

market fuel identified by its trademark, trade name, or brand at more than one half of the total number of service stations on the entire highway.

(c) *Pricing of products.* — The Authority shall regulate the prices of fuel products sold on the highway to the extent necessary to achieve reasonable costs to patrons.

(d) *Credit cards.* — The lessee of any service station established under this section shall accept in payment for products sold and services rendered those credit cards that the Authority directs. (An. Code 1957, art. 89B, § 149; 1977, ch. 13, § 2; 1987, ch. 324.)

§ 4-405. Informational signs.

(a) *Power to erect signs.* — For the purpose of providing information to the driving public on the availability of gas, food, lodging, or camping facilities, the Authority may place along interstate highways specific information or business signs as defined in the applicable federal standards.

(b) *Rules and regulations to be conformed with.* — In implementing this program, the Authority shall conform with the provisions of § 8-605 (d) of the Transportation Article, and shall utilize the rules and regulations adopted by the State Highway Administration under that subsection. (1984, ch. 761; 1985, ch. 10, § 3; 1985, 2nd Sp. Sess., ch. 1, § 2.)

Editor's note. — Section 1, ch. 1, 2nd Sp. Sess., Acts 1985, repealed former § 4-405. Section 2, ch. 1, 2nd Sp. Sess., Acts 1985, transferred former § 4-406 of this article to be present § 4-405 of this article.

Chapter 1, 2nd Sp. Sess., Acts 1985, was passed over the Governor's veto on Oct. 17, 1985.

§ 4-406.

Transferred.

Editor's note. — Section 2, ch. 1, 2nd Sp. Sess., Acts 1985, transferred this section to be present § 4-405 of this article.

Chapter 1, 2nd Sp. Sess., Acts 1985, was passed over the Governor's veto on Oct. 17, 1985.

TITLE 5.

AVIATION.

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and other instrumentalities or devices useful or designed for use as an aid or constituting an advantage or convenience to the safe taking off, navigation, and landing of aircraft or the safe and efficient operation or maintenance of an airport or airport facility.

(g) *Airport*. — "Airport" means any area established for the landing and taking off of aircraft, including any appurtenant airport facilities.

(h) *Airport facility*. — "Airport facility" includes any one or more or combination of:

(1) Lands, airfield improvements, terminal area improvements, general aviation facilities, air cargo facilities, general site improvements, utilities, roads, streets, parking lots, and other facilities useful or designed for use in connection with the operation of an airport; and

(2) All other appurtenances and equipment useful or designed for use in the handling of air carrier service, general aviation activities, and other related activities.

(i) *Airport hazard*. — "Airport hazard" means any structure, tree or other vegetation, or use of land that:

(1) Obstructs the airspace required for the landing and taking off of aircraft at an airport;

(2) Is hazardous to the landing or taking off of aircraft at an airport; or

(3) Interferes with communication between an airport and aircraft.

(j) *Operate aircraft*. — "Operate aircraft" means to navigate, pilot, or otherwise use aircraft in the air or on land or water.

(k) *Police officer*. — "Police officer" means any State or local officer authorized to make arrests for violations of State or local laws.

(l) *Structure*. — "Structure" means any object constructed or placed on or above the ground, including any building, fence, derrick, haystack, pole, wire, tower, or smokestack. (An. Code 1957, art. 1A, §§ 1-100 to 1-103, 1-105, 1-108 to 1-110, 1-112, 1-115, 1-122; 1977, ch. 13, § 2; ch. 777, § 2; 1989, ch. 108.)

§ 5-102. Legislative policy.

(a) *Purpose of title*. — The purpose of this title is to further the public interest and aeronautical progress by:

(1) Promoting safety in and protecting aeronautics;

(2) Cooperating to promote uniformity of aeronautics laws and regulations in the several states, consistent with federal aeronautics laws and regulations;

(3) Granting powers to the Administration and imposing duties on it to enable this State to perform properly its functions relating to aeronautics and to exercise effectively its jurisdiction over persons and property, assist in the development of a statewide system of airports and airport facilities, cooperate with and assist the political subdivisions of this State and others engaged in aeronautics, and encourage and develop aeronautics;

(4) Establishing only those regulatory provisions that are essential, so that persons may engage in any aspect of aeronautics with the least possible restriction, consistent with the safety, health, welfare, and the rights of others; and

(5) Providing for cooperation:

(i) With federal authorities in developing a national system of civil aviation; and

(ii) With the political subdivisions of this State in developing and coordinating aeronautics in this State.

(b) *Activities constitute public functions for public purposes*. — (1) The acquisition of any property under this title, the planning, acquisition, establishment, construction, improvement, maintenance, equipping, and operation of airports, airport facilities, and air navigation facilities, whether separately by this State or by a political subdivision or jointly by this State with any political subdivision, and the exercise of any other powers granted by this title are public and governmental functions, exercised for a public purpose, as matters of public necessity.

(2) All property and privileges acquired and used by or on behalf of this State or a political subdivision under this title are acquired and used for public and governmental purposes, as matters of public necessity. (An. Code 1957, art. 1A, §§ 2-201, 2-202, 7-701; 1977, ch. 13, § 2.)

§ 5-103. Jurisdiction over crimes, torts, wrongs, and contracts.

(a) *Jurisdiction over crimes, torts, and other wrongs*. — The law of this State defines and governs all crimes, torts, and other wrongs committed in flight over this State.

(b) *Jurisdiction over contracts*. — All contractual and other legal relations entered into by any person while in flight over this State have the same effect as if entered into on the land or water beneath. (An. Code 1957, art. 1A, §§ 3-307, 3-308; 1977, ch. 13, § 2.)

Crimes related to aeronautics. — Maryland has expressly retained its police powers with respect to crimes related to aeronautics. *Ward v. State*, 280 Md. 485, 374 A.2d 1118 (1977), cert. denied, 434 U.S. 1011, 98 S. Ct. 723, 54 L. Ed. 2d 754 (1978).

§ 5-104. Sovereignty in and ownership of space.

(a) *State sovereignty in space*. — Except where granted to and assumed by the federal government under a constitutional grant from the people of this State, sovereignty in the space above the lands and waters of this State rests in this State.

(b) *Ownership of space*. — The ownership of the space above the lands and waters of this State is vested in the owner of the surface beneath, subject to:

(1) The right of flight described in § 5-1001 of this title; and

(2) The zoning and related powers set forth in Subtitles 5 through 8 of this title. (An. Code 1957, art. 1A, §§ 3-301, 3-302; 1977, ch. 13, § 2.)

Section must be read in connection with exercise of federal power. — The rights given by this section and § 5-1001 must be read in connection with the exercise of federal power embodied in 49 U.S.C.A. § 1304 and in federal regulations duly adopted. *Western v. McGehee*, 202 F. Supp. 287 (D. Md. 1962).

Ownership includes so much of superjacent airspace as can be used. — The owner of land in fee holds all the complex elements of a single right, which include not only the right to use the surface, but so much of the superjacent airspace as he can use, as well as the subjacent reaches below. *Macht v. Department of Assmts.*, 266 Md. 602, 296 A.2d 162 (1972).

If a landowner is to have full enjoyment of his land, he must have exclusive control of the immediate reaches of the enveloping atmo-

sphere. Otherwise building could not be erected. *Macht v. Department of Assmts.*, 266 Md. 602, 296 A.2d 162 (1972).

A landowner owns at least as much of the space above the ground as he can occupy or use in connection with the land. *Macht v. Department of Assmts.*, 266 Md. 602, 296 A.2d 162 (1972).

But is subject to right of others to fly aircraft. — This section, while recognizing that ownership of space above lands and waters is vested in the owners of the surface, subjects the ownership to the right of others to fly aircraft over lands and waters in any fashion which does not interfere with the use to which the surface and the airspace over it is then being put. *Macht v. Department of Assmts.*, 266 Md. 602, 296 A.2d 162 (1972).

### § 5-105. Local appropriations.

If a political subdivision has the power to appropriate money, it annually may impose a tax in the political subdivision and appropriate an amount sufficient to carry out its powers and duties under this title. (An. Code 1957, art. 1A, § 7-701; 1977, ch. 13 § 2.)

### § 5-106. Airport in sixth election district of Queen Anne's County prohibited.

Notwithstanding any other provision of State or local law, the establishment of a commercial use airport in the sixth election district of Queen Anne's County is prohibited. (An. Code 1957, art. 1A, § 8-801; 1977, ch. 13, § 2; 1979, ch. 143.)

#### *Subtitle 2. Maryland Aviation Administration.*

### § 5-201. Established.

There is a Maryland Aviation Administration in the Department. (An. Code 1957, art. 41, § 207B; 1977, ch. 13, § 2; 1989, ch. 108; 1990, ch. 5.)

### § 5-202. Administrator.

(a) *Position and appointment.* — The head of the Administration is the Maryland Aviation Administrator, who shall be appointed by the Secretary with the approval of the Governor.

(b) *Responsibility to Secretary; duties.* — (1) The Administrator serves at the pleasure of the Secretary and shall report directly to him.

(2) Subject to the Authority of the Secretary, the Administrator is responsible for carrying out:

(i) The powers and duties vested by law in the Administration; and

(ii) Those powers and duties vested in the Secretary and delegated to the Administrator by the Secretary.

(c) *Salary.* — The Administrator is entitled to the salary provided in the State budget. (An. Code 1957, art. 41, § 207B; 1977, ch. 13, § 2; 1989, ch. 108.)

### § 5-203. Management and control of Administration.

(a) *General exercise of powers and duties.* — The exercise of the powers and duties of the Administration is subject to the authority of the Secretary and, where applicable, to the authority of the Maryland Transportation Authority.

(b) *Exercise of powers and duties subject to prior approval.* — By regulation or directive, the Secretary or, where applicable, the Maryland Transportation Authority may require that the exercise of any power or duty of the Administration be subject to the prior approval of the Secretary or the Maryland Transportation Authority, as the case may be. (1977, ch. 13, § 2.)

### § 5-204. General powers and duties of Administration.

(a) *In general.* — In addition to the specific powers granted and duties imposed by this title, the Administration has the powers and duties set forth in this section.

(b) *Supervision of aeronautics.* — The Administration has general supervision over aeronautics in this State.

(c) *Development of aeronautics.* — The Administration shall:

(1) Encourage, foster, and assist in the development of aeronautics in this State.

(2) Encourage the establishment of airports, airport facilities, and air navigation facilities; and

(3) Cooperate with and assist the federal government, any political subdivision of this State, and any other person in the development of aeronautics, and coordinate the aeronautical activities of these bodies and persons.

(d) *Miscellaneous powers.* — With the approval of the Secretary, the Administration may:

(1) Recommend necessary legislation to advance the interests of this State in aeronautics;

(2) Represent this State in aeronautics matters before any agency of this or any other state or of the federal government;

(3) Participate on behalf of this State or any political subdivision or citizen of this State as party plaintiff or defendant or as intervenor in any controversy that involves the interest of this State in aeronautics; and

(4) Adopt rules and regulations for the functioning and administration of the Administration. (An. Code 1957, art. 1A, §§ 4-401, 5-507; 1977, ch. 13, § 2.)

(5) Any other activity is carried on for remuneration.

(c) *Public use airport.* — "Public use airport" means any publicly or privately owned airport that is open to flight operations by the public. (An. Code 1957, art. 1A, § 6-604; 1977, ch. 13, § 2.)

§ 5-302. Exemptions.

(a) *Airports of the United States.* — This subtitle does not apply to any airport owned or operated by the United States.

(b) *Additional exemptions.* — To the extent necessary and in accordance with any reasonable classification, the Administration from time to time shall exempt any other class of airports from any requirement of a rule or regulation adopted under this subtitle, if the application of the requirement would be an undue burden on the class and is not required in the interest of public safety. (An. Code 1957, art. 1A, 6-604; 1977, ch. 13, § 2.)

§ 5-303. Approval of airport sites.

(a) *Authorization; certificates of approval.* — The Administration may adopt rules and regulations providing for the approval of airport sites and the issuance of certificates of approval.

(b) *Application for approval.* — If the Administration provides for the approval of airport sites, any political subdivision or other person desiring or planning to construct or establish an airport may apply to the Administration for approval of the site before its acquisition or before construction or establishment of the proposed airport.

(c) *Prerequisites.* — On receipt of an application under this section, the Administration shall issue a certificate of approval, with reasonable promptness and without charge, if it is satisfied that:

- (1) The site is adequate for the proposed airport;
- (2) The proposed airport will meet minimum standards of safety, which may not be more stringent than those standards, if any, recommended by the Federal Aviation Administration for similar airports;
- (3) Safe air traffic patterns can be worked out for the proposed airport and for all existing airports and approved airport sites in its vicinity; and
- (4) The intended operator of the proposed airport has complied with the requirements of this title on environmental noise control.

(d) *Conditions of grant of approval; duration.* — (1) The Administration may approve a site subject to any reasonable condition that it considers necessary to fulfill any purpose of this subtitle.

(2) Unless sooner revoked by the Administration, the approval remains in effect until a license or registration for an airport on the approved site is issued under this subtitle.

(e) *Revocation of approval.* — After notice to the holder of a certificate of approval and opportunity for hearing, the Administration may revoke an approval if it reasonably determines that:

- (1) The site has been abandoned as an airport site;

(2) There has been a failure within the time required or, if no time has been required, within a reasonable time, to develop the site as an airport or to comply with the conditions of the approval;

(3) Because of a change of physical or legal conditions or circumstances, the site is no longer usable for the purposes for which the approval was granted; or

(4) The intended operator of the proposed airport has failed to comply with the requirements of this title on environmental noise control. (An. Code 1957, art. 1A, § 6-604; 1977, ch. 13, § 2.)

*Cross references.* — As to the requisites and procedures for revocation hearings generally, see § 5-210 of this article. As to environmental noise control requirements, see § 5-801 et seq. of this article.

§ 5-304. Licensing of airports.

(a) *Authorization; fees.* — (1) The Administration may adopt rules and regulations providing for:

- (i) The licensing of commercial use airports and public use airports; and
- (ii) The annual renewal of airport licenses.

(2) For an airport license, the Administration may charge a license fee of not more than:

- (i) \$25 for each original license; and
- (ii) \$10 for each renewal.

(b) *License required.* — If the Administration provides for the licensing of these airports, a person may not operate a commercial use airport or a public use airport unless the person has an airport license as required by the rules and regulations of the Administration.

(c) *Prerequisites.* — On receipt of an application for an original license under this section and payment of the required fee, the Administration shall issue the appropriate license, with reasonable promptness, if it is satisfied that:

- (1) The site is adequate for the airport;
- (2) The airport meets minimum standards of safety, which may not be more stringent than those standards, if any, recommended by the Federal Aviation Administration for similar airports;
- (3) Safe air traffic patterns have been worked out for the airport and for all existing airports and approved airport sites in its vicinity; and
- (4) The airport operator has complied with the requirements of this title on environmental noise control.

(d) *Conditions of licensure.* — (1) The Administration may issue an airport license or renewal subject to any reasonable condition that it considers necessary to fulfill any purpose of this subtitle.

(2) Before renewal of an airport license and at any other reasonable time, the Administration may require that the airport operator provide the Administration with a list, by serial number and description, of all aircraft, based at

the airport for which renewal is sought and the names and addresses of their owners.

(e) *Suspension or revocation of license.* — (1) The Administration may suspend an airport license pending a hearing if it reasonably determines that:

(i) A condition exists that endangers the lives or property of persons using the airport or that endangers the occupants of the land near the airport; and

(ii) It is in the interest of public safety and the general welfare to stop use of the airport.

(2) After notice to the licensee and opportunity for hearing, the Administration may revoke or refuse to renew an airport license if it reasonably determines that:

(i) The site has been abandoned as an airport;

(ii) There has been a failure to comply with the conditions of the license or renewal;

(iii) Because of a change of physical or legal conditions or circumstances, the airport has become unsafe or unusable for the purposes for which the license or renewal was issued; or

(iv) The airport operator has failed to comply with the requirements of this title on environmental noise control. (An. Code 1957, art. 1A, §§ 5-502, 6-604; 1977, ch. 13, § 2.)

*Cross references.* — As to the requisites and procedures for suspension and revocation hearings generally, see § 5-210 of this article. As to environmental noise control requirements, see § 5-801 et seq. of this article.

Cited in *Sugarloaf Citizens Ass'n v. Northeast Md. Waste Disposal Auth.*, 323 Md. 641, 594 A.2d 1115 (1991).

§ 5-305. Public hearings.

(a) *Authority to hold public hearing.* — In connection with an application for approval of a proposed airport site or for an airport license, the Administration on its own motion may, and on request shall, hold a public hearing as provided in § 5-210 of this title.

(b) *Cost of hearing.* — If the Administration holds a hearing before issuance or renewal of a commercial use airport license, the license applicant shall pay all of the reasonable costs of the hearing up to \$100. (An. Code 1957, art. 1A, § 6-604; 1977, ch. 13, § 2.)

Cited in *Sugarloaf Citizens Ass'n v. Northeast Md. Waste Disposal Auth.*, 323 Md. 641, 594 A.2d 1115 (1991).

§ 5-306. Registration of other airports.

(a) *Authorization; fees.* — (1) The Administration may adopt rules and regulations providing for the registration of airports not required to be licensed under this subtitle.

(2) Registration under this section shall be without charge unless the airport is used to base aircraft that do not belong to the registrant, in which event the Administration may charge a registration fee of not more than:

(i) \$10 for each original registration; and

(ii) \$5 for each renewal.

(b) *Conditions of registration.* — On payment of the required fee, the Administration shall issue a registration certificate subject to any reasonable condition that it considers necessary to fulfill any purpose of this subtitle.

(c) *Renewals.* — Each registration certificate is renewable annually on payment of the required fee. (An. Code 1957, art. 1A, § 6-604; 1977, ch. 13, § 2.)

*Subtitle 4. Establishment and Operation of State and Local Airports.*

Part I. Definitions; Construction.

§ 5-401. "Establish or operate" defined.

In this subtitle, "establish or operate" includes plan, acquire, construct, equip, maintain, alter, enlarge, improve, reconstruct, repair, regulate, protect, or police. (An. Code, art. 1A, §§ 7-701, 7-702, 7-703; 1977, ch. 13, § 2.)

§ 5-402. Construction of subtitle.

This subtitle does not limit any right, power, or authority of this State or a political subdivision to regulate any airport hazard by zoning. (An. Code 1957, art. 1A, § 7-703; 1977, ch. 13, § 2.)

*Cross references.* — As to airport zoning generally, see §§ 5-501 et seq. and 5-601 et seq. of this article.

§ 5-403.

Reserved.

## Part II. State Airports.

**§ 5-404. Establishment and operation of airports and facilities.**

(a) *Administration may establish or operate.* — With the approval of the Secretary, the Administration may establish or operate on behalf of and in the name of this State any airport, airport facility, or air navigation facility within or without this State.

(b) *Financing.* — These airports and facilities shall be established and operated out of funds available for that purpose under Titles 3 and 4 of this article. (An. Code 1957, art. 1A, § 7-703; 1977, ch. 13, § 2.)

**§ 5-405. Acquisition of property by Administration.**

(a) *Acquisition of property in general.* — With the approval of the Secretary, the Administration may acquire, by gift, purchase, lease, condemnation, or otherwise, any property, including any easement in airport hazards or in land outside the boundaries of an airport or airport site, for the purposes of establishing or operating an airport, airport facility, or air navigation facility, if the acquisition is necessary:

- (1) To permit the safe and efficient operation of an airport;
- (2) To permit the removal, elimination, obstruction-marking, or obstruction-lighting of airport hazards; or
- (3) To prevent the establishment of airport hazards.

(b) *Acquisition of existing airports and facilities.* — The Administration may acquire, in like manner, any existing airport, airport facility, or air navigation facility. However, it may not acquire any airport, airport facility, or air navigation facility owned or controlled by a political subdivision of this or any other state without the consent of the political subdivision.

(c) *Manner of condemnation.* — Any condemnation proceedings under this section shall be instituted and maintained in the name of this State and conducted under Title 12 of the Real Property Article. (An. Code 1957, art. 1A, § 7-705; 1977, ch. 13, § 2.)

Cross references. — As to venue in eminent domain proceedings, see § 6-203 of the Courts and Judicial Proceedings Article. As to gifts to the State, see § 2-201 of the State Finance and Procurement Article.

**§ 5-406. Disposition of property by Administration.**

(a) *Disposition of property authorized.* — With the approval of the Secretary, the Administration may sell, lease, or otherwise dispose of any property that it acquires under this subtitle.

(b) *Manner of disposition.* — The Administration shall dispose of its property in accordance with the laws of this State governing the disposition of State property generally. (An. Code 1957, art. 1A, § 7-703; 1977, ch. 13, § 2.)

**§ 5-407. Joint operations.**

Any power granted by this subtitle to the Administration may be exercised by the Administration jointly with the federal government, any other state, or any political subdivision or agency of this or any other state. (An. Code 1957, art. 1A, § 7-703; 1977, ch. 13, § 2.)

**§ 5-408. Operation and use privileges — Airport or facility operated by Administration.**

(a) *Power to grant certain privileges.* — In its operation of an airport, airport facility, or air navigation facility owned or controlled by this State, the Administration, with the approval of the Secretary, may contract, lease, or otherwise arrange with any person to:

- (1) Provide the person with services furnished by the Administration or its agents at the airport or facility; or
- (2) Grant to the person the privilege of:
  - (i) Using or improving for commercial purposes any part of the airport or facility; or
  - (ii) Supplying services, facilities, goods, commodities, or other things at the airport or facility.

(b) *Establishment of terms and conditions; monitoring of prices and employment practices.* — (1) For the privileges granted, the Administration may establish any terms and conditions and fix any charges, rentals, or fees that:

- (i) Are reasonable and uniform for the same class of privilege or service;
- (ii) Are established with due regard to the property and improvements used and the expenses of operation to this State; and
- (iii) Do not deprive the public of its rightful, equal, and uniform use of any part of the airport or facility.

(2) The Administration shall monitor the charges, fees, or prices of any goods or services offered to the public by persons granted the privilege under this section. Every contract, lease, or other arrangement shall provide that charges, fees, or prices:

- (i) May not be increased without the prior approval of the Administration; and
- (ii) Are to be reasonable. In determining reasonableness the Administration shall consider the charges, fees, or prices for the same goods or services at comparable airports.

(3) The Administration shall monitor the employment practices of persons granted privileges under Article 49B, § 14 of the Code, relating to discrimination in employment, and shall refer for investigation all alleged violations of Article 49B, § 14 to the State Commission of Human Relations, the Equal Employment Opportunity Commission, or any appropriate State or federal administrative body.

(c) *Commercial activity.* — (1) In this subsection "commercial activity" means the sale, merchandising, marketing, or promotion of any goods or services.

2. Updates the noise zone as proposed by the Administration on February 25, 1987;
  - (i) Adopts the proposed noise assistance programs for residential areas within the airport noise zone including, but not limited to:
    1. Extension of the voluntary acquisition program;
    2. In cooperation with the Board of Airport Zoning Appeals established by Subtitle 5 of this title, strengthening of zoning permit procedures as necessary; and
    3. Establishment of a homeowner assistance program; and
  - (ii) Implements a pilot program of homeowner assistance in fiscal year 1988; and
  - (2) The State Highway Administration completes construction of the following highway projects required in conjunction with airport improvements:
    - (i) Hammonds Ferry Road/Poplar Avenue intersection improvements;
    - (ii) MD 170/Poplar Avenue intersection;
    - (iii) Poplar Avenue widening;
    - (iv) MD 176 widenings;
    - (v) MD 176/Hammonds Ferry Road intersection;
    - (vi) Nursery Road/MD 295 interchange; and
    - (vii) MD 3/MD 176 interchange (auxiliary lane). (An. Code 1957, art. 1A, §§ 9-902, 9-903; 1977, ch. 13, § 2; 1987, ch. 545.)

*Editor's note.* — Section 3, ch. 545, Acts 1987, effective July 1, 1987, provides that "the requirements of § 5-413 (c) (2) of the Transportation Article do not apply to any project that is delayed by litigation or by default of a contractor."

*Taxicabs.* — State Aviation Administration may exercise its contracting and regulatory authority so as to place limits on the taxicab operators who may pick up passengers at Baltimore-Washington International Airport; in so doing, the Administration does not contravene subsection (b). 73 Op. Att'y Gen. 38 (1988).

Subsection (b) of this section does not prohibit the State Aviation Administration, a State agency, from requiring a taxicab operator to obtain a license under contract as a condition to picking up passengers at Baltimore-Washington International Airport. 73 Op. Att'y Gen. 38 (1988).

Section 5-408 establishes antitrust immunity for the Administration's limitation of taxicab operations at Baltimore-Washington International Airport. 73 Op. Att'y Gen. — (July 5, 1988).

§§ 5-414, 5-415.

Reserved.

Part III. Local Airports.

§ 5-416. Establishment and operation of airports and facilities.

(a) *Political subdivision may establish or operate.* — As provided in this section, a political subdivision of this State, whether acting alone or jointly with another political subdivision, may:

- (1) Establish or operate any airport, airport facility, or air navigation facility; and

(2) For this purpose, use any suitable property owned or controlled by the political subdivision.

(b) *Permitted locations.* — An airport or facility may be established under this section:

- (1) By a county, only within its boundaries or the boundaries of any other county with which it is acting jointly; and
- (2) By Baltimore City or a municipal corporation, either within or without its boundaries. (An. Code 1957, art. 1A, § 7-701; 1977, ch. 13, § 2.)

*Ordinance authorizing acquisition of land.* — City may modify ordinance authorizing airport board to acquire such parcels of land within designated airport area as might be necessary or proper for its operation, etc.,

and eliminate mandatory provision directing board to acquire all property in designated airport area. *Friendship Cem. v. City of Baltimore*, 197 Md. 610, 81 A.2d 57 (1951).

§ 5-417. Acquisition of property by political subdivision.

(a) *In general.* — A political subdivision may acquire, by purchase or, if unable to agree on terms, by condemnation, any property, including any air right or interest, need to establish or operate an airport, airport facility, or air navigation facility.

(b) *Manner of condemnation.* — Any condemnation of property under this section shall be under the law by which the political subdivision may condemn property for public purposes other than street purposes or, if it has no such law, under Title 12 of the Real Property Article. (An. Code 1957, art. 1A, § 7-701; 1977, ch. 13, § 2.)

§ 5-418. Operation and use of airports and facilities.

(a) *In general.* — Any political subdivision that acquires, leases, controls, or sets apart any property for an airport, airport facility, or air navigation facility may:

- (1) Establish and operate the airport or facility;
- (2) Lease or grant to any person, on the terms and conditions it considers proper, any right or interest in the airport or facility;
- (3) Fix any charges, rentals, or fees for the use of the airport or facility and for any right or interest granted to any person under this section; and
- (4) Delegate any of its powers under this section to any suitable officer or agency of the political subdivision and, for this purpose, create any new agency or unit.

(b) *Costs and expenses.* — The costs and expenses incurred in connection with any act performed under this section shall be the responsibility of the political subdivision. (An. Code 1957, art. 1A, § 7-701; 1977, ch. 13, § 2.)

*City has the right to designate the airport manager and even have the fixed base operator act as airport manager.* *Alphin v. Henson*, 392 F. Supp. 813 (D. Md. 1975), aff'd, 538 F.2d 85 (4th Cir. 1976), aff'd in part, rev'd in part, 552 F.2d 1033 (4th Cir.), cert. denied,

434 U.S. 823, 98 S. Ct. 67, 54 L. Ed. 2d 80 (1977).

*And has the right to decide public's best interest in entering into leases.* — The city has the right to decide whether it is in the best interest of the public to enter into leases with

(ii) Adopts the proposed noise assistance programs for residential areas within the airport noise zone including, but not limited to:

1. Extension of the voluntary acquisition program;
  2. In cooperation with the Board of Airport Zoning Appeals established by Subtitle 5 of this title, strengthening of zoning permit procedures as necessary; and
  3. Establishment of a homeowner assistance program; and
- (iii) Implements a pilot program of homeowner assistance in fiscal year 1988; and

(2) The State Highway Administration completes construction of the following highway projects required in conjunction with airport improvements:

- (i) Hammonds Ferry Road/Poplar Avenue intersection improvements;
- (ii) MD 170/Poplar Avenue intersection;
- (iii) Poplar Avenue widening;
- (iv) MD 176 widenings;
- (v) MD 176/Hammonds Ferry Road intersection;
- (vi) Nursery Road/MD 295 interchange; and
- (vii) MD 3/MD 176 interchange (auxiliary lane).

(d) *Naming of international terminal.* — The international terminal at Baltimore-Washington International Airport shall be named the Governor William Donald Schaefer International Terminal. (An. Code 1957, art. 1A, §§ 9-902, 9-903; 1977, ch. 13, § 2; 1987, ch. 545; 1993, ch. 483; 1994, ch. 702.)

**Effect of amendments.** — The 1993 amendment, effective July 1, 1993, rewrote the first sentence of (a). The 1994 amendment, effective Oct. 1, 1994, added (d).

Part IV. Motor Vehicle Parking at Airports.

§ 5-426. Adoption of regulations.

(a) *Regulations authorized.* — After holding a public hearing, the governing body of any publicly owned airport in this State may adopt regulations for:

(1) The parking of motor vehicles at the airport, including provision of a uniform system for accessible parking for individuals with disabilities to enhance the safety of people with disabilities in conformity with:

(i) The "Uniform System for Parking for Persons With Disabilities" (23 CFR Part 1235);

(ii) The "Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities" (Appendix A to 28 CFR Part 36 and 36 CFR Part 1191.1); and

(iii) 14 CFR Part 382.23(a);

(2) The movement of traffic at the airport;

(3) Safety at the airport; and

(4) The preservation of order at the airport.

(b) *Posting.* — All regulations adopted under this section shall be posted conspicuously in a public place at the airport. (An. Code. 1957, art. 1A, § 7-704; 1977, ch. 13, § 2; 1993, ch. 409.)

**Effect of amendments.** — The 1993 amendment, effective Oct. 1, 1993, in the introductory language of (a), deleted "and enforce rules and" following "adopt"; in the introductory language of (a) (1), added the language following "at the airport"; added (a) (1) (i), (ii) and (iii); and in (b), deleted "rules and" preceding "regulations."

**Bill review letter.** — Chapter 409, Acts 1993 (Senate Bill 46), was approved for consti-

tutionality and legal sufficiency, as it was determined that, although the provisions of the bill providing for a charge for a parking permit are a surcharge prohibited by 28 CFR § 35.130(f) and may not be enforced, these provisions were severable from the remainder of the bill which could be given effect. Additionally, it was determined that the title of the bill was not misleading. (Letter of Attorney General dated May 17, 1993).

Subtitle 4A. Airport Easements — Future Development.

§ 5-4A-01. Airport districts; easements.

(a) *Definitions.* — (1) In this section, "airport district" means:

(i) Designated land on which a privately owned commercial or public use airport is situated; and

(ii) Designated private land proximate to a commercial or public use airport.

(2) "Commercial use airport" means a publicly or privately owned airport at which:

(i) Landing or tie down fees are charged;

(ii) Aviation fuel or oil is sold;

(iii) Space is rented;

(iv) Goods or services are sold; or

(v) Other activities are carried out for remuneration.

(3) "Public use airport" means any publicly or privately owned airport that is open to flight operations by the public.

(b) *Purpose.* — It is the intent of the Maryland General Assembly to establish and preserve airport districts for the purpose of:

(1) Conserving land that is available for the future development of airports;

(2) Ensuring access to commercial and recreational aviation in the State; and

(3) Protecting airports and land proximate to airports as open space land.

(c) *Powers and duties of municipalities.* — (1) A county or municipal corporation containing a commercial or public use airport may:

(i) Establish a policy for preserving land for airports;

(ii) Establish airport districts;

(iii) Acquire an easement for development rights in an airport district;

(iv) Alter or abolish an easement in an airport district; and

(v) Promote the preservation of airports in the county or municipal corporation by offering information and assistance to affected landowners with respect to the establishment of an airport district and the purchase of an easement.

(2) (i) A county or municipal corporation that establishes an airport district shall establish the airport district by ordinance.

(ii) The establishment of an airport district may not take effect until all landowners in the proposed airport district have executed and recorded along



with land records an agreement with the county or municipal corporation stipulating that:

1. After the establishment of the airport district the landowner may agree to keep the landowner's land compatible with airport use in accordance with this section; and

2. The landowner has the right to offer to sell to the county or municipal corporation under the provisions of this subtitle an easement for development rights in the landowner's land.

(3) In designating land as an airport district or acquiring an easement in an airport district, a county or municipal corporation shall:

(i) Solicit from the county or municipal corporation planning and zoning body a study of the impact of an easement before acquiring an easement in an airport district;

(ii) Consider current local regulations;

(iii) Consider local patterns of land development; and

(iv) Consider local priorities for the preservation of airport land.

(4)(i) A county or municipal corporation shall hold a public hearing before acquiring an easement in an airport district.

(ii) A county or municipal corporation shall provide adequate notice to all landowners in the proposed airport district and all interested parties before holding a public hearing.

(d) *Funds to acquire easement.* — A county or municipal corporation may coordinate its acquisition of an easement in an airport district with other programs and shall dedicate such funds to the acquisition as it considers appropriate.

(e) *Land use restrictions.* — (1) Except as otherwise provided in this subsection, a landowner whose land is subject to an easement may not use the land for a commercial, industrial, or residential purpose.

(2)(i) A landowner may exclude from the easement restrictions 1 acre for each single dwelling that exists at the time of the sale of the easement, by a land survey and recordation provided at the expense of the owner.

(ii) 1. Before an exclusion is granted under subparagraph (i) of this paragraph, an owner shall agree with the county or municipal corporation not to subdivide further for residential purposes land allowed to be excluded.

2. This agreement shall be recorded among the land records where the land is located and shall bind all future owners.

(3) An easement in an airport district may not restrict a landowner from engaging in commercial or other activities involving agriculture, forestry, topographical enhancement, or other activities that are compatible with the future development of an airport.

(4) An easement in an airport district may not prevent a landowner from engaging in commercial or other activities on the land related to normal airport operations including, but not limited to, the sale of maintenance products and services, and training schools.

(f) *No public right of access.* — Acquisition of an easement by a county or municipal corporation does not grant to the public a right of access or right of use of the airport district.

(g) *Regulations.* — A county or municipal corporation may adopt regulations and procedures for administering this section.

(h) *Landowner not prohibited from selling property.* — Nothing in this section shall prohibit a landowner from selling the landowner's property.

(i) *Abolition of district; sale of easement.* — (1) The county or municipal corporation may review the use of land in an airport district and alter or abolish an airport district.

(2) The county or municipal corporation shall distribute funds acquired from the sale of an easement in an airport district to the county's or municipal corporation's general fund.

(j) *Condemnation.* — In the event of condemnation of land under an airport preservation easement, the condemning authority shall pay:

(1) To the landowner the full amount that the landowner would be entitled to if the land was not under easement, less any amount paid to the landowner by the county or municipal corporation for the easement; and

(2) To the county or municipal corporation, to be deposited into the county's or municipal corporation's general fund, the value of the easement. (1998, ch. 744.)

*Editor's note.* — Section 2, ch. 744, Acts 1998, provides that the act shall take effect Oct. 1, 1998.

*Subtitle 5. Airport Zoning — By Administration.*

§ 5-501. Definitions.

"Board." — The Maryland Department of Transportation Board of Airport Zoning Appeals is a State administrative agency with limited zoning jurisdiction; it is a zoning entity in name only and operates more as a general administrative agency than as a traditional zoning entity. *Maryland Aviation Admin. v. Newsome*, 99 Md. App. 269, 637 A.2d 469 (1994), rev'd on other grounds, 337 Md. 163, 652 A.2d 116 (1995).

§ 5-505. Permits.

(a) *Permit required.* — Unless he has an appropriate permit issued by the Administration, a person may not, in any airport zoning district:

(1) Substantially alter any nonconforming structure or use; or

(2) Undertake or allow any activity prohibited by § 5-504 (a) of this subtitle.

(b) *Application for permit.* — (1) Before any work that requires a permit under this section is started on an operation or project and before any growth that requires a permit under this section is allowed of a tree or other vegetation, the owner of the land or structure shall obtain a permit from the Administration.

(2) The application for a permit shall be accompanied by the plats, drawings, and other information necessary to enable the Administration to determine if the proposed operation or project will comply with every applicable airport zoning regulation.