

IC 8-22-3.6

Chapter 3.6. Leases of Qualified Airport Development Projects

IC 8-22-3.6-1

Definitions applicable to chapter

Sec. 1. The definitions in IC 8-22-3.5 apply throughout this chapter.

As added by P.L.108-1993, SEC.10.

IC 8-22-3.6-2

"Airport project" defined

Sec. 2. As used in this chapter, "airport project" means:

- (1) any property or project that could be financed with the proceeds of bonds issued under IC 8-22-3; or
- (2) any qualified airport development project.

As added by P.L.108-1993, SEC.10.

IC 8-22-3.6-3

Authority to enter lease; terms; public hearing and proceedings; funds for payment; actions to contest lease; options to buy

Sec. 3. (a) An authority that is located in a:

- (1) city having a population of more than ninety thousand (90,000) but less than one hundred five thousand (105,000);
- (2) county having a population of more than one hundred five thousand (105,000) but less than one hundred ten thousand (110,000); or
- (3) county having a population of more than three hundred thousand (300,000) but less than four hundred thousand (400,000);

may enter into a lease of an airport project with a lessor for a term not to exceed fifty (50) years and the lease may provide for payments to be made by the airport authority from property taxes levied under IC 8-22-3-17, taxes allocated under IC 8-22-3.5-9, any other revenues available to the airport authority, or any combination of these sources.

(b) A lease may provide that payments by the authority to the lessor are required only to the extent and only for the period that the lessor is able to provide the leased facilities in accordance with the lease. The terms of each lease must be based upon the value of the facilities leased and may not create a debt of the authority or the eligible entity for purposes of the Constitution of the State of Indiana.

(c) A lease may be entered into by the authority only after a public hearing by the board at which all interested parties are provided the opportunity to be heard. After the public hearing, the board may adopt an ordinance authorizing the execution of the lease if it finds that the service to be provided throughout the term of the lease will serve the public purpose of the authority and is in the best interest of the residents of the authority district.

(d) Upon execution of a lease providing for payments by the

authority in whole or in part from the levy of property taxes under IC 8-22-3-17, the board shall publish notice of the execution of the lease and its approval in accordance with IC 5-3-1. Fifty (50) or more taxpayers residing in the authority district who will be affected by the lease and who may be of the opinion that no necessity exists for the execution of the lease or that the payments provided for in the lease are not fair and reasonable may file a petition in the office of the county auditor within thirty (30) days after the publication of the notice of execution and approval. The petition must set forth the petitioners' names, addresses, and objections to the lease and the facts showing that the execution of the lease is unnecessary or unwise or that the payments provided for in the lease are not fair and reasonable, as the case may be.

(e) Upon the filing of a petition under subsection (d), the county auditor shall immediately certify a copy of the petition, together with any other data necessary to present the questions involved, to the department of local government finance. Upon receipt of the certified petition and information, the department of local government finance shall fix a time and place for a hearing in the authority district, which must be not less than five (5) or more than thirty (30) days after the time is fixed. Notice of the hearing shall be given by the department of local government finance to the members of the board, and to the first fifty (50) petitioners on the petition, by a letter signed by the commissioner of the department of local government finance and enclosed with fully prepaid postage sent to those persons at their usual place of residence, at least five (5) days before the date of the hearing. The decision of the department of local government finance or on the appeal, upon the necessity for the execution of the lease, and as to whether the payments under it are fair and reasonable, is final.

(f) An authority entering into a lease payable from any sources permitted under this chapter may:

- (1) pledge the revenue to make payments under the lease pursuant to IC 5-1-14-4; or
- (2) establish a special fund to make the payments.

(g) Lease rentals may be limited to money in the special fund so that the obligations of the airport authority to make the lease rental payments are not considered debt of the unit or the district for purposes of the Constitution of the State of Indiana.

(h) Except as provided in this section, no approvals of any governmental body or agency are required before the authority enters into a lease under this section.

(i) An action to contest the validity of the lease or to enjoin the performance of any of its terms and conditions must be brought within thirty (30) days after the later of:

- (1) the public hearing described in subsection (c); or
- (2) the publication of the notice of the execution and approval of the lease described in subsection (d), if the lease is payable in whole or in part from tax levies.

However, if the lease is payable in whole or in part from tax levies

and an appeal has been taken to the department of local government finance, an action to contest the validity or enjoin the performance must be brought within thirty (30) days after the decision of the department of local government finance.

(j) If an authority exercises an option to buy an airport project from a lessor, the authority may subsequently sell the airport project, without regard to any other statute, to the lessor at the end of the lease term at a price set forth in the lease or at fair market value established at the time of the sale by the authority through auction, appraisal, or arms length negotiation. If the airport project is sold at auction, after appraisal, or through negotiation, the board shall conduct a hearing after public notice in accordance with IC 5-3-1 before the sale. Any action to contest the sale must be brought within fifteen (15) days of the hearing.

As added by P.L.108-1993, SEC.10. Amended by P.L.115-1995, SEC.11; P.L.85-1996, SEC.7; P.L.90-2002, SEC.336; P.L.170-2002, SEC.72; P.L.224-2007, SEC.97; P.L.146-2008, SEC.367.

IC 8-22-3.6-4

Qualified lessors

Sec. 4. Any of the following persons may lease a project to an authority under this chapter:

(1) A not-for-profit corporation organized under Indiana law or admitted to do business in Indiana.

(2) An airport development authority established under IC 8-22-3.7.

As added by P.L.108-1993, SEC.10.