, being section 211.43 of the Michigan Compiled Laws, with respect to the delivery of county taxes. The county treasurer shall account for and deliver to the authority the tax collections for authority purposes, received by the county treasurer from local collecting officers, within



10 business days after the county treasurer receives the funds. If a tax is certified for levy on a December 1987 tax roll, the reasonable and actual expenses incurred by a township, county, or city in assessing and collecting the tax on that roll, to the extent these expenses are in addition to the expense of collection and assessing any other taxes at the same time and exceed the amount of any fees imposed for the collection of the tax, shall be billed to and paid by the authority.

(5) The budget of the authority, other than the first budget, shall be adopted before commencement of the fiscal year to which the budget relates.

(6) The resolution creating the airport authority may establish or may have established conditions under which the authority shall be dissolved.

**History:** Add. 1987, Act 153, Imd. Eff. Oct. 29, 1987.

**Popular name:** Community Airport Authority Act

**259.628 Airport authority board; self-liquidating bonds; issuance; liability; amount required of municipality as revenues of authority; sale of bonds; petition for referendum; resolution; election; ballots; governing bodies as board of canvassers; certification of election results.**

Sec. 8. For the purpose of acquiring, purchasing, constructing, improving, enlarging, or repairing such community airports, the airport authority board may issue self-liquidating bonds of the authority in accordance with Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Michigan Compiled Laws. The bonds shall not impose any liability upon the counties, cities, villages, and townships included in the airport authority, other than on the amounts which are assessed against the respective municipalities as provided for by this act, which amounts or any portion thereof may be pledged by the governing body of the airport authority for the payment of the bonds for a period not exceeding 40 years. The amount herein required to be paid by any municipality under the provisions of this act shall be considered to be a part of the revenues of the airport authority as that term is defined in section 3(f) of Act No. 94 of the Public Acts of 1933, as amended, being section 141.103 of the Michigan Compiled Laws. The bonds shall be sold for not less than par and shall bear interest at a rate not in excess of the maximum rate permitted under section 12 of Act No. 94 of the Public Acts of 1933, as amended, being section 141.112 of the Michigan Compiled Laws. If a petition for referendum is filed with the secretary of the airport authority in accordance with the provisions of section 33 of Act No. 94 of the Public Acts of 1933, as amended, being section 141.133 of the Michigan Compiled Laws, the governing body of the airport authority shall adopt a resolution establishing the date of the election, which shall be not less than 60 days nor more than 90 days after the adoption of the resolution. The secretary of the authority, within 5 days after the adoption of the resolution, shall transmit a certified copy of the resolution to the governing body of each member community. The governing bodies of the member communities immediately shall provide for an election in accordance with the resolution passed by the authority, in which the question of issuing the bonds and pledging the authority's revenues, including all or any part of the amounts assessed against the respective municipalities as provided for by this act, shall be submitted. The ballots for use in the election shall be provided by the authority and the election shall be conducted in the respective communities except that if any part or all of a village belonging to an airport authority is located in a township belonging to the same authority, the township election shall include that part of the village located in it and the village shall not be required to hold an election except in that portion of the village not located in a township belonging to the authority. The governing bodies of the member communities shall act as a board of canvassers and shall certify the results of the election to the airport authority board, within 5 days after the date of the election, on forms provided by the airport authority. The airport authority board shall compile and tabulate the vote as required from the member communities and certify the result of the election by resolution upon the records of the authority. A majority of the total valid votes cast at such an election voting "yes" on the question submitted shall constitute an approval of the issuance of the bonds.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

**259.628a Violation of MCL 168.1 to 168.992 applicable to petitions; penalties.**

Sec. 8a. A petition under section 8, including the circulation and signing of the petition, is subject to section 488 of the Michigan election law, 1954 PA 116, MCL 168.488. A person who violates a provision of the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992, applicable to a petition described in this section is subject to the penalties prescribed for that violation in the Michigan election law, 1954 PA 116, MCL 168.1 to 168.992.

**History:** Add. 1998, Act 174, Eff. Mar. 23, 1999.

**Popular name:** Community Airport Authority Act

**259.629 Airport authority board; borrowing money and issuing notes; maturity; purpose; resolution; notes issued subject to MCL 141.2101 to 141.2821.**

Sec. 9. The airport authority board operating any airport under the provisions of this act, by resolution adopted by a majority vote of the entire governing board, may borrow money and issue notes, maturing not more than 1 year from the date of their issuance. Borrowing pursuant to this section shall be for the purpose of meeting current expenses of operation and maintenance of the airport. The resolution shall provide for the pledging of income and revenues of the airport authority not previously pledged for the payment of the notes and shall also provide for a special sinking fund into which there shall first be paid, as collected, a sufficient sum from the revenues of the airport authority pledges to retire both the principal and interest of the notes at maturity. The resolution may also provide for the pledging of other assets of the airport authority as additional security for the payment of the notes. Notes issued under this section are subject to the revised municipal finance act, 2001 PA 34, MCL 141.2101 to 141.2821.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982;—Am. 2002, Act 301, Imd. Eff. May 9, 2002.

**Popular name:** Community Airport Authority Act

**259.630 Airport authority board; purchase, lease, or acceptance of property; condemnation of private property; powers of board; taxation of buildings or personal property located on community airport; taxes due as debt.**

Sec. 10. (1) For the purposes of the authority, the airport authority board may purchase, lease, accept by gift or devise real or personal property, or condemn private property. Condemnation shall be exercised by the authority in the same manner as provided the state aeronautics commission by section 104 of Act No. 327 of the Public Acts of 1945, being section 259.104 of the Michigan Compiled Laws, or under such other appropriate acts as shall be passed for the purpose of instituting and prosecuting condemnation proceedings for airport or landing field purposes. The authority board may sell, exchange, lease, hold, manage, and control such property. It may convey its property or any part thereof without monetary consideration to a nonprofit corporation organized for the purpose of owning, maintaining, and operating a public airport or permit the use of such property by such corporation. The conveyance or permission for use shall be upon condition that the corporation maintain and operate an airport upon any land so conveyed or use of which is permitted, and that the corporation shall conform to the rules and standards provided by Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Michigan Compiled Laws. If land is acquired by condemnation, the provisions of Act No. 87 of the Public Acts of 1980, as amended, being sections 213.51 to 213.76 of the Michigan Compiled Laws, shall be adopted and used for the purpose of instituting and prosecuting the condemnation proceedings.

(2) All buildings or personal property located on the community airport may be taxed in the same manner as taxes assessed to owners of real property, except that such taxes shall not become a lien against the property. When due, such taxes shall constitute a debt due from the owner of the buildings or personal property to the township, city, village, county, and school district in which the airport is located and shall be recoverable by direct action of assumpsit.

**History:** 1957, Act 206, Eff. Sept. 27, 1957;—Am. 1958, Act 216, Eff. Sept. 13, 1958;—Am. 1969, Act 32, Imd. Eff. July 10, 1969;—Am. 1982, Act 312, Imd. Eff. Oct. 14, 1982.

**Popular name:** Community Airport Authority Act

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

**259.631 Community airport; definition.**

Sec. 11. As used in this act, "community airport" means any location, either on land or water, which is used for the landing or take-off of aircraft, which provides facilities for the shelter, supply or care of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, all appurtenant rights of way and runway clear zones as designated by the civil aeronautics authority, whether heretofore or hereafter established.

**History:** 1957, Act 206, Eff. Sept. 27, 1957.

**Popular name:** Community Airport Authority Act

**FEDERAL SURPLUS AIRPORTS AND EQUIPMENT  
Act 17 of 1946 (1st Ex. Sess.)**

AN ACT to authorize the Michigan department of aeronautics to accept and receive from the federal government such airports and equipment which may be declared surplus by the federal government.

**History:** 1946, 1st Ex. Sess., Act 17, Imd. Eff. Feb. 25, 1946.

*The People of the State of Michigan enact:*

**259.651 Airports and equipment declared surplus by federal government; acceptance by department of aeronautics.**

Sec. 1. The Michigan department of aeronautics is hereby authorized for and in the name of the state of Michigan to accept and receive from the federal government such airports, including necessary operating equipment, which may be declared surplus by the federal government and which are made available to the state and its political subdivisions under the provisions of the surplus property act of 1944, and any legislation amendatory or supplemental thereto. The department is further authorized to comply with the terms and conditions of disposal agreements covering such surplus public airports, including necessary operating equipment.

**History:** 1946, 1st Ex. Sess., Act 17, Imd. Eff. Feb. 25, 1946;—CL 1948, 259.651.

**UNIFORM AIRCRAFT FINANCIAL RESPONSIBILITY ACT  
Act 257 of 1955**

**259.671-259.692 Repealed. 1995, Act 50, Imd. Eff. May 22, 1995.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 223 of 1962**

**259.751-259.756 Expired. 1962, Act 223, Eff. July 1, 1963.**

**MICHIGAN AVIATION SUPPLEMENTAL MATCHING FUND  
Act 129 of 1963**

**259.761-259.766 Expired. 1963, Act 129, Eff. July 1, 1964.**

**CONSTRUCTION AND IMPROVEMENT OF PUBLIC AIRPORTS  
Act 192 of 1964**

**259.771-259.775 Expired. 1964, Act 192, Eff. July 1, 1965.**

## **MODEL ROCKETS** **Act 333 of 1965**

AN ACT to regulate the use of model rockets.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

*The People of the State of Michigan enact:*

### **259.781 Model rockets; definitions.**

Sec. 1. As used in this act:

(a) "Model rocket" means an aero-model that ascends into the air without use of aerodynamic lifting forces against gravity and is propelled by means of a model rocket engine.

(b) "Model rocket engine" or "engine" means a device or combination of devices which provide the necessary force or motive power to cause the model rocket to move through the air.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

### **259.782 Inapplicability of act to certain activities.**

Sec. 2. This act does not apply to the design, construction, production, maintenance, launch, flight, test, operation or use of, or any other activity in connection with a model rocket or model rocket engine, when carried on or engaged in by (a) the United States or this state, (b) a college, university or other institution of higher education, or (c) an individual or an entity engaged in research, development or production of rockets, rocket engines or propellants, or components thereof, as a business.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

### **259.783 Model rockets; requirements prior to launch, operation and flight.**

Sec. 3. A model rocket shall comply with the following requirements prior to its launch, operation and flight:

(a) Gross weight, including the model rocket engine, shall not exceed 16 ounces.

(b) No more than 4 ounces of propellant materials shall be contained in a model rocket engine at the moment of launch.

(c) It shall be so constructed as to be capable of repeated flights and shall contain means for retarding descent to the ground so that the structure shall not be substantially damaged and no hazard shall be created to persons and property on the ground.

(d) Construction shall be of wood, plastic, paper, rubber or similar materials and without substantial metal parts.

(e) Design and construction shall include attached surfaces which will provide aerodynamic stabilizing and restoring forces necessary to maintain a substantially true and predictable flight path.

(f) It shall not contain any type of explosive or pyrotechnic warhead.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

### **259.784 Model rocket engines; standards.**

Sec. 4. A model rocket engine which supplies the propulsive force for a model rocket shall conform to the following standards:

(a) It shall be a commercially manufactured device or combination of devices wherein all chemical ingredients of a combustible nature are pre-mixed and ready for use.

(b) The force or motive power shall be created by a rearward discharge of gas generated by the combustion or other operation of materials contained solely within the device or combination of devices.

(c) The device or combination of devices shall have been tested by the federal bureau of explosives and shall qualify as a "toy propellant device" under title 18, section 11 of the United States code.

(d) An engine constructed wholly or partly of metal shall be equipped with an adequate blowout disc or other safety release, as an integral part of the engine, for the purpose of preventing rupture of the engine casing in the event of internal over-pressure.

(e) It shall be so designed and constructed as to be incapable of spontaneous ignition or combustion in air, water, under pneumatic or hydraulic pressure, as a result of motion or jarring, when subjected to a temperature of 170 degrees Fahrenheit or less, or in glycerine.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

### **259.785 Model rockets; location of launch site, standards.**

Sec. 5. A model rocket may be launched, operated and flown only in a location, not otherwise restricted by

law, which shall comply with the following minimum standards:

(a) A ground area shall be used containing at least 5,000 square yards and having a general rectangular shape with no side less than 50 yards in length.

(b) Flight areas shall be located in places that will not create a hazard to persons and property in the vicinity of the area.

(c) Flight areas shall not contain or be located adjacent to a high voltage power line, major highway, multi-story building or other obstacle.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

#### **259.786 Model rockets; launching, conditions.**

Sec. 6. A model rocket may be launched upon compliance with the following conditions:

(a) A device or mechanism shall be used which shall restrict the horizontal motion of the model rocket until sufficient flight velocity shall have been attained for reasonably safe, predictable flight.

(b) Launching or ignition shall be conducted by remote electrical means fully under the control of the person launching the model.

(c) A launching angle of more than 60 degrees from the horizontal shall be used.

(d) At least 1 adult person shall inspect each model rocket before flight and shall supervise the launching of each model rocket.

(e) All persons in the vicinity of the launching shall be advised that a launching is imminent before a model rocket is ignited and launched.

(f) Winds shall be less than 20 miles per hour and visibility shall be greater than 2,000 feet.

(g) A model rocket in flight shall not create a hazard to aircraft.

(h) A model rocket shall not be used as a weapon against ground or air targets.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

#### **259.787 Model rocket engines; ground testing, conditions.**

Sec. 7. A model rocket engine may be tested on the ground for the purpose of determining performance or may be used as the motive power of an experiment conducted on the ground under the following minimum conditions:

(a) The engine shall be affixed to a testing device or to an immovable structure in such manner that the engine may not become free during the conduct of the test or experiment.

(b) The engine shall be ignited only by remotely operated electrical means fully under the control of the person conducting the test or experiment.

(c) When a test or experiment is conducted indoors, the exhaust from the engine so tested shall be directed into a nonflammable hood or vent which shall lead directly to the outside of the building.

(d) The exhaust path shall be cleared of all inflammable objects prior to the igniting of such engine.

(e) A person who conducts, participates in or observes static or ground testing of a model rocket engine shall stand a safe distance away from the engine, and particularly its exhaust path, at all times during the conduct of the test.

(f) At least 1 adult person shall inspect each engine to be tested and the testing device to be used before the test is conducted.

(g) The conduct of the test or experiment shall be supervised by at least 1 adult person.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

#### **259.788 Model rockets; activities prohibited.**

Sec. 8. The following activities are prohibited:

(a) The use of a model rocket engine for pyrotechnic purposes or for the primary purpose of producing a spectacular display of color, sound, light or any combination thereof, or in any way contrary to the provisions of this act.

(b) Tampering with or using an engine in any manner or degree contrary to the purpose for which the engine is designed and intended to be used, or contrary to the provisions of this act.

(c) The ignition of an engine with such instantaneous and violent expansion of gas or relinquishment of energy as to cause rupture of the casing.

(d) The launching, operating, discharging, flying or otherwise activating of a model rocket without first having fully complied with the foregoing provisions of this act.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

#### **259.789 Scope of act.**

Sec. 9. Chapter 39 of Act No. 328 of the Public Acts of 1931, as amended, being section 750.243 of the Compiled Laws of 1948, and all other acts and parts of acts inconsistent with the provisions of this act do not apply to the use of model rockets in conformity with the provisions of this act.

**History:** 1965, Act 333, Imd. Eff. July 23, 1965.

**AIRPORT AUTHORITIES**  
**Act 73 of 1970**

AN ACT to provide for the creation of airport authorities; to provide for certain counties and cities within certain limitations of state-owned airports to create an airport authority; to provide for the membership of authorities; to provide for the powers and duties of the authorities; to provide for the transfer of employees of state airports to the employment of an authority; to provide for the transferring of state-owned lands to the authority; to provide for the retention of certain rights, powers and privileges by the state in state-owned airport facilities; to provide for a referendum; and to repeal acts and parts of acts.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

*The People of the State of Michigan enact:*

**259.801 Airport authority; formation, charter; population specifications.**

Sec. 1. Within 90 days of the effective date of this act, counties, any portion of whose boundaries are within 10 miles of any state-owned airport and any city located within the boundaries of any such counties and having a population of over 100,000, by a resolution passed by each of their legislative bodies by a majority of the entire membership of each board or council voting separately shall join to form an airport authority, hereafter referred to as the "authority". The authority shall be deemed to be a charter authority within the meaning of section 6 of article 9 of the state constitution.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.802 Airport authority board; number, appointment, and qualifications of members.**

Sec. 2. The authority shall be directed and governed by an airport authority board. The airport authority board shall consist of 3 members from each city designated in section 1, appointed by the mayor with the advice and consent of the city council; 3 members from the balance of each county having a city with a population over 100,000 located primarily within its boundaries, appointed by a majority of the county board of commissioners; and 2 members from each other county comprising the authority, appointed by their respective legislative bodies by a majority of the full membership of the appointing legislative body. A board member shall be an elector of his or her respective appointing city or county and may be a member of the appointing legislative body.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970;—Am. 1982, Act 271, Imd. Eff. Oct. 5, 1982;—Am. 1998, Act 214, Imd. Eff. July 1, 1998.

**259.803 Airport authority board; members, term, vacancy.**

Sec. 3. Of the county members first appointed, 1 member shall be appointed for 4 years and 1 member for 3 years. Of the city members, 1 shall be appointed for 2 years, 1 for 3 years and 1 for 4 years. After the initial appointments expire all members shall be appointed for 4 years. All members appointed shall serve until they are reappointed or a successor named at the end of their term. If a member is unable to complete his term of office, a successor shall be appointed in the same manner as the original appointment to complete the term. In the case of the appointment of a successor, he shall serve until another is appointed or he is reappointed.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.804 Airport authority board; removal of member.**

Sec. 4. The legislative body of a county or the city council appointing members to the board may remove any member appointed by it by a 3/4 vote of its full membership.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.805 Additional counties joining authority.**

Sec. 5. Any additional county contiguous to the original counties forming the authority may subsequently become a member of the authority upon resolution adopted by the governing body of the county and acceptance thereof by resolution adopted by majority vote of the board. The number of members to be added to the board when an additional county becomes a member of the authority shall be determined by the board.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.806 Airport authority board; first meeting; election of officers; conducting business at public meeting; notice; corporate seal; executive committee; expenses; quorum; legal majority.**

Sec. 6. By October 14, 1970, the board shall hold its first meeting and organize by electing a chairperson

and vice-chairperson who are members of the board, and a secretary and treasurer who need not be board members and additional officers who need or need not be members of the board as the board considers necessary. The business which the board may perform shall be conducted at a public meeting of the board held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976. The board may also adopt a corporate seal and appoint an executive committee, consisting of the chairperson and 1 member from each of the governmental units comprising the authority other than that represented by the chairperson to perform those duties as the board assigns. The members of the executive committee shall hold office during the pleasure of the board. Members of the board and executive committee shall serve without compensation from the authority, but shall be reimbursed by the authority for actual expenses incurred in the discharge of official duties. A simple majority of the board members shall constitute a quorum for the conduct of the business of the board. A simple majority of the full membership of the board shall constitute a legal majority on all voting issues before the board.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970;—Am. 1978, Act 409, Imd. Eff. Sept. 28, 1978.

### **259.807 Airport authority as body corporate; other airports; powers.**

Sec. 7. The authority shall be a public body corporate with powers to sue or be sued in any court of this state and have the power and duty of planning, promoting, extending, owning, maintaining, acquiring, purchasing, constructing, improving, enlarging and operating all publicly-owned airports and airport facilities hereinafter established to be operated within the territorial jurisdiction of the authority. Any existing publicly-owned airport or airport facility now or hereafter within the jurisdictional confines of the authority may elect to come within the operational jurisdiction of the authority unless prohibited by legal restrictions or limitations, upon acceptance by the authority under mutually agreeable terms and conditions.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

### **259.808 Airport authority board; meetings; records; availability of certain writings to public; system of accounts; audit; treasurer's bond; executive director; rules and policies; interest in contract prohibited; personal liability.**

Sec. 8. (1) After organization, the board shall hold meetings at the call of the chairperson. The board shall adopt a schedule of regular monthly meetings and adopt a regular meeting date, place, and time. The chairperson shall call a special meeting upon request of 3 members of the board in the manner required by Act No. 267 of the Public Acts of 1976. The 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 Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws. The 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 treasurer by a competent certified public accountant. The board shall require of the treasurer a suitable bond by a responsible bonding company, the cost of the premium of bond to be paid for by the board. The board may appoint an executive director and shall adopt rules and policies governing professional work and services offered by airports and airport facilities under the board's jurisdiction.

(2) A board member or a person holding appointment by the board shall not be interested directly or indirectly in a contract entered into under the law. A board member shall not be subject to personal liability on account of liability of the authority.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970;—Am. 1978, Act 409, Imd. Eff. Sept. 28, 1978.

### **259.809 Airport authority; powers, duties and limitations; elections.**

Sec. 9. In exercising its powers and duties, the authority and the cities and counties comprising the authority shall be vested with and be subject to the same powers, duties and limitations as provided by Act No. 206 of the Public Acts of 1957, as amended, being sections 259.621 to 259.631 of the Compiled Laws of 1948 and Act No. 327 of the Public Acts of 1945, as amended, being sections 259.1 to 259.208 of the Compiled Laws of 1948 unless the provisions of this act are applicable. When the provisions of this act or any act which the authority or the counties comprising the authority are subject to calls for an election or the submission of an issue or proposition to the election process, the provisions of Act No. 116 of the Public Acts of 1954, as amended, being sections 168.1 to 168.992 of the Compiled Laws of 1948, shall apply unless provisions of this act are applicable.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.



**259.810 Budget; contents; adoption; annual report.**

Sec. 10. On or before June 1 of each 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 all airports under the jurisdiction of the board, including 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 estimated revenue of the authority from all sources for the ensuing fiscal year. The fiscal year of the authority shall be from July 1 to June 30. The board shall adopt such budget as shall be deemed necessary and shall ascertain what appropriations are required from the several counties comprising the authority to meet their respective shares of the amount of the budget in excess of the estimated revenues. The authority shall file a copy of their annual report with the state aeronautics commission.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.811 Local units contributions; certification, payment; tax, rate, limitation.**

Sec. 11. The board shall certify to each participating county the amount to be raised by them, and the counties comprising the authority shall include the certified amount to be raised in their next ensuing budget and shall pay the amounts so certified from any funds they have available including the proceeds of a tax the county is authorized to levy on the taxable property within their respective jurisdiction. The tax shall not exceed 3/4 mill on each dollar of assessed valuation as last equalized by the state. In computing the total tax to be levied, the assessed valuation of any unit of government within the county shall not be used more than once. The limitation of section 6 of article 9 of the state constitution shall not apply to taxes imposed by the board and levied by the counties comprising the authority.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.812 Revenue bonds; purpose.**

Sec. 12. For the purpose of acquiring, purchasing, constructing, improving, enlarging or repairing airports and airport facilities created within or hereafter acquired by the authority, the board may issue self-liquidating bonds of the authority in accordance with the provisions of Act No. 94 of the Public Acts of 1933, as amended, being sections 141.101 to 141.139 of the Compiled Laws of 1948.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.813 State employees; transfer provisions, rights.**

Sec. 13. Employees of the airport division of the state aeronautics commission employed at the state-owned airport on the date the authority is established may transfer to the employment of the authority. The authority shall accept the transfers without a break in employment. Employees transferring shall be retained in positions at least comparable to positions held by employees on the date of transfer and without a reduction in compensation or loss in fringe benefits or accumulation thereof. The authority shall by a 3/5 vote of the board elect to come under the provisions of Act No. 135 of the Public Acts of 1945, as amended, being sections 38.601 to 38.668b of the Compiled Laws of 1948 and shall adopt the provision of Act No. 88 of the Public Acts of 1961, as amended, being sections 38.1101 to 38.1105 of the Compiled Laws of 1948. Employees of the airport division of the state aeronautics commission, who transfer to the employment of the authority on the effective date the authority is established pursuant to this section, and become members of the municipal employees retirement system, shall be entitled to all accrued credits and benefits provided by Act No. 88 of the Public Acts of 1961, as amended.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.814 Operative sections.**

Sec. 14. In the event that an authority is formed as prescribed in section 1, sections 15, 16, 17, 18, 19, 20 and 22 shall become operative.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.815 Capital city airport; transfer.**

Sec. 15. The state administrative board shall transfer to the authority subject to conditions and restrictions herein approximately 1,135 acres of land in fee simple, 238 acres in easements and land now under lease, including all options, easements, rights of way, and all improvements thereto, except as noted herein and equipment necessary to the operation of the airport as listed in the final agreement now owned by the state to the authority.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

### **259.816 Terminal building; transfer.**

Sec. 16. The state administrative board shall, subject to restrictions of this act, transfer and convey the terminal building and all buildings and other properties and interests and liabilities of the control and management of the board of control to the authority.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

### **259.817 Repealed. 1990, Act 192, Imd. Eff. July 24, 1990.**

**Compiler's note:** The repealed section pertained to reservation by state of space in terminal building, and provided parking for state employees.

### **259.818 Property rights reserved by state; descriptions.**

Sec. 18. (1) The state shall have the use of the fueling rights, ramps, aircraft parking, and motor vehicle parking rights, and the use of a plot of land without charge located in the southeast aviation development area with assured ingress and egress to the area for aircraft and motor vehicles, described more fully as follows:

A portion of DeWitt township, Clinton county, T5N, R2W described as:

That part of the southeast 1/4 of section 31, T5N-R2W, DeWitt township, Clinton county, Michigan, described as: Beginning at a point which is south 89 degrees 58'32" east 788.10 feet, north 00 degrees 29'35" east 465.39 feet along the centerline of Capital City Boulevard and south 89 degrees 30'25" east 90.0 feet from the south 1/4 corner of said section 31; thence south 83 degrees 37'55" east 200.00 feet; thence north 16 degrees 58'32" east 205.20 feet to a point on a curve to the left, radius of 82.50 feet a distance of 88.53 feet (chord bearing north 76 degrees 14'08" east 84.34 feet) to a point of tangent; thence north 45 degrees 29'43" east 249.79 feet; thence south 44 degrees 30'17" east 340.00 feet; thence south 45 degrees 29'43" west 451.10 feet; thence north 83 degrees 37'55" west 439.27 feet; thence north 00 degrees 29'35" east parallel to the centerline of Capital City Boulevard 140.72 feet to the point of beginning and a point of ending. Contains 4.75 acres more or less.

Also a part of the southeast 1/4 of said section 31, T5N-R3W, described as: Beginning at a point which is south 89°58'32", east 788.10 feet, north 00°29'35", east 333.95 feet and south 83°37'55", east 658.66 feet from south 1/4 corner of said section 31; thence north 45°29'43", east along the southeasterly road right of way line of the east airfield access road a distance of 369.75 feet; thence south 44°30'17", east 200 feet; thence south 0°, west (due south) 161.62 feet; thence north 83°37'55", east 406.40 feet to the point of beginning and a point of ending. Contains 1.60 acres more or less.

Also, a parcel of land in the southeast 1/4 of section 31, T5N-R2W, DeWitt township, Michigan described as: Beginning at a point which is south 89 58'32" east 788.10 feet, north 00 29'35" east 465.39 feet, and south 89 30'25" east 90.0 feet from the south 1/4 corner of said section 31; thence south 83 37'55" east 200.00 feet; thence north 16 58'32" east 151.70 feet; thence north 89 30'25" west 241.99 feet; thence south 00 29'35" west 125.00 feet to the point of beginning; containing 0.69 Acres more or less. Parcel description to be in accordance with survey for transfer agreement.

(2) The state reserves for the state health department the use of all properties or a part thereof in the southwest 1/4 of section 32, T5N, R2W, DeWitt township, Clinton county, Michigan, except the north 500 feet thereof, containing 130 acres more or less, and also the north 620 feet more or less of the west 3,000 feet of section 5, T4N, R2W, Lansing township, Ingham county, Michigan, lying north of the Chesapeake and Ohio railroad (formerly Pere Marquette) containing 31 acres more or less; so long as not used for airport purposes, which shall be reserved for use by the Michigan department of health for the purposes of grazing, cropping, or other agricultural purposes.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970;—Am. 1990, Act 192, Imd. Eff. July 24, 1990.

### **259.819 State's free use of facilities.**

Sec. 19. The state shall have the free use of runways, taxiways, ramp facilities and public areas, under the jurisdiction of the authority, necessary to the operation of its aircraft. The authority is prohibited from charging the state landing fees, tie-down fees or other similar fees.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

### **259.820 Transfer of existing contracts and agreements.**

Sec. 20. All contracts and rental agreements between the state aeronautics commission, the terminal building board of control and contracting parties relevant of space, services, facilities or business enterprises in existence at the time of the formation of the authority shall be transferred to the authority and all terms and conditions of the contracts and agreements shall be continued until terminated or renegotiated by the terms of the contracts and agreements.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.821 Act contingent as to federal funding.**

Sec. 21. The provisions of this act shall be contingent upon the federal aviation agency finding that the authority created by this act is a public agency or public body corporate capable of assuming the obligations of the covenants which may have been entered into between the aeronautics commission and the federal aviation agency relative to sponsored project applications and contracts entered into between the agencies.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.822 Repeal.**

Sec. 22. Act No. 143 of the Public Acts of 1956, being sections 259.611 to 259.617 of the Compiled Laws of 1948, is repealed.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.

**259.823 Referendum.**

Sec. 23. Within 60 days of the effective date of this act, petitions may be filed with the secretary of state, signed by a number of registered electors from a county within the authority equal to at least 5% of the total vote cast for all candidates for governor at the last preceding general election at which a governor was elected within the petitioning county, requesting that the county's participation in the authority be submitted for approval by a majority of the electors of the county voting at the next general election in the manner provided by law.

**History:** 1970, Act 73, Imd. Eff. July 16, 1970.