
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2159 Session of
2008

INTRODUCED BY SAYLOR, HICKERNELL, R. MILLER, GINGRICH, MENSCH,
HELM, HORNAMAN, BRENNAN, FLECK, HENNESSEY, HERSHEY AND
SWANGER, JANUARY 14, 2008

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 14, 2008

AN ACT

1 Amending Title 74 (Transportation) of the Pennsylvania
2 Consolidated Statutes, further providing for power to adopt
3 airport zoning regulations; providing for assessment of
4 benefited airport; and further providing for airport zoning
5 requirements.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Section 5912(a) and (c) of Title 74 of the
9 Pennsylvania Consolidated Statutes are amended to read:

10 § 5912. Power to adopt airport zoning regulations.

11 (a) General rule.--In order to prevent the creation or
12 establishment of airport hazards, every municipality having an
13 airport hazard area within its territorial limits shall adopt,
14 administer and enforce, under the police power and in the manner
15 and upon the conditions prescribed in this subchapter and in
16 applicable zoning law unless clearly inconsistent with this
17 subchapter, airport zoning regulations for such airport hazard
18 area. The regulations may divide the area into zones and, within
19 the zones, specify the land uses permitted and regulate and

1 restrict the height to which structures may be erected or
2 objects of natural growth may be allowed to grow. A municipality
3 which includes an airport hazard area created by the location of
4 a public airport is required to adopt, administer and enforce
5 zoning ordinances pursuant to this subchapter if the existing
6 comprehensive zoning ordinance for the municipality does not
7 provide for the land uses permitted and regulate and restrict
8 the height to which structures may be erected or objects of
9 natural growth may be allowed to grow in an airport hazard area.
10 Municipalities may act as required under this subsection with
11 respect to airport hazard areas without zoning the entire
12 municipality as required under section 605 of the act of July
13 31, 1968 (P.L.805, No.247), known as the Pennsylvania
14 Municipalities Planning Code.

15 * * *

16 (c) Definition.--As used in this section the word "airport"
17 does not include facilities designated as heliports and which
18 can be used only by rotary wing aircraft, [nor] airports which
19 are private airports[.] nor privately owned public airports that
20 do not provide regularly scheduled commercial flight operations
21 on at least two days per week. As used in this subsection,
22 "commercial flight operations" means the carrying of persons or
23 goods for hire by a business or entity formed for and
24 principally engaged in that activity, excluding the conduct of
25 flight instruction for compensation.

26 Section 2. Title 74 is amended by adding a section to read:
27 § 5912.1. Assessment of benefited airport.

28 (a) Recovery of damages.--In the event damages, whether
29 pursuant to court order or court-approved settlement, are
30 awarded to a landowner as a result of the institution of a

1 takings claim against the municipality based on the adoption,
2 administration or enforcement of zoning regulations for airport
3 hazard areas under the act of July 31, 1968 (P.L.805, No.247),
4 known as the Pennsylvania Municipalities Planning Code, an
5 amount equal to the damages and the legal costs incurred by the
6 municipality in defending the takings claim shall be assessable
7 and recoverable by the municipality against the owner of the
8 airport which directly benefited from the municipal regulatory
9 action.

10 (b) Petition.--If the airport owner fails to reimburse the
11 municipality within 60 days of the municipality's tender of the
12 assessment, either party may, within 30 days of the end of the
13 60-day period, petition the court of common pleas in the county
14 where the airport is located to assume jurisdiction of the
15 matter. Upon the filing, the court shall assume jurisdiction and
16 shall determine whether the airport owner is liable for
17 reimbursement to the municipality under this section and, if so,
18 the amount of reimbursement due.

19 (c) Definition.--As used in this section, the term "airport"
20 means private airports and those privately owned public airports
21 described under section 5912(c) (relating to power to adopt
22 airport zoning regulations).

23 Section 3. Section 5915(c) of Title 74 is amended to read:
24 § 5915. Airport zoning requirements.

25 * * *

26 (c) Model ordinance.--[A] In complying with section 5912(a)
27 (relating to power to adopt airport zoning regulations), a
28 municipality shall adopt, either in full or by reference, any
29 provision of any model zoning ordinance or other similar
30 guidelines suggested or published by the Federal Aviation

1 Administration of the United States Department of Transportation
2 regarding airport hazard areas.
3 Section 4. This act shall take effect in 60 days.