CHAPTER 9

South Carolina Airports Act

**SECTION 55‑9‑10.** Short title.

 This chapter may be cited as the “South Carolina Airports Act”.

HISTORY: 1962 Code Section 2‑101; 1952 Code Section 2‑101; 1942 Code Section 7112‑42; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment substituted “South Carolina” for “Uniform”.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 2, Background.

S.C. Jur. Aviation and Airports Section 5, Airport Development.

**SECTION 55‑9‑20.** Intent and construction of chapter.

 It is the intent and purpose of this chapter that all provisions herein relating to the issuance of bonds and levying of taxes for airport purposes and condemnation for airports and airport facilities shall be construed in accordance with the general provisions of the law of this State governing the right and procedure of counties and municipalities to condemn property, issue bonds and levy taxes.

HISTORY: 1962 Code Section 2‑120; 1952 Code Section 2‑120; 1942 Code Section 7112‑40; 1947 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment inserted “counties and” preceding “municipalities to condemn”.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 5, Airport Development.

**SECTION 55‑9‑30.** Establishment of airports.

 The division and the municipalities, counties, airport commissions, special purpose districts, and other political subdivisions of this State may, separately or jointly, acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate and police airports for the use of aircraft, either within or without the geographical limits of such municipalities, counties and other political subdivisions and may use for such purpose or purposes any available property owned or controlled by the division or such municipalities, counties or other political subdivisions; but no county shall exercise the authority hereby conferred outside of its geographical limits except in an adjoining county and this only jointly with such adjoining county.

HISTORY: 1962 Code Section 2‑102; 1952 Code Section 2‑102; 1942 Code Section 7112‑31; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “South Carolina Aeronautics Commission” and “division” for “Commission”.

The 2012 amendment inserted “, airport commissions, special purpose districts,” following “The division and the municipalities, counties” and deleted “and landing fields” following “regulate and police airports”.

CROSS REFERENCES

Land use for aviation deemed a governmental purpose, see Section 55‑9‑40.

Particular airports, see Sections 55‑11‑10 et seq.

Attorney General’s Opinions

A municipality may purchase a tract of land in an adjoining county for airport purposes. 1969‑70 Op Atty Gen, No 2948, p 206.

**SECTION 55‑9‑40.** Land use for aviation deemed a governmental purpose.

 Any lands acquired, owned, leased, controlled or occupied by the division or such counties, municipalities or other political subdivisions for the purpose or purposes enumerated in Section 55‑9‑30 shall and are hereby declared to be acquired, owned, leased, controlled or occupied for public, governmental and municipal purposes.

HISTORY: 1962 Code Section 2‑103; 1952 Code Section 2‑103; 1942 Code Section 7112‑32; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “Commission”.

The 2012 amendment made no apparent changes.

**SECTION 55‑9‑50.** Acquisition of land by counties.

 The governing bodies of the several counties of this State may acquire land by gift, purchase, or condemnation for the purpose of building, constructing and maintaining airports. The provisions of Sections 55‑9‑70 to 55‑9‑180 shall not apply to land that may be acquired under the provisions of this section.

HISTORY: 1962 Code Section 2‑103.1; 1952 Code Section 2‑103.1; 1945 (44) 43; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Editor’s Note

Sections 55‑9‑100 through 55‑9‑180, referred to in this section, were repealed by 1987 Act No. 173, Section 55.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment deleted “landing strips and” preceding “airports”.

CROSS REFERENCES

Counties, generally, see Section 4‑1‑10 et seq.

Eminent domain, generally, see Section 28‑2‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 6, Condemnation for Airports.

**SECTION 55‑9‑60.** Repealed by 1987 Act No. 173, Section 55, eff June 30, 1987.

Editor’s Note

Former Section 55‑9‑60, which was derived from 1962 Code Section 2‑103.2; 1952 Code Section 2‑103.2; 1945 (44) 43, pertained to the method of condemning lands. For procedures for the condemnation of property, see the Eminent Domain Procedure Act, Sections 28‑2‑10 et seq.

**SECTION 55‑9‑70.** Acquisition of property by condemnation or otherwise.

 Private property needed by the division or a county, municipality or other political subdivision for an airport, or for the expansion of an airport may be acquired by grant, purchase, lease or other means, if such political subdivision or the division, as the case may be, is able to agree with the owner of the property on the terms of the acquisition and otherwise by condemnation in the manner provided by the law under which such political subdivision or the division is authorized to acquire real property for public purposes. The provisions of this section shall apply to property needed by the Adjutant General of South Carolina.

HISTORY: 1962 Code Section 2‑104; 1952 Code Section 2‑104; 1942 Code Section 7112‑33; 1937 (40) 466; 1942 (42) 1465, 1499; 1957 (50) 295; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “Commission”.

The 2012 amendment deleted “or landing field” following “airport” throughout the section; deleted “and Inspector” following “Adjutant”; and, made other, nonsubstantive, changes.

CROSS REFERENCES

Eminent domain, generally, see Section 28‑2‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 6, Condemnation for Airports.

**SECTION 55‑9‑80.** Air rights over private property.

 When necessary in order to provide unobstructed airspace for the landing and taking off of aircraft utilizing airports acquired or maintained under the provisions of this chapter, the division and the counties, municipalities, and other subdivisions, including duly constituted airport commissions and special purpose districts of this State may acquire air rights, including aviation easements, over private property necessary to ensure safe approaches to the landing areas of the airports, and for the purpose of establishing and protecting airports and runways. These air rights may be acquired by grant, purchase, lease, or condemnation pursuant to the provisions of the Eminent Domain Procedure Act (Chapter 2, Title 28).

HISTORY: 1962 Code Section 2‑105; 1952 Code Section 2‑105; 1942 Code Section 7112‑37; 1937 (40) 466; 1987 Act No. 173 Section 35; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “Commission”.

The 2012 amendment rewrote this section.

CROSS REFERENCES

Property and conveyances, generally, see Section 27‑1‑10 et seq.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 6, Condemnation for Airports.

**SECTION 55‑9‑90.** Safety markers and lights.

 The division and such counties, municipalities and other political subdivisions of this State may acquire the right or easement for a term of years, or perpetually, to place and maintain suitable markers for the daytime and to place, operate and maintain suitable lights for the nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports acquired or maintained under the provisions of this chapter. Such rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner as is provided in this chapter for the acquisition of the airport itself or the expansion of it.

HISTORY: 1962 Code Section 2‑106; 1952 Code Section 2‑106; 1942 Code Section 7112‑38; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “Commission”.

The 2012 amendment deleted “and landing fields” following “aircraft utilizing airports”; deleted “or landing field” following “acquisition of the airport”; and made a nonsubstantive change.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 2, Background.

S.C. Jur. Aviation and Airports Section 5, Airport Development.

**SECTIONS 55‑9‑100 to 55‑9‑180.** Repealed by 1987 Act No. 173, Section 55.

Editor’s Note

Former Sections 55‑9‑100 to 55‑9‑180 were derived from 1962 Code Sections 2‑107‑2‑115; 1952 Code Sections 2‑107‑2‑115; 1942 Code Section 7112‑33; 1937 (40) 466; 1942 (42) 1465, 1499.

Former Section 55‑9‑100 related to the bringing of a single proceeding against various property owners. Former Section 55‑9‑110 pertained to the joining of parties unknown or having questionable titles. Former Section 55‑9‑120 related to the service of notice on parties in a proceeding to condemn property for airport purposes. Former Section 55‑9‑130 pertained to the contents of a notice of the description of property sought to be taken by condemnation for airport purposes. Former Section 55‑9‑140 related to a hearing at which the value and ownership of property to be taken by condemnation for airport purposes were to be determined. Former Section 55‑9‑150 related to payment of compensation for property taken by condemnation for airport purposes. Former section 55‑9‑160 related to controversies regarding payment of compensation for property taken by condemnation for airport purposes. Former Section 55‑9‑170 related to the taking of possession of property obtained by condemnation for airport purposes, and to appeal from the decision of award. Former Section 55‑9‑180 stated that when a county was governed by a board of directors such board would sit as the condemning authority with regard to property sought to be taken for airport purposes.

**SECTION 55‑9‑190.** Powers as to airports and landing fields.

 The division, counties, municipalities, and other political subdivisions of this State which have established airports which acquire, lease or set apart real property for these purposes may:

 (1) construct, equip, improve, maintain and operate airports or vest authority for the construction, equipment, improvement, maintenance and operation of it in an officer, board or body of the political subdivision, the expense of the construction, equipment, improvement, maintenance and operation to be a responsibility of such political subdivision;

 (2) adopt regulations and establish charges, fees and tolls for the use of such airports fix penalties for the violation of such regulations and establish liens to enforce payment of such charges, fees and tolls; and

 (3) lease these airports to private parties for operation or lease to private parties for operation space, area, improvements and equipment on such airports provided in each case that in so doing the public is not deprived of its rightful, equal, and uniform use of it.

HISTORY: 1962 Code Section 2‑116; 1952 Code Section 2‑116; 1942 Code Section 7112‑35; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2010 Act No. 288, Section 1, eff June 29, 2010; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “Commission”.

The 2010 amendment twice deleted “not exceeding twenty‑five years” following “term” in subsection (3).

The 2012 amendment deleted “or landing fields” following “airports” throughout the section; substituted “these airports” for “for a term such airports or landing fields” at the beginning of subsection (3); and, made other, nonsubstantive, changes.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 4, Regulation of Airports.

Attorney General’s Opinions

The City of Aiken must act with reasonable care to make sure members of the public have rightful, equal and uniform use of the Aiken Municipal Airport. S.C. Op.Atty.Gen. (Sept. 19, 2011) 2011 WL 4592374.

The Aeronautics Commission does not have authority to sell land acquired and owned by it for airports and landing fields. 1963‑64 Op Atty Gen, No 1797, p 282.

**SECTION 55‑9‑200.** Manner of raising money for purchase price or award.

 The purchase price or award for real property acquired, in accordance with the provisions of this chapter, for an airport may be paid for by appropriation of monies available for it or wholly or partly from the proceeds of the sale of bonds of the county, municipality or other political subdivision as the legislative body of the political subdivision shall determine subject to the adoption of a proposition for it at a regular or special election, if the adoption of a proposition is a prerequisite to the issuance of bonds of the political subdivision for public purposes generally.

HISTORY: 1962 Code Section 2‑117; 1952 Code Section 2‑117; 1942 Code Section 7112‑34; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment deleted “or landing field” following “for an airport”; and made other, nonsubstantive, changes throughout the section.

RESEARCH REFERENCES

Encyclopedias

S.C. Jur. Aviation and Airports Section 5, Airport Development.

**SECTION 55‑9‑210.** Finances.

 The local public authorities having power to appropriate monies within the counties, municipalities or other political subdivisions of this State acquiring, establishing, developing, operating, maintaining or controlling airports under the provisions of this chapter may appropriate and cause to be raised by taxation or otherwise in such political subdivisions. All monies derived from these airports must be obligated to these facilities. A diversion of revenue away from airport facility accounts for nonaeronautical purposes is unlawful and may subject an airport or airport sponsor to denial of future funding.

HISTORY: 1962 Code Section 2‑118; 1952 Code Section 2‑118; 1942 Code Section 7112‑36; 1937 (40) 466; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment rewrote this section.

CROSS REFERENCES

Public finance, generally, see Section 11‑1‑10 et seq.

NOTES OF DECISIONS

In general 1

1. In general

The establishment of a municipal airport is for a “public purpose” within the meaning of constitutional provisions restricting the power of taxation to such purpose. Evatte v. Cass (S.C. 1950) 217 S.C. 62, 59 S.E.2d 638. Municipal Corporations 962

**SECTION 55‑9‑220.** Transfer of unexpended moneys appropriated for airport development to airport repairs.

 Any unexpended monies appropriated for airport development for a particular county may be transferred to repairs to airports for that particular county upon request of the division.

HISTORY: 1962 Code Section 2‑118.1; 1969 (56) 75; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment substituted “division” for “South Carolina Aeronautics Commission”.

The 2012 amendment made nonsubstantive changes.

**SECTION 55‑9‑230.** Local police regulations.

 Counties, municipalities or other political subdivisions of this State acquiring, establishing, developing, operating, maintaining, controlling or having an interest in airports without the geographical limits of these subdivisions, under the provisions of this chapter may promulgate, amend and enforce police regulations for these entities irrespective of whether or not the title to the properties is vested in, and the management and operation of an airport is by a commission created by statute or otherwise.

HISTORY: 1962 Code Section 2‑119; 1952 Code Section 2‑119; 1942 Code Section 7112‑39; 1937 (40) 466; 1942 (42) 1522; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment deleted “or landing fields,” preceding “without the geographical limits”; substituted “these entities” for “such airports or landing fields,”; deleted “or landing field” following “airport”; and made other, nonsubstantive, changes throughout the section.

CROSS REFERENCES

Law enforcement and public safety, generally, see Section 23‑1‑15 et seq.

Pee Dee Regional Airport District, duties, see Section 55‑11‑630.

**SECTION 55‑9‑240.** Zoning of land surrounding certain airports.

 All land surrounding public‑owned airports in this State, which are funded partially or wholly by this State, must be zoned by appropriate county, municipal or regional authorities so as to conform to pertinent regulations of the Division of Aeronautics and the United States Department of Transportation, Federal Aviation Administration.

HISTORY: 1962 Code Section 2‑119.1; 1974 (58) 2673; 1993 Act No. 181, Section 1293, eff July 1, 1993; 2012 Act No. 270, Section 4, eff June 18, 2012.

Effect of Amendment

The 1993 amendment reprinted this section with no apparent change.

The 2012 amendment inserted “Division of Aeronautics and the United States Department of Transportation,”; deleted “, Department of Transportation” following “Federal Aviation Administration”; and, made other, nonsubstantive, changes.

**SECTION 55‑9‑250.** Airport hazards.

 An airport hazard is a condition, occurrence or activity that endangers the lives and property of users of an airport and of occupants of land and other persons in its vicinity, and also, if of the obstruction type, in effect reduces the size of the area available for the landing, taking off and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment in it. Therefore:

 (1) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by an airport;

 (2) it is necessary in the interest of the public health, safety, and general welfare that the creation or establishment of airport hazards be prevented;

 (3) this should be accomplished, to the extent legally possible, by proper exercise of the police power;

 (4) the prevention of the creation or establishment of airport hazards, and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which county, municipal, or regional authorities may raise and expend public funds, as an incident to the operation of airports, to acquire land or property interests in them; and

 (5) in the event of an abatement of an airport hazard on private property by the division under Section 55‑5‑80 or Section 55‑9‑280, the division and a local government shall have the ability to seek cost recovery against the person responsible for creating or maintaining the hazard for the actual costs in the removal or abatement of the hazard.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

CROSS REFERENCES

Powers and duties of Pee Dee Regional Airport Authority, see Section 55‑11‑630.

**SECTION 55‑9‑260.** Zoning regulations for airport hazard area within territory of political subdivision.

 A county, municipality or political subdivision that has an airport hazard area within its territorial limits may adopt, administer, and enforce in the manner and upon the conditions prescribed by this chapter, zoning regulations for the airport hazard area. These regulations may divide the area into zones and, within these zones, specify the land uses permitted, and regulate and restrict, for the purpose of preventing airport hazards, the height to which structures and trees may be erected or permitted to grow. The adoption of these zoning regulations shall conform to the requirements of Section 6‑29‑710, et seq., of the South Carolina Code of laws governing zoning.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑270.** Zoning regulations for airport hazard areas outside territory of political subdivision.

 When an airport hazard area appertaining to an airport owned or controlled by a county, municipality, or political subdivision is located outside the territorial limits of the political subdivision, the political subdivision owning or controlling the airport, and the county, municipality, or political subdivision within which the airport hazard area is located, may by ordinance adopt, administer, and enforce airport zoning regulations applicable to the airport safety zones, airport land use zones, and airport hazards.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑280.** Actions in equity maintained by governmental entities to restrain and abate airport hazards.

 A governmental entity that owns or controls an airport and the Division of Aeronautics may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to an airport in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter for any area whether within or without the territorial limits of the municipality.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑290.** Actions in equity maintained by the division to restrain or abate airport hazards.

 The division may maintain actions in equity to restrain and abate as nuisances the creation or establishment of airport hazards appertaining to any airport within the State, in violation of any zoning regulations adopted or established pursuant to the provisions of this chapter.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑300.** Incorporation of airport hazard area regulations.

 Any governmental entity may incorporate airport hazard area regulations and administer and enforce them.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑310.** Conflict between zoning regulations.

 In the event of a conflict between any airport zoning regulations adopted or established pursuant to this chapter and any other regulations applicable to the same area, the more stringent limitation or requirement shall govern and prevail.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑320.** Procedure for adopting, amending, and repealing zoning regulations.

 In adopting, amending, and repealing airport zoning regulations under this chapter, the governing body of a county, city, or political subdivision city shall follow the procedure in Section 6‑29‑760.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑330.** Airport zoning regulations; permitted content.

 (A) All airport zoning regulations adopted pursuant to this chapter shall be reasonable and none shall impose any requirement or restriction which is not necessary to effectuate the purposes of this chapter.

 (B) Airport zoning regulations adopted under this chapter may require the removal, lowering, or other change or alteration of any structure or tree, or a change in use, not conforming to the regulations when adopted or amended. An affected local government shall have the ability to seek cost recovery against the persons responsible for creating or maintaining the condition for the actual costs in the removal or abatement of the condition.

 (C) Airport zoning regulations adopted under this chapter may require a property owner to permit the governmental entity to install, operate, and maintain on the property markers and lights, as necessary, to indicate to operators of aircraft the presence of the airport hazard.

 (D) All regulations may provide that a preexisting nonconforming structure, tree, or use, shall not be replaced, rebuilt, altered, allowed to grow higher, or replanted, so as to constitute a greater airport hazard than it was when the airport zoning regulations or amendments to the regulations were adopted.

 (E) In the case of an abatement of an aviation hazard as a public nuisance or nonconformity with applicable aviation safety or zoning regulations, or both on private property, a municipality or county may provide by ordinance for notification to the owner of conditions needed for correction, may require that the owner take such action as is necessary to correct the conditions, may provide the terms and conditions under which employees of the municipality or any person employed for that purpose may go upon the property to correct the conditions, and may provide that the cost of such shall become a lien upon the real estate, and must be collectable in the same manner as municipal or county taxes.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑340.** Variances from airport zoning regulations.

 A person desiring to erect or increase the height of a structure, or to permit the growth of any tree, or otherwise use the person’s property in violation of airport zoning regulations adopted under this chapter, may apply to the board of zoning appeals or joint board of appeals for a variance from the zoning regulations. The variances must be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest, but would do substantial justice and be in accordance with the spirit of the regulations and this chapter. However, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may consider necessary to effectuate the purposes of this chapter, including the reservation of the right of the governmental entity, at its own expense, to install, operate, and maintain on it markers and lights as may be necessary to indicate to operators of aircraft the presence of the airport hazard.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.

**SECTION 55‑9‑360.** Administration and enforcement of airport regulations.

 All airport regulations adopted pursuant to this chapter shall provide for the administration and enforcement of these regulations by an administrative agency, which may be an agency created by these regulations, or by any official board, or other existing agency of the entity or entities adopting the regulations.

HISTORY: 2012 Act No. 270, Section 4, eff June 18, 2012.