

AIRPORT OPERATOR LEASE AGREEMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the Aeronautics Act by amending provisions relating to certain airport operator lease agreements.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ requires an airport operator to, before the termination of certain qualifying lease agreements:
 - provide the existing lessee the option to extend the term of the lease for a certain time period; or
 - pay to the lessee the undepreciated amount of the investment for the capital improvements made by the lessee if a qualifying lease is not extended; and
- ▶ provides that if an airport operator enters into certain qualifying lease agreements, the lease agreement shall contain:
 - a lease term or an option to extend the lease term for a certain time period; and
 - a provision requiring the airport operator to pay to the lessee the undepreciated amount of the investment for the capital improvements made by the lessee if a qualifying lease is not extended.

Money Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 ENACTS:

32 **72-10-307.5**, Utah Code Annotated 1953



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **72-10-307.5** is enacted to read:

36 **72-10-307.5. Airport operator lease agreement requirements.**

37 (1) As used in this section:

38 (a) "Capital improvement" means an addition of a permanent structural improvement
39 or other renovations to property that:

40 (i) enhances the property's overall value; or

41 (ii) increases its useful life.

42 (b) "Fixed base operator" means a person who:

43 (i) is granted the right by an airport operator to operate on an airport; and

44 (ii) provides aeronautical services including fueling, hangaring, tie-down and parking,
45 aircraft rental, air charter service, aircraft maintenance, and flight instruction.

46 (c) "Investment Schedule" means:

47 (i) for capital improvements for which the investment amount is less than \$1,000,000
48 but more than \$180,000, a lease term equal to 50% of the longest time period for which the
49 capital improvements are or could be depreciated under applicable Internal Revenue Service
50 depreciation schedules; and

51 (ii) for capital improvements for which the investment amount is in excess of
52 \$1,000,000, a lease term equal to the longest time period for which the capital improvements
53 are or could be depreciated under applicable Internal Revenue Service depreciation schedules.

54 (d) "Qualifying lease agreement" means a lease agreement that:

55 (i) is between an airport operator and a fixed base operator or a specialized aviation
56 service provider; and

57 (ii) includes a provision for one or more capital improvements to the leased property.

58 (e) "Specialized aviation service provider" means a person who maintains facilities at

59 an airport for the purposes of one or more of the following aviation activities:

60 (i) aircraft fueling;

61 (ii) aircraft services including parking, storage, tie-down, and ground handlings;

62 (iii) aircraft maintenance or sales;

63 (iv) avionics maintenance or sales; and

64 (v) aircraft rental, air charter service, air taxi service, or flight instruction.

65 (2) Notwithstanding any contrary provision in Title 63G, Chapter 6, Utah Procurement
66 Code, an airport operator shall:

67 (a) before the termination of a qualifying lease agreement that was executed before
68 May 8, 2012, provide the existing lessee the option to extend the term of the lease for a time
69 period that is consistent with the investment schedule if new capital improvements are made
70 after May 8, 2012, by the lessee under that qualifying lease agreement; or

71 (b) pay to the lessee the undepreciated amount of the investment for the capital
72 improvements made by the lessee that have not been depreciated in accordance with applicable
73 Internal Revenue Service depreciation schedules if a qualifying lease agreement is not extended
74 for the time period described in Subsection (2)(a).

75 (3) If an airport operator enters into a qualifying lease agreement on or after May 8,
76 2012, the lease agreement shall contain:

77 (a) a lease term and an option to extend the lease term for a time period that is
78 consistent with the investment schedule; and

79 (b) a provision requiring the airport operator to pay to the lessee the undepreciated
80 amount of the investment for the capital improvements made by the lessee that have not been
81 depreciated in accordance with applicable Internal Revenue Service depreciation schedules if a
82 qualifying lease agreement is not extended for the time period described in Subsection (3)(a).

Legislative Review Note
as of 3-2-12 10:55 AM

Office of Legislative Research and General Counsel