

**No. 138. An act relating to sale or lease of the John H. Boylan state airport.**

(S.296)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. SALE OR LEASE OF THE JOHN H. BOYLAN STATE AIRPORT

(a) Pursuant to the provisions of 5 V.S.A. § 204(3), the secretary of transportation is authorized to sell or lease the John H. Boylan state airport to the town of Brighton or to the Vermont Renewable Energy Company, LLC, d/b/a Vermont Biomass Energy at fair market value.

(b) Conditions of the lease or sale shall include:

(1) The state shall retain an ownership interest in sufficient flat, open acreage which is in close proximity to VT route 105 to be used for landing of helicopters. The land purchaser or lessee shall maintain the helicopter landing area so that it is accessible for this purpose.

(2) The agency of transportation shall have received inactive status for the John H. Boylan state airport from the U.S. Federal Aviation Administration (FAA) in order to preserve air space for future use as an airport.

(3) If the conveyance is a lease agreement, the lessee shall purchase liability insurance sufficient to cover potential injuries and damages and shall indemnify the state from loss or injury during the lessee's tenancy.

(4) The purchaser or lessee shall have obtained all necessary permits.

(c) The property shall be conveyed subject to the following covenants:

(1) The property shall be used only for storage and processing of wood for a pellet manufacturing operation at the former Ethan Allen property on VT route 105 in Brighton, and other uses directly related to the operation.

(2) If the property is conveyed through a sale, the property shall not be sold or assigned to any other person except that:

(A) at the request of the purchaser, the land may be sold back to the state in the condition required under subdivision (3) of this subsection at the original sale price not increased by interest or an inflation index;

(B) the purchaser may sell the land to another person subject to the applicable conditions and covenants of this section; or

(C) if the purchaser ceases to use the land for storage and processing of logs for a pellet manufacturing operation for a continuous period of more than 18 months, or uses the land in a manner contrary to the applicable conditions and covenants of this section, the land shall revert to the state at no cost to the state.

(3) Upon termination of a lease or sale of the property back to the state, the owner shall return the property to the state in a condition sufficient to support a grass strip airport of the size in existence at the time of the first sale. Upon lease or purchase of the property, the lessor or purchaser or assignee shall also purchase a seven-year performance bond of \$50,000.00 to ensure

that if the land is returned to the state, it will be returned to the state in the required condition.

(d) Upon sale or leasing of the land, the state shall terminate the hangar leases at the John H. Boylan state airport or, if the owner so desires, shall transfer the lease for placement of the hangar to a nearby airport on the same terms for the remainder of the lease. Hangar negotiations do not need to be complete prior to using the area as a log yard. Any purchaser or lessee shall agree to purchase the hangars, including the concrete pads, at fair market value as mutually agreed upon by the purchaser or lessee and hangar owner, or as determined by an appraiser mutually agreed upon by the purchaser or lessee and hangar owner and paid for by the purchaser or lessee. If the parties cannot agree on an appraiser, the secretary of transportation shall choose an appraiser, and the secretary's choice shall be final. The decision of the appraiser shall be final.

(e) The secretary of transportation is authorized to sell the residence and up to an acre of associated land on the airport property to the highest bidder, provided that the residence and land shall not be sold for less than fair market value.

(f) Proceeds from the state of Vermont's sales or leases authorized by this section shall be deposited into the transportation fund, except for up to \$5,000.00 which may be used by the agency of transportation to create a

memorial park at a location mutually agreed upon by the town of Brighton and by the agency to commemorate the contributions to the state of Vermont of the late Senator John H. Boylan and the late Essex District Probate Court Judge Lena Boylan.

Sec. 2. EFFECTIVE DATE

This act shall take effect on passage.

Approved: May 29, 2010