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Title 02: Aeronautics

Utah Code Annotated

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TITLE 2

AERONAUTICS

Chapter

1. Aeronautical Regulatory Act.
2. Public Airports Act.
3. Federal Airport Funds Act.
4. Airport Zoning Act.
5. Airport Authority Act [Renumbered].
6. Flying While Intoxicated.

CHAPTER 1

AERONAUTICAL REGULATORY ACT

<p>Section 2-1-1. Definitions. 2-1-1.1. Repealed. 2-1-2. Aeronautical Committee — Members, appointment, terms — Per diem allowance and expenses — Chairman — Quorum. 2-1-3 to 2-1-5. Repealed. 2-1-6. Payment of expenses of administration. 2-1-7. Certificate of registration of aircraft required — Exceptions. 2-1-7.5. Aircraft registration information requirements — Registration fee. 2-1-7.6. Registration of antique or experimental aircraft. 2-1-7.7. Failure to register — Penalty. 2-1-8. Pilot's certificate of competency required — Exceptions. 2-1-9. Mechanic's certificate of competency. 2-1-10. Repealed. 2-1-11. Certificate carried subject to inspection — Burden of proving validity of certificate in criminal proceedings. 2-1-12. Aeronautical Committee created within Department of Transportation — Advisory capacity — Powers and duties. 2-1-13. Investigations and hearings — Powers. 2-1-14. Reports of investigations or hearings — Restrictions on use — Members of committee or employees of division not required to testify. 2-1-15. Enforcement of chapter — Fees for services by division.</p>	<p>Section 2-1-15.5. Procedures — Adjudicative proceedings. 2-1-16. Airport license required — Issuance by division — Restrictions on use of lands or waters of another — Annual fee. 2-1-16.5. Aircraft landing permits — Eligible aircraft — Special licenses — Rules — Proof of insurance — Bonds. 2-1-17. Reason for division order to be stated — Closing airports — Notice — Right of inspection. 2-1-18. Judicial review. 2-1-19, 2-1-20. Repealed. 2-1-21. Violations — Penalty. 2-1-22. Separability clause. 2-1-23. Construction of chapter. 2-1-24. Short title. 2-1-25. Sovereignty in space above land and water in state. 2-1-26. Report of death or serious injury to person or property. 2-1-27. Report of injury to aircraft or property. 2-1-28. Marking buildings to aid navigation. 2-1-29. Repealed. 2-1-30. Tampering with aircraft forbidden. 2-1-31. Tampering with airport or equipment forbidden. 2-1-32 to 2-1-38. Repealed. 2-1-39. Expenditures for Civil Air Patrol. 2-1-40. Approval of expenditures for Civil Air Patrol. 2-1-41. Tax-exempt status of Civil Air Patrol equipment.</p>
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2-1-1. Definitions.

As used in this title:

(1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.

(2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.

(3) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:

- (a) compensation or other reward;
- (b) advertising the occupation;
- (c) calling his facilities an air school, or any equivalent term; or
- (d) employing or using other instructors.

(4) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.

(5) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.

(6) "Airport" means any area of land, water, or both, that:

- (a) is used or is made available for landing and takeoff;
- (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo; and
- (c) meets the minimum requirements established by the division as to size and design, surface, marking, equipment, and operation.

(7) "Airport authority" has the same meaning as "authority" in Section 17A-2-1502, the Utah Public Airport Authority Act definitions.

(8) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.

(9) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.

(10) "Antique aircraft" means a civil aircraft that is:

- (a) 30 years old or older, calculated as to include the current year;
- (b) primarily a collector's item and used solely for recreational or display purposes;
- (c) not used for daily or regular transportation; and
- (d) not used for commercial operations.

(11) "Civil aircraft" means any aircraft other than a public aircraft.

(12) "Commercial aircraft" means aircraft used for commercial purposes.

(13) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.

(14) "Commercial flight operator" means a person who conducts commercial operations.

(15) "Commercial operations" means:

- (a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the

servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or

(b) the brokering or selling of any of these services; but

(c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.

(16) "Committee" means the Aeronautical Committee created in Section 2-1-12.

(17) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.

(18) "Department" means the Department of Transportation.

(19) "Division" means the Operations Division in the Department of Transportation, created in Section 63-49-7.

(20) "Experimental aircraft" means:

(a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and

(b) any aircraft designated by the Federal Aviation Administration as:

(i) being custom or amateur built; and

(ii) used for recreational, educational, or display purposes.

(21) "Flight" means any kind of locomotion by aircraft while in the air.

(22) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

(23) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.

(24) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.

(25) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.

(26) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.

(27) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.

(28) "Person" means any individual, corporation, limited liability company, or association of individuals.

(29) "Pilot" means any person who operates the controls of an aircraft while in-flight.

(30) "Primary glider" means any glider that has a gliding angle of less than ten to one.

(31) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state,

territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.

(32) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.

(33) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.

(34) "Secondary glider" means any glider that has a gliding angle between ten to one and 16 to one, inclusive.

(35) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

History: L. 1937, ch. 10, § 1; 1939, ch. 12, § 1; C. 1943, 4-0-19; L. 1953, ch. 1, § 1; 1961, ch. 1, § 1; 1969, ch. 199, § 23; 1973, ch. 1, § 1; 1975 (1st S.S.), ch. 9, § 1; 1983, ch. 1, § 1; 1988, ch. 220, § 1; 1989, ch. 23, § 1; 1994, ch. 120, § 1.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, deleted "landing fields, landing strips" after "airports" in Subsection (2); added Subsection (7), deleted former

Subsections (23) and (24), defining "landing field" and "landing strip," and redesignated the other subsections accordingly; added the code citation in Subsection (16); rewrote the definition of "division"; inserted "limited liability company" in Subsection (28); and made stylistic changes.

Cross-References. — Department of Transportation, § 63-49-1 et seq.

Hunting from airplanes, § 23-20-12.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 2.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 2.

A.L.R. — Strict liability, in absence of stat-

ute, for injury or damage occurring on the ground caused by ascent, descent, or flight of aircraft, 73 A.L.R.4th 416.

Key Numbers. — Aviation ⇐ 2.

2-1-1.1. Repealed.

Repeals. — Section 2-1-1.1 (L. 1967, ch. 175, § 21), relating to the creation, powers, duties and members of the Board of Aeronautics

within the Department of Development Services, was repealed by Laws 1975 (1st S.S.), ch. 9, § 53.

2-1-2. Aeronautical Committee — Members, appointment, terms — Per diem allowance and expenses — Chairman — Quorum.

The Aeronautical Committee shall be comprised of five members who shall be appointed by the governor, with the advice and consent of the Senate. Each member of the committee shall be knowledgeable and interested in aviation.

Not more than three of the members shall be of the same political party. All appointments, except to fill unexpired terms, shall be for four years.

Members of the committee shall be paid a per diem and their actual and necessary expenses incurred in the performance of their official duties, as provided by law.

The chairman of the committee shall be appointed from the membership of the committee. Three members of the committee shall constitute a quorum for the exercising of the powers and authority conferred upon it.

The members of the Board of Aeronautics within the Department of Development Services on the effective date of this act shall continue to serve and shall become the original members of this committee for the duration of their appointments and, thereafter, until their successors are appointed and qualified.

History: L. 1937, ch. 10, § 2; 1941 (1st S.S.), ch. 2, § 1; C. 1943, 4-0-20; L. 1957, ch. 52, § 2; 1965, ch. 1, § 1; 1967, ch. 175, § 22; 1975, ch. 204, § 10; 1983, ch. 320, § 1.

Compiler's Notes. — The Board of Aeronautics, referred to in the last paragraph, was deleted from the Department of Development Services by Laws 1975, ch. 204, the "Department of Transportation Act," which added that paragraph. The Department of Development was abolished by Laws 1979, ch. 234, which

created the Department of Community and Economic Development.

The phrase "effective date of this act," in the last paragraph, means July 1, 1975, the effective date of Laws 1975, ch. 204.

Cross-References. — Creation and duties of Aeronautical Committee, § 2-1-12.

Department of Transportation Act, § 63-49-1 et seq.

Per diem and travel expenses, §§ 63A-3-106, 63A-6-107.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 17.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 20.

Key Numbers. — Aviation ⇌ 31.

2-1-3 to 2-1-5. Repealed.

Repeals. — Sections 2-1-3 and 2-1-5, as enacted by Laws 1937, ch. 10, § 3, and as amended by Laws 1941 (1st S.S.), ch. 2, § 1, relating to the organization and offices of the State Aeronautics Commission, were repealed by Laws 1969, ch. 199, § 56.

Section 2-1-4, as amended by Laws 1941 (1st S.S.), ch. 2, § 1, relating to employment of director and clerical personnel of State Aeronautics Commission, was repealed by Laws 1967, ch. 175, § 81.

2-1-6. Payment of expenses of administration.

The division shall pay the expenses of the administration of this act out of the special funds set up by the state treasurer for that purpose.

History: L. 1937, ch. 10, § 6; C. 1943, 4-0-24; L. 1969, ch. 199, § 24.

Meaning of "this act." — The term "this act" means Laws 1937, ch. 10, which enacted

§§ 2-1-1, 2-1-2, 2-1-6 to 2-1-9, 2-1-11 to 2-1-18, 2-1-21 to 2-1-28, 2-1-30, and 2-1-31. The reference probably should read "this chapter."

2-1-7. Certificate of registration of aircraft required — Exceptions.

(1) It is unlawful for any person to operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state, any civil aircraft located in this state unless the aircraft has a currently effective certificate of registration issued by this state through the county in which the aircraft is located. This restriction does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.

(2) Aircraft assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

History: L. 1937, ch. 10, § 7; 1939, ch. 12, § 1; C. 1943, 4-0-25; L. 1969, ch. 199, § 25; 1983, ch. 1, § 2; 1986, ch. 77, § 1.

Cross-References. — Situs of aircraft for tax purposes, § 59-2-104.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 22.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 39 to 41.

A.L.R. — Construction and effect of 49 [App.] U.S.C. § 1403, governing recordation of owner-

ship, conveyances, and encumbrances on aircraft, 22 A.L.R.3d 1270.

Key Numbers. — Aviation ⇌ 10, 71 et seq., 122.

2-1-7.5. Aircraft registration information requirements — Registration fee.

(1) All applications for aircraft registration, including under Section 2-1-7.6, shall contain:

(a) a description of the aircraft, including:

(i) the manufacturer or builder;

(ii) the aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and

(iii) gross weight;

(b) the name and address of the owner of the aircraft; and

(c) where the aircraft is located, or the address where the aircraft is usually used or based.

(2) (a) The application for registration in the state of Utah shall be accompanied by a registration fee determined by the State Tax Commission. However, if the application is to register an antique aircraft or experimental aircraft, the fee is set under Section 2-1-7.6.

(b) The fee shall be collected by the county and remitted to the tax commission to be used to defray the costs of implementing this section.

History: C. 1953, 2-1-7.5, enacted by L. 1986, ch. 77, § 2; 1988, ch. 220, § 2; 1989, ch. 23, § 2; 1994, ch. 120, § 2.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided Subsec-

tion (1)(a) and added the Subsection (1)(c) designation, making related changes, and deleted "as defined in Subsection 2-1-1(19)(b)" after "experimental aircraft" in Subsections (1)(a)(ii) and (2)(a).

2-1-7.6. Registration of antique or experimental aircraft.

(1) In lieu of the annual registration fees under Section 2-1-7.5, the registration fee for antique aircraft and experimental aircraft is a single fee of \$50.

(2) Registration under this section shall comply with the registration requirements of Section 2-1-7.5, but need not be renewed while an aircraft is operated as an antique aircraft or experimental aircraft under this chapter.

(3) An aircraft to be registered as an antique aircraft or experimental aircraft shall meet applicable airworthiness standards established by state and federal aviation regulatory agencies.

History: C. 1953, 2-1-7.6, enacted by L. 1988, ch. 220, § 3; 1989, ch. 23, § 3; 1994, ch. 120, § 3.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, deleted "as defined in Subsection 2-1-1(19)(b)" after "experimental aircraft" in Subsections (1), (2), and (3).

2-1-7.7. Failure to register — Penalty.

Failure to register any aircraft required to be registered with the state in the county in which the aircraft is located subjects the owners of the aircraft to the same penalties provided for motor vehicles under Sections 41-1a-1101, 41-1a-1301, and 41-1a-1307.

History: C. 1953, 2-1-7.7, enacted by L. 1986, ch. 77, § 3; 1992, ch. 1, § 1.

Amendment Notes. — The 1992 amendment, effective January 30, 1992, substituted

the present code citations for "Sections 41-1-115, 41-1-134, and 41-1-135" and made a stylistic change.

2-1-8. Pilot's certificate of competency required — Exceptions.

It is unlawful for any person to pilot within this state any civil aircraft unless that person is the holder of a currently effective pilot's certificate of competency issued by the government of the United States. This restriction does not apply to any person operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft.

History: L. 1937, ch. 10, § 8; 1939, ch. 12, § 1; C. 1943, 4-0-26; L. 1967, ch. 175, § 26; 1973, ch. 1, § 2; 1983, ch. 1, § 3.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 34 to 38.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 42 to 56.

A.L.R. — Construction of provision of avia-

tion liability policy which requires pilot of insured aircraft to have appropriate license or certification, 72 A.L.R.3d 525.

Key Numbers. — Aviation ⇌ 122.

2-1-9. Mechanic's certificate of competency.

Mechanics will be rated as airframe or powerplant mechanics. A person may hold a plurality of certificate of competency, such as both classes of mechanic's certificate of competency or a pilot's and mechanic's certificate of competency. The certificate shall be a currently effective certificate of competency issued by the government of the United States. This restriction does not apply to mechanics employed by the United States government.

History: L. 1937, ch. 10, § 8-A, added by L. 1939, ch. 12, § 1; C. 1943, 4-0-27; L. 1967, ch. 175, § 27; 1973, ch. 1, § 3; 1983, ch. 1, § 4.

2-1-10. Repealed.

Repeals. — Section 2-1-10, as amended by Laws 1969, ch. 199, § 26, relating to mechanics' certificates, was repealed by Laws 1973, ch. 1, § 6.

2-1-11. Certificate carried subject to inspection — Burden of proving validity of certificate in criminal proceedings.

(1) The certificate of license or permit required of a pilot or a student shall be kept in the personal possession of a licensee or permittee operating an aircraft within the state.

(2) The certificate of license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted in clear view of passengers.

(3) The certificate of pilot's license, student's permit, or aircraft license shall be presented for inspection upon the demand of any peace officer of this state, any authorized official or employee of the division, or any official, manager, or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any other person.

(4) In any criminal prosecution under this title, a defendant who relies upon a license or permit of any kind has the burden of proving that the defendant is properly licensed or is the possessor of a proper license or permit.

(5) The fact of nonissuance of a license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that a diligent search in the office records has been made and that from the records it appears that no license or permit was issued.

History: L. 1937, ch. 10, § 9; C. 1943, 4-0-29; L. 1969, ch. 199, § 27; 1983, ch. 1, § 5; 1994, ch. 120, § 4.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, subdivided the section; substituted "title" for "act" in Subsection (4); and made stylistic changes.

2-1-12. Aeronautical Committee created within Department of Transportation — Advisory capacity — Powers and duties.

(1) (a) There is created an Aeronautical Committee within the division to act in an advisory capacity in determining the aeronautics policy within the state.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the committee shall make rules:

(i) governing the establishment, location, and use of air navigation facilities; and

(ii) regulating the use, licensing, and supervision of airports;

(iii) establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and

(iv) safeguarding from accident and protecting the safety of persons operating or using aircraft and persons and property on the ground.

- (2) The rules may:
- (a) require that any device or accessory that forms part of any aircraft or its equipment be certified as complying with this chapter;
 - (b) limit the use of any device or accessory as necessary for safety; and
 - (c) develop and promote aeronautics within this state.
- (3) (a) To avoid the danger of accident incident to confusion arising from conflicting rules governing aeronautics, the committee's rules shall conform as nearly as possible with federal legislation, rules, regulations, and orders on aeronautics.
- (b) The committee's rules may not be inconsistent with paramount federal legislation, rules, regulations, and orders on the subject.
- (4) The committee may not require any pilot, aircraft, or mechanic who has procured a license under the Civil Aeronautics Authority of the United States to obtain a license from this state, other than required by this chapter.
- (5) The committee may not make rules that conflict with the regulations of:
- (a) the Civil Aeronautics Authority; or
 - (b) other federal agencies authorized to regulate the particular activity.
- (6) All schedules of charges, tolls, and fees established by the division shall be approved and adopted by the committee.
- (7) The committee shall comply with the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act, in its adjudicative proceedings.

History: L. 1937, ch. 10, § 10; 1939, ch. 12, § 1; C. 1943, 4-0-30; L. 1967, ch. 175, § 23; 1969, ch. 199, § 28; 1975, ch. 204, § 9; 1983, ch. 1, § 6; 1987, ch. 161, § 3; 1994, ch. 120, § 5.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, in Subsection (1)(a), substituted "division" for "Department of Transportation" and deleted "to the Aeronautical Operations Division" after "advisory capacity"; in Subsection (1)(b), added the statutory citation at the beginning, deleted references to

landing fields and landing strips, and redesignated former Subsections (2)(a) and (b) as (1)(b)(iii) and (iv); redesignated former Subsection (1)(c) as Subsection (2), adding the (a) and (c) designations and redesignating former Subsection (1)(d) as (2)(b); and made numerous stylistic changes.

Sunset Act. — See Section 63-55-202 for the repeal date of the Aeronautical Committee.

Cross-References. — Department of Transportation Act, § 63-49-1 et seq.

Membership of committee, § 2-1-2.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 17.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 20.

Key Numbers. — Aviation ⇌ 31 to 33.

2-1-13. Investigations and hearings — Powers.

- (1) The Aeronautical Committee may conduct investigations, inquiries, and hearings concerning matters covered by this chapter and accidents or injuries incident to the operation of aircraft occurring within this state.
- (2) The committee may:
- (a) administer oaths and affirmations;
 - (b) certify to all official acts;
 - (c) issue subpoenas;
 - (d) compel the attendance and testimony of witnesses; and
 - (e) compel the production of papers, books, and documents.

(3) (a) If any person fails to comply with any subpoena or order issued by the committee, the committee may petition any district court in this state to order compliance.

(b) The district court may order the person to comply with the requirements of the subpoena or order of the committee, or to give evidence upon the matter in question.

(c) Any failure to obey the order of the court may be punished by the court as contempt.

History: L. 1937, ch. 10, § 11; C. 1943, 4-0-31; L. 1969, ch. 199, § 29; 1983, ch. 1, § 7; 1987, ch. 161, § 4.

Cross-References. — Contempt, Title 78, Chapter 32.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 20.

Key Numbers. — Aviation ⇌ 34.

2-1-14. Reports of investigations or hearings — Restrictions on use — Members of committee or employees of division not required to testify.

(1) The reports of investigations or hearings, or any part of them, may not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigations or hearings, or in any report of them, except in case of criminal or other proceedings instituted by or on behalf of the division under this title.

(2) A member of the committee or any employee of the division may not be required to testify to any fact ascertained in or information gained by reason of his official capacity.

(3) The members or employees of the division may not be required to testify as expert witnesses in any suit, action, or proceeding involving any aircraft or any navigation facility.

History: L. 1937, ch. 10, § 12; C. 1943, 4-0-32; L. 1967, ch. 175, § 28; 1983, ch. 1, § 8; 1994, ch. 120, § 6.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, subdivided the section and made related changes, substituted "title" for "act" in Subsection (1), and made stylistic changes.

2-1-15. Enforcement of chapter — Fees for services by division.

(1) (a) The division and every county and municipal officer required to enforce state laws shall enforce and assist in the enforcement of this chapter.

(b) The division may enforce this chapter by injunction in the district courts of this state.

(c) Other departments and political subdivisions of this state may cooperate with the committee and the division in the development of aeronautics within this state.

(2) (a) Unless otherwise provided by statute, the division may adopt a schedule of fees assessed for services provided by the division.

(b) Each fee shall be reasonable and fair, and shall reflect the cost of the service provided.

(c) Each fee established in this manner shall be submitted to and approved by the Legislature as part of the division's annual appropriations request.

(d) The division may not charge or collect any fee proposed in this manner without approval by the Legislature.

History: L. 1937, ch. 10, § 13; C. 1943, 4-0-33; L. 1967, ch. 175, § 29; 1983, ch. 1, § 9; 1984 (2nd S.S.), ch. 15, § 1; 1994, ch. 120, § 7.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided Subsec-

tions (1) and (2), substituted "state laws" for "state and municipal laws" and "this chapter" for "this act" in Subsection (1)(a), and made stylistic changes.

Cross-References. — Agency fee-setting, § 63-38-3.2.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 20.

Key Numbers. — Aviation ⇔ 35.

2-1-15.5. Procedures — Adjudicative proceedings.

The division shall conduct adjudicative proceedings in accordance with Title 63, Chapter 46b, Administrative Procedures Act.

History: C. 1953, 2-1-15.5, enacted by L. 1987, ch. 161, § 5; 1994, ch. 120, § 8.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, made stylistic changes.

2-1-16. Airport license required — Issuance by division — Restrictions on use of lands or waters of another — Annual fee.

(1) (a) An airport open to public use may not be used or operated unless it is duly licensed by the division.

(b) Any person who owns or operates an airport open to public use shall file an application with the division for a license for the facility.

(2) (a) A license shall be granted whenever it is reasonably necessary for the accommodation and convenience of the public and may be granted in other cases in the discretion of the division.

(b) The division may not issue a license if the division finds that the facility is not constructed, equipped, and operated in accordance with the standards set by the committee.

(3) (a) The landing or taking off of aircraft on or from the lands or waters of another without consent is unlawful, except in the case of a forced landing.

(b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft, operator, or any of them is liable.

(4) (a) A student pilot may not land on any area without the knowledge of the operator, instructor, or school from which the student is flying.

(b) The use of private landing fields must not impose a hazard upon the person or property of others.

(5) A certificate of registration is not required of, and the rules made under this title do not apply to an airport owned or operated by the government of the United States.

(6) The division, with the approval of the committee, may charge a fee determined by the division pursuant to Section 63-38-3.2 for the issuance of an annual airport license.

History: L. 1937, ch. 10, § 14; 1939, ch. 12, § 1; C. 1943, 4-0-34; L. 1953, ch. 1, § 1; 1967, ch. 175, § 30; 1983, ch. 1, § 10; 1984 (2nd S.S.), ch. 15, § 2; 1994, ch. 120, § 9; 1994, ch. 313, § 1.

Amendment Notes. — The 1994 amendment by ch. 120, effective May 2, 1994, subdivided Subsections (1) through (4); deleted “Within 60 days after the effective date of this act” from the beginning of Subsection (1)(b);

substituted “may not issue a license if” for “shall issue licenses for all airports in operation when this act becomes effective unless” in Subsection (2)(b); and made stylistic changes.

The 1994 amendment by ch. 313, effective May 2, 1994, substituted “Section 63-38-3.2” for “Subsection 63-38-3(2)” in Subsection (6).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 57 to 74.

Key Numbers. — Aviation ⇄ 213 to 215.

2-1-16.5. Aircraft landing permits — Eligible aircraft — Special licenses — Rules — Proof of insurance — Bonds.

- (1) (a) The county executive of any county may issue permits authorizing aircraft to land on or take off from designated county roads.
- (b) Permits may be issued to aircraft operated:
 - (i) as air ambulances;
 - (ii) as pesticide applicators; or
 - (iii) by or under contract with public utilities and used in connection with inspection, maintenance, installation, operation, construction, or repair of property owned or operated by the public utility.
- (2) Permits may also be issued by the county executive to other aircraft under rules made by the division.
- (3) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the division shall make rules for issuing a special license to:
 - (i) an aircraft permitted by a county executive to land on a county road; and
 - (ii) a pilot permitted to operate an aircraft licensed under this subsection from a county road.
- (b) The rules made under this subsection shall include provisions for the safety of the flying and motoring public.
- (4) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the committee shall make rules for the landing and taking off of aircraft to which permits have been issued, which may include annual reports of activities of the aircraft.
- (5) Prior to obtaining a permit or license to any aircraft, the applicant shall file with the county executive and the division a certificate of insurance executed by an insurance company or association authorized to transact

business in this state upon a form prescribed by the division that there is in full force and effect a policy of insurance covering the aircraft for liability against:

- (a) personal injury or death for any one person in an amount of \$50,000 or more;
- (b) any one accident in an amount of \$100,000 or more; and
- (c) property damage in an amount of \$50,000 or more.

(6) In addition to the insurance required under this section, either the county executive or the division may require the posting of a bond to indemnify the county or division against liability resulting from issuing the permit or license.

History: C. 1953, 2-1-16.5, enacted by L. 1977, ch. 1, § 1; 1993, ch. 227, § 1; 1994, ch. 120, § 10.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, substituted “county executive” for “county commission” throughout the section, made stylistic changes in Subsection (1), and substituted “county” for

“commission” before “or division” in Subsection (6).

The 1994 amendment, effective May 2, 1994, subdivided Subsections (1), (3), and (5) and made related changes; added the code citations in Subsections (3)(a) and (4); substituted “division” for “commission” at the end of Subsection (2); and made stylistic changes.

2-1-17. Reason for division order to be stated — Closing airports — Notice — Right of inspection.

(1) If the division rejects an application for permission to operate or establish an airport, or issues any order under this chapter that requires or prohibits certain actions, its order shall:

- (a) contain the reasons for the rejection or order; and
- (b) state the requirements to be met before approval will be given or the order changed.

(2) The division may order the closing of any airport until its requirements have been fulfilled.

- (3) (a) An airport not meeting the standards required by the division shall:
- (i) be given notice of its noncompliance; and
 - (ii) have ten days from the receipt of that notice to respond to the division with a plan and schedule for compliance.

(b) If the airport fails to respond within the required time, the division may revoke the airport license and close the airport.

(4) The division and any state, county, or municipal officer charged with the duty of enforcing this chapter may inspect and examine at reasonable hours any premises, buildings, or other structures where regulated airports are operated.

History: L. 1937, ch. 10, § 15; C. 1943, 4-0-35; L. 1967, ch. 175, § 31; 1983, ch. 1, § 11; 1987, ch. 161, § 6; 1994, ch. 120, § 11.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, inserted “or order” in Subsection (1)(a); subdivided Subsection (3) and made related changes; inserted “county” in Subsection (4); and made stylistic changes.

2-1-18. Judicial review.

(1) Any person against whom an order has been entered may obtain judicial review.

(2) Venue for judicial review of informal adjudicative proceedings is in the district court of the county in which the order was made or the county in which property affected by the order is located.

History: L. 1937, ch. 10, § 16; C. 1943, 4-0-36; L. 1987, ch. 161, § 7.

2-1-19, 2-1-20. Repealed.

Repeals. — Laws 1987, ch. 161, § 314 repeals §§ 2-1-19 and 2-1-20, as last amended by Laws 1967, ch. 175, §§ 32, 33, concerning pro-

cedure and time for appeal of orders, effective January 1, 1988. For present comparable provisions, see § 2-1-18.

2-1-21. Violations — Penalty.

Any person failing to comply with the requirements or violating any of the provisions of this act, or the rules or orders adopted by the board is guilty of a class B misdemeanor.

History: L. 1937, ch. 10, § 19; C. 1943, 4-0-39; L. 1969, ch. 199, § 30; 1986, ch. 178, § 1.

Meaning of "this act." — See note under § 2-1-6.

Cross-References. — Business without a license, § 76-8-410.

Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 158.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 287 to 288.

Key Numbers. — Aviation ⇌ 15 to 17, 252.

2-1-22. Separability clause.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

History: L. 1937, ch. 10, § 20; C. 1943, 4-0-40.

Meaning of "this act." — See note under § 2-1-6.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.
Key Numbers. — Statutes ⇌ 64.

2-1-23. Construction of chapter.

This act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

History: L. 1937, ch. 10, § 21; C. 1943, 4-0-41.

Meaning of "this act." — See note under § 2-1-6.

2-1-24. Short title.

This act may be cited as the Uniform Aeronautical Regulatory Act.

History: L. 1937, ch. 10, § 22; C. 1943, 4-0-42.

Meaning of "this act." — See note under § 2-1-6.

Compiler's Notes. — The National Conference of Commissioners on Uniform State Laws withdrew the Uniform Aeronautical Regulatory Act in 1943.

2-1-25. Sovereignty in space above land and water in state.

Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

History: L. 1939, ch. 12, § 1; C. 1943, 4-0-45.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 3.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 7.

Key Numbers. — Aviation ⇐ 3.

2-1-26. Report of death or serious injury to person or property.

If in the operation of civil aircraft death or serious injury to person or to property results, a report shall be made in accordance with federal aviation regulations.

History: L. 1939, ch. 12, § 1; C. 1943, 4-0-46; L. 1967, ch. 175, § 34; 1983, ch. 1, § 12.

2-1-27. Report of injury to aircraft or property.

All accidents in the operation of civil aircraft which cause injury to aircraft or property shall be reported in accordance with federal aviation regulations.

History: L. 1939, ch. 12, § 1; C. 1943, 4-0-47; L. 1953, ch. 1, § 1; 1967, ch. 175, § 35; 1983, ch. 1, § 13.

2-1-28. Marking buildings to aid navigation.

(1) The division may cooperate with the officials of all state institutions for the purpose of marking one building within their group as an aid to aerial navigation.

(2) The marking is subject to the approval of the division and shall comply with the requirements of the United States civil aeronautics authority for air marking.

History: L. 1939, ch. 12, § 1; C. 1943, 4-0-48; L. 1967, ch. 175, § 36; 1994, ch. 120, § 12.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided the section and made stylistic changes.

2-1-29. Repealed.

Repeals. — Section 2-1-29, as last amended by Laws 1967, ch. 175, § 37, requiring holders of certificates to notify division of change of

address or in appearance of aircraft, was repealed by Laws 1983, ch. 1, § 19.

2-1-30. Tampering with aircraft forbidden.

It shall be unlawful for any person, without express or implied authority of the owner, to operate, climb upon, enter, manipulate the controls or accessories of, set in motion, remove parts or contents of, or otherwise tamper with any civil aircraft within this state, or knowingly cause or permit the same to be done.

History: L. 1939, ch. 12, § 1; C. 1943, 4-0-50; L. 1953, ch. 2, § 1.

2-1-31. Tampering with airport or equipment forbidden.

No person shall interfere or tamper with any airport, landing field or airway, or the equipment thereof.

History: L. 1939, ch. 12, § 1; C. 1943, 4-0-51.

2-1-32 to 2-1-38. Repealed.

Repeals. — Sections 2-1-32, 2-1-35, and 2-1-36, as last amended by Laws 1967, ch. 175, §§ 38, 40, and 41, relating to accident reports and to regulation of commercial flight operators, were repealed by Laws 1983, ch. 1, § 19.

Laws 1988, ch. 20, § 1 repeals § 2-1-33, as enacted by Laws 1953, ch. 2, § 2, the aircraft "guest statute," effective April 25, 1988.

Laws 1994, ch. 120, § 83 repeals § 2-1-34, as

last amended by Laws 1983, ch. 1, § 14, relating to the sale of abandoned or unclaimed aircraft, effective May 2, 1994.

Sections 2-1-37 and 2-1-38, as last amended by Laws 1969, ch. 199, §§ 31 and 32, providing for the creation of the Division of Aeronautics and the appointment of its director, were repealed by Laws 1975 (1st S.S.), ch. 9, § 53.

2-1-39. Expenditures for Civil Air Patrol.

(1) The division may expend state aeronautics funds for the Utah wing of the Civil Air Patrol to be used to:

- (a) purchase aviation facilities, training, supplies, and equipment;
- (b) defray maintenance and rental costs of hangar facilities and aircraft;
- (c) purchase maintenance supplies and equipment for the communications network of the Civil Air Patrol; and
- (d) provide administrative costs approved by the division.

(2) The expenditures may not exceed in any fiscal year the amount appropriated to the Utah wing of the Civil Air Patrol by the Legislature.

History: L. 1971, ch. 2, § 1; 1973, ch. 2, § 1; 1983, ch. 1, § 15; 1986, ch. 110, § 1; 1994, ch. 120, § 13.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, substituted "division" for full-name references and made other stylistic changes.

2-1-40. Approval of expenditures for Civil Air Patrol.

No expenditure of state funds for the civil air patrol shall be made unless a purchase order is first approved by the director of aeronautics under guidelines established by the Aeronautical Committee and unless the funds are specifically used as required in this act.

History: L. 1971, ch. 2, § 2; 1983, ch. 1, § 16.

Meaning of "this act." — The term "this

act" at the end of the section means Laws 1971, ch. 2, which enacted §§ 2-1-39 to 2-1-41.

2-1-41. Tax-exempt status of Civil Air Patrol equipment.

Equipment, aircraft and vehicles owned by the civil air patrol and used for the emergency service needs of the state of Utah are given tax-exempt status.

History: L. 1971, ch. 2, § 3.

CHAPTER 2

PUBLIC AIRPORTS ACT

Section		Section	
2-2-1.	Powers of division — Acceptance of property.	2-2-7.	Powers of department and political subdivisions over airports — Security unit.
2-2-2.	Cooperation with counties, municipalities, and federal government — Expenditures by division.	2-2-8.	Providing for levying of taxes.
2-2-3.	Division and counties, municipalities, and airport authorities authorized to acquire and regulate airports.	2-2-9.	Acquisition of air rights — Condemnation.
2-2-4.	Lands acquired by division and counties, municipalities, and airport authorities — Declaration of public purpose.	2-2-10.	Easements for marks or lights — Condemnation.
2-2-5.	Acquisition of property — Condemnation.	2-2-11.	Police regulations.
2-2-6.	Payment by appropriation or sale of bonds.	2-2-12.	General provisions of law applicable in condemnation proceedings, issuing bonds, and levying taxes.
		2-2-13.	Separability clause.
		2-2-14.	Construction of chapter.
		2-2-15.	Short title.

2-2-1. Powers of division — Acceptance of property.

The division, a county, or municipal legislative body may accept contributions of money or real or personal property for the purpose of establishing, developing, operating, or maintaining airports under the Uniform Airports Act.

History: L. 1945, ch. 9, § 1; C. 1943, Supp., 4-0-52.10; L. 1969, ch. 199, § 33; 1994, ch. 120, § 14.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, substituted "legislative body" for "governing body," deleted a reference to landing fields, and made stylistic changes.

Uniform Airports Act. — See § 2-2-15 and notes thereto.

NOTES TO DECISIONS

Governmental operation of airports.

The statutes of this state have tagged the operation of airports by state political subdivi-

sions as being accomplished in a governmental rather than a proprietary capacity. *Wade v. Salt Lake City*, 10 Utah 2d 374, 353 P.2d 914 (1960).

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 60.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 61.

airport in connection with furnishing rescue equipment or services, 34 A.L.R.3d 1449.

A.L.R. — Liability of owner or operator of

Key Numbers. — Aviation ⇨ 217.

2-2-2. Cooperation with counties, municipalities, and federal government — Expenditures by division.

(1) The division may:

(a) cooperate with counties and municipalities in developing and constructing airports;

(b) make agreements on behalf of the state with any county or municipality regarding the financial participation, construction, and operation of any airports;

(c) cooperate with the federal government in establishing airports; and

(d) accept from the United States of America, money to be matched with the funds of the state and funds appropriated by any county or municipality in developing and constructing airports under the Uniform Airports Act.

(2) The division may expend not to exceed 10% of its annual appropriation upon any one project under this chapter.

History: L. 1945, ch. 9, § 2; C. 1943, Supp., 4-0-52.11; L. 1967, ch. 175, § 42; 1994, ch. 120, § 15.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided the

section; deleted references to landing fields; substituted "chapter" for "act" in Subsection (2); and made stylistic changes.

Uniform Airports Act. — See § 2-2-15 and notes thereto.

2-2-3. Division and counties, municipalities, and airport authorities authorized to acquire and regulate airports.

(1) The division and municipalities, counties, and airport authorities may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police airports for the use of aircraft and may use for these purposes any available property that is owned or controlled by the division or by a municipality, county, or airport authority.

(2) A county may not exercise the authority conferred in this section outside of its geographical limits except jointly with an adjoining county.

History: L. 1937, ch. 9, § 1; 1939, ch. 11, § 1; C. 1943, 4-0-53; L. 1967, ch. 175, § 43; 1994, ch. 120, § 16.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided the section; substituted "airport authorities" and

"airport authority" for "other political subdivisions"; and made stylistic changes.

Cross-References. — Cities, power to lay out airports, § 10-8-8.

Counties may construct landing fields and hangars, § 17-5-232.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 60 to 70.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace §§ 57 to 74.

A.L.R. — Air carrier's liability for injury from condition of airport premises, 14 A.L.R.5th 662.

Key Numbers. — Aviation ⇨ 217.

2-2-4. Lands acquired by division and counties, municipalities, and airport authorities — Declaration of public purpose.

Any land acquired, owned, leased, controlled, or occupied by the division or by a county, municipality, or airport authority for the purposes enumerated in Section 2-2-3, is acquired, owned, leased, controlled, or occupied for public, governmental, and municipal purposes.

History: L. 1937, ch. 9, § 2; 1939, ch. 11, § 1; C. 1943, 4-0-54; L. 1967, ch. 175, § 44; 1994, ch. 120, § 17.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, substituted "airport authority" for "other political subdivision" and made stylistic changes.

2-2-5. Acquisition of property — Condemnation.

(1) Private property needed by the division or a county, municipality, or airport authority for an airport or landing field or for the expansion of an airport or landing field may be acquired by grant, purchase, lease, or other means if the division or the political subdivision is able to agree with the owners of the property on the terms of acquisition.

(2) If no agreement can be reached, the private property may be obtained by condemnation in the manner provided for the state or a political subdivision to acquire real property for public purposes.

History: L. 1937, ch. 9, § 3; 1939, ch. 11, § 1; C. 1943, 4-0-55; L. 1967, ch. 175, § 45; 1994, ch. 120, § 18.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided the section; substituted "airport authority" for

"other political subdivision"; substituted "If no agreement can be reached, the private property may be obtained" for "and otherwise"; and made stylistic changes.

Cross-References. — Eminent domain generally, § 78-34-1 et seq.

2-2-6. Payment by appropriation or sale of bonds.

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

History: L. 1937, ch. 9, § 4; C. 1943, 4-0-56.

Meaning of "this act." — See note under § 2-2-15.

2-2-7. Powers of department and political subdivisions over airports — Security unit.

(1) The Department of Transportation, and counties, municipalities, or other political subdivisions of this state that have established or may establish airports or that acquire, lease, or set apart real property for those purposes, may:

(a) construct, equip, improve, maintain, and operate the airports or may vest the authority for their construction, equipment, improvement, maintenance, and operation in an officer of the Department of Transportation or in an officer, board, or body of the political subdivision;

(b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields, fix penalties for the violation of the rules, and establish liens to enforce payment of the charges, fees, and tolls, subject to approval by the Aeronautical Committee;

(c) lease the airports to private parties for operation for a term not exceeding 50 years, as long as the public is not deprived of its rightful, equal, and uniform use of the facility;

(d) lease or assign space, area, improvements, equipment, buildings, and facilities on the airports to private parties for operation for a term not exceeding 50 years;

(e) lease or assign real property comprising all or any part of the airports to private parties for the construction and operation of hangars, shop buildings, or office buildings for a term not exceeding 50 years, if the projected construction cost of the hangar, shop building, or office building is \$100,000 or more; and

(f) establish, maintain, operate, and staff a security unit for the purpose of enforcing state and local laws at any airport that is subject to federal airport security regulations.

(2) The department or political subdivision shall pay the construction, equipment, improvement, maintenance, and operations expenses of any airport established by them under Subsection (1)(a).

(3) (a) If the department or political subdivision establishes a security unit under Subsection (1)(f), the department head or the governing body of the political subdivision shall appoint persons qualified as peace officers under Title 77, Chapter 1a, Peace Officer Designation to staff the security unit.

(b) A security unit appointed by the department or political subdivision is exempt from civil service regulations.

History: L. 1937, ch. 9, § 5; 1939, ch. 11, § 1; C. 1943, 4-0-57; L. 1963, ch. 1, § 1; 1967, ch. 175, § 46; 1969, ch. 199, § 34; 1981, ch. 2, § 1; 1983, ch. 1, § 17; 1987, ch. 92, § 1; 1987 (1st S.S.), ch. 7, § 1; 1994, ch. 120, § 19.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, deleted references to landing fields throughout the section and made stylistic changes.

2-2-8. Providing for levying of taxes.

The local public authorities having power to appropriate money within the counties, municipalities, or other public subdivisions of this state for the

purpose of acquiring, establishing, developing, operating, maintaining, or controlling airports under the provisions of this chapter, are authorized to appropriate and cause to be raised by taxation or otherwise in such political subdivisions money sufficient to carry out therein the provisions of this chapter, also to use for such purpose or purposes money derived from the airports.

History: L. 1937, ch. 9, § 6; C. 1943, 4-0-58; 1994, ch. 120, § 20.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, substituted "chapter" for "act" twice, deleted two references to landing fields, and made a stylistic change.

2-2-9. Acquisition of air rights — Condemnation.

(1) To provide unobstructed air space for the landing and taking off of aircraft using airports acquired or maintained under this title, the division and a county, municipality, or airport authority may acquire the air rights over private property necessary to insure safe approaches to the landing areas of the airports.

(2) The air rights may be acquired by grant, purchase, lease, or condemnation in the same manner provided under Section 2-2-5 for the acquisition or expansion of airports.

History: L. 1937, ch. 9, § 7; 1939, ch. 11, § 1; C. 1943, 4-0-59; L. 1967, ch. 175, § 47; 1994, ch. 120, § 21.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided the section, substituted "this title" for "this act" and

"airport authority" for "other subdivisions of this state," deleted references to landing fields, and made several other stylistic changes.

Cross-References. — Zoning regulations, § 2-4-1 et seq.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation § 58.

C.J.S. — 2A C.J.S. Aeronautics & Aerospace § 73.

Key Numbers. — Aviation ⇌ 231.

2-2-10. Easements for marks or lights — Condemnation.

(1) The division and a county, municipality, or airport authority may acquire the right or easement for a term of years or perpetually to place and maintain suitable marks 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 using airports and landing fields acquired or maintained under this title.

(2) The rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner provided under Section 2-2-5 for the acquisition or expansion of airports.

History: L. 1937, ch. 9, § 8; 1939, ch. 11, § 1; C. 1943, 4-0-60; L. 1967, ch. 175, § 48; 1994, ch. 120, § 22.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, subdivided the section; substituted "airport authority" for "other political subdivisions" and "title" for "act" in Subsection (1); and made stylistic changes.

COLLATERAL REFERENCES

C.J.S. — 2A C.J.S. Aeronautics & Aerospace
§ 73.

Key Numbers. — Aviation ⇌ 237.

2-2-11. Police regulations.

The division and a county, municipality, or airport authority acquiring, establishing, developing, operating, maintaining, or controlling airports outside the geographical limits of the subdivisions, under this title may amend and enforce police regulations for the airports.

History: L. 1937, ch. 9, § 9; 1939, ch. 11, § 1; C. 1943, 4-0-61; L. 1967, ch. 175, § 49; 1994, ch. 120, § 23.

Amendment Notes. — The 1994 amend-

ment, effective May 2, 1994, substituted "airport authority" for "other political subdivision" and "title" for "act," deleted references to landing fields, and made stylistic changes.

2-2-12. General provisions of law applicable in condemnation proceedings, issuing bonds, and levying taxes.

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

History: L. 1937, ch. 9, § 10; C. 1943, 4-0-62.

Meaning of "this act." — See note under § 2-2-15.

Cross-References. — Cities, powers and duties, § 10-8-1 et seq.

County corporate powers, § 17-4-1 et seq.

Eminent domain, § 78-34-1 et seq.

2-2-13. Separability clause.

If any provision of this act or the application thereof is held invalid, such invalidity shall not affect provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1937, ch. 9, § 11; C. 1943, 4-0-63.

Meaning of "this act." — See note under § 2-2-15.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.

Key Numbers. — Statutes ⇌ 64.

2-2-14. Construction of chapter.

This act shall be so interpreted and construed as to effectuate the general purpose of those states which enact it.

History: L. 1937, ch. 9, § 12; C. 1943, 4-0-64.

Meaning of "this act." — See note under § 2-2-15.

2-2-15. Short title.

This act may be cited as the Uniform Airports Act.

History: L. 1937, ch. 9, § 13; C. 1943, 4-0-65.

Meaning of "this act." — The term "this act" refers to Laws 1937, ch. 9, which enacted §§ 2-2-3 to 2-2-15. The reference, however,

probably should be to "this chapter."

Compiler's Notes. — The National Conference of Commissioners on Uniform State Laws withdrew the Uniform Airports Act in 1943.

CHAPTER 3**FEDERAL AIRPORT FUNDS ACT**

Section		Section	
2-3-1.	Definitions.	2-3-7.	Contractual powers of public agencies.
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2-3-1. Definitions.

As used in this chapter:

(1) "Airport" means any area of land or water which is used, or intended for use: for the landing and taking-off of aircraft, and any appurtenant areas which are used, or intended for use, for aircraft buildings or other airport facilities or rights of way, together with all airport buildings and facilities located thereon.

(2) "Air navigation facility" means any facility — other than one owned and operated by the United States — used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, communicating systems, or other instrumentalities, or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport, and any combination of any or all of such facilities.

(3) "Airport hazard" means any structure, object of natural growth, or use of land which obstructs the air space required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(4) "Municipality" means any county, city, town, or political subdivision of this state.

(5) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representation thereof.

(6) "Public agency" means the United States government or an agency thereof; a state or an agency thereof; a municipality or other political subdivision; or a tax supported organization.

History: L. 1947, ch. 7, § 1; C. 1943, Supp., 4-0-84; L. 1969, ch. 199, § 35; 1975 (1st S.S.), ch. 9, § 2.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 63, 64.

2-3-2. Purpose and policy of chapter.

It is declared that the purpose of this act is to further the public interest in aeronautical progress:

(1) by authorizing public agencies of this state to accept, channel, and disburse federal, state, and other funds for the planning, acquisition, construction, maintenance, operation, and regulation of airports and air navigation facilities;

(2) by granting to a state agency such powers and imposing upon it such duties that the state may obtain the full benefit of financial assistance made available by the federal government, as well as assistance from other sources;

(3) by providing authority that may be exercised by a public agency independently or jointly with other public agencies, thereby enabling two or more cities, towns, counties, and other political subdivisions jointly to establish, acquire, develop, and operate an airport or airports for their joint or common use.

History: L. 1947, ch. 7, § 2; C. 1943, Supp., 4-0-85; L. 1973, ch. 1, § 4.

Meaning of "this act." — See note under § 2-3-11.

2-3-3. Submission of requests for aid — Approval by division — Receipt and disbursement of funds.

(1) The state, a county, municipality, or airport authority may not submit to any federal agency or department of the United States any requests for aid under any act of congress that provides funds for airports or commercial airport construction, development, expansion, or improvements, unless the project and the requests for aid have been first approved by the division.

(2) The state, a county, municipality, or airport authority may not directly accept, receive, receipt for, or disburse any funds granted by the United States under the act, but it shall designate the division as its agent and in its behalf to accept, receive, receipt for, and disburse the funds.

(3) The state, a county, municipality, or airport authority shall enter into an agreement with the division, prescribing the terms and conditions of the agency in accordance with federal laws, rules, and regulations and applicable laws of this state.

(4) Moneys paid by the United States government shall be retained by the state or paid to a county, municipality, or airport authority under terms and conditions imposed by the United States government in making the grant.

History: L. 1947, ch. 7, § 3; C. 1943, Supp., 4-0-86; L. 1967, ch. 175, § 50; 1969, ch. 199,

§ 36; 1973, ch. 1, § 5; 1983, ch. 1, § 18; 1994, ch. 120, § 24.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided the section; substituted “The state, a county, mu-

nicipality, or airport authority” for “public agency” throughout the section; and made stylistic changes.

2-3-4. Repealed.

Repeals. — Section 2-3-4, as amended by Laws 1969, ch. 199, § 37, relating to accep-

tance and disposition of state and federal funds, was repealed by Laws 1973, ch. 1, § 6.

2-3-5. Powers and duties of division.

(1) The division may make available its engineering and other technical services, with or without charge, to the state, a county, municipality, or airport authority or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities.

(2) (a) The division may render financial assistance by grant, loan, or both, to any county, municipality, or airport authority, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by the county, municipality, or airport authority, out of appropriations made by the Legislature for these purposes.

(b) Financial assistance may be furnished in connection with federal or other financial aid for the same purposes.

(3) (a) The division may use the facilities and services of other state agencies and of the counties and municipalities to the utmost extent possible.

(b) The state agencies, counties, and municipalities shall make available their facilities and services.

(4) All powers granted to any county, municipality, or airport authority by this chapter may be exercised jointly with any county, municipality, or airport authority, and jointly with any state agency or the United States if the laws of the other state or of the United States permit the joint exercise.

History: L. 1947, ch. 7, § 5; C. 1943, Supp., 4-0-88; L. 1967, ch. 175, § 52; 1969, ch. 199, § 38; 1994, ch. 120, § 25.

Amendment Notes. — The 1994 amendment, effective May 2, 1994, subdivided Subsections (2) and (3); substituted “the state, a county, municipality, or airport authority” for

“public agency” in Subsection (1) and “county, municipality, or airport authority” for “public agency” in Subsections (2) and (4); inserted “counties” in Subsection (3); substituted “this chapter” for “this act” in Subsection (4); and made stylistic changes.

COLLATERAL REFERENCES

A.L.R. — Air carrier’s liability for injury from condition of airport premises, 14 A.L.R.5th 662.

2-3-6. Mutual assistance — Gifts, leases and loans.

If any public agency determines that the public interest and the interest of the public agency will be served by assisting any other public agency in exercising the powers and authority granted by this act, such public agency may furnish assistance by gift of real or personal property or money or lease or

loan thereof with or without charge or interest. In appropriating such property or money and providing for such assistance by taxation, the issuance of bonds, or other means, the public agency may exercise all of its powers as though used for its own direct purposes as provided in this act.

History: L. 1947, ch. 7, § 6; C. 1943, Supp., 4-0-89.

Meaning of "this act." — See note under § 2-3-11.

2-3-7. Contractual powers of public agencies.

A public agency may enter into any contracts necessary to the execution of the powers granted it, and for the purposes provided by this act.

History: L. 1947, ch. 7, § 7; C. 1943, Supp., 4-0-90.

Meaning of "this act." — See note under § 2-3-11.

2-3-8. Powers of governing bodies.

The governing body of any public agency having power to appropriate and raise money is authorized to appropriate, and to raise by taxation or otherwise, sufficient moneys to carry out the provisions and purposes of this act.

History: L. 1947, ch. 7, § 8; C. 1943, Supp., 4-0-91.

Meaning of "this act." — See note under § 2-3-11.

2-3-9. Construction of chapter.

This act shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this state and other states and of the government of the United States having to do with the subject of public airports.

History: L. 1947, ch. 7, § 9; C. 1943, Supp., 4-0-92.

Meaning of "this act." — See note under § 2-3-11.

2-3-10. Separability clause.

If any provision of this act or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the provisions or applications of this act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1947, ch. 7, § 10; C. 1943, Supp., 4-0-93.

Meaning of "this act." — See note under § 2-3-11.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.

Key Numbers. — Statutes ⇌ 64.

2-3-11. Short title.

This act may be cited as the "Federal Airport Funds Act."

History: L. 1947, ch. 7, § 12; C. 1943, Supp., 4-0-95.

act" means Laws 1947, ch. 7, which enacted this chapter.

Meaning of "this act." — The term "this

CHAPTER 4

AIRPORT ZONING ACT

Section		Section	
2-4-1.	Definitions.		Procedure — Stay of proceedings — Hearing and judgment.
2-4-2.	Declaration with respect to airport hazards.	2-4-9.	Airport zoning regulations — Administration and enforcement.
2-4-3.	Airport zoning regulations — Joint airport zoning board — Powers of board — Membership.	2-4-10.	Board of adjustment — Powers — Appointment and membership of board — Hearings and decisions by board — Meetings — Adoption of rules.
2-4-4.	Zoning ordinances — Governing law in event of conflict.	2-4-11.	Appeals to district courts — Procedure — Findings, judgment and costs — Regulations invalid as to one structure or parcel of land.
2-4-5.	Airport zoning regulations — Adoption and amendment — Airport zoning commission — Powers and duties.	2-4-12.	Violations of chapter or rulings — Misdemeanor — Remedies of political subdivisions.
2-4-6.	Airport zoning regulations — Validity, limitations, and restrictions.	2-4-13.	Purchase or condemnation of air rights or navigation easements.
2-4-7.	Permit for new or changed structures or uses — Nonconforming structures — Airport hazards — Application to board of adjustment for variance — Allowance of variance — Conditioning permit or variance.	2-4-14.	Separability clause.
2-4-8.	Appeals to board of adjustment —	2-4-15.	Short title.
		2-4-16.	Exchange of private property near federal airports.

2-4-1. Definitions.

As used in this act, unless the context otherwise requires:

(1) "Airport" means any area of land or water designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for such purposes.

(2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to such landing or taking-off of aircraft.

(3) "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this act.

(4) "Political subdivision" means any municipality, city, town, or county.

(5) "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smokestacks, and overhead transmission lines.

(6) "Tree" means any object of natural growth.

History: L. 1945, ch. 10, § 1; C. 1943, **Meaning of "this act."** — See note under Supp., 4-0-68. § 2-4-15.

2-4-2. Declaration with respect to airport hazards.

It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land 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 therein. Accordingly, it is hereby declared (a) that the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (b) that it is therefore necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (c) that this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation. It is further declared that both 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 political subdivisions may raise and expend public funds and acquire land or property interests therein.

History: L. 1945, ch. 10, § 2; C. 1943, Supp., 4-0-69.

COLLATERAL REFERENCES

Am. Jur. 2d. — 8 Am. Jur. 2d Aviation §§ 58, **Key Numbers.** — Aviation ⇄ 231.
59.
C.J.S. — 2A C.J.S. Aeronautics & Aerospace
§ 73.

2-4-3. Airport zoning regulations — Joint airport zoning board — Powers of board — Membership.

(1) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) Where an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to such airport is located outside the territorial limits of said political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by Subsection (1) in the political subdivision within which such area is located. Each such joint board shall have as members two representatives appointed by each political subdivision

participating in its creation and in addition a chairman elected by a majority of the members so appointed.

History: L. 1945, ch. 10, § 3; C. 1943, Supp., 4-0-70.

2-4-4. Zoning ordinances — Governing law in event of conflict.

(1) In the event that a political subdivision has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things, the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations, and be administered and enforced in connection therewith.

(2) In the event of conflict between any airport zoning regulations adopted under this act and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

History: L. 1945, ch. 10, § 4; C. 1943, Supp., 4-0-71.

Meaning of "this act." — See note under § 2-4-15.

2-4-5. Airport zoning regulations — Adoption and amendment — Airport zoning commission — Powers and duties.

(1) No airport zoning regulation shall be adopted, amended, or changed under this act except by action of the legislative body of the political subdivision in question, or the joint board provided for in Subsection 2-4-3(2), after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.

(2) Prior to the initial zoning of any airport hazard area under this act, the political subdivision or joint airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted therefor. Such commission shall make a preliminary report and hold public hearings thereon before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board shall not hold its public hearings or take other action until it has received the final report of such commission. Where a comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

History: L. 1945, ch. 10, § 5; C. 1943, Supp., 4-0-72.

Meaning of "this act." — See note under § 2-4-15.

2-4-6. Airport zoning regulations — Validity, limitations, and restrictions.

(1) All airport zoning regulations adopted under this act shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

(2) No airport zoning regulations adopted under this act shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in Subsection 2-4-7(3).

History: L. 1945, ch. 10, § 6; C. 1943, Supp., 4-0-73.

Meaning of "this act." — See note under § 2-4-15.

2-4-7. Permit for new or changed structures or uses — Nonconforming structures — Airport hazards — Application to board of adjustment for variance — Allowance of variance — Conditioning permit or variance.

(1) Any airport zoning regulations adopted under this act may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired. In any event, however, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made. Except as provided herein, all applications for permits shall be granted.

(2) Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under this act, may apply to the board of adjustment for a variance from the zoning regulations in question. Such variance shall 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 do substantial justice and be in accordance with the spirit of the regulations and this act; provided, that any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this act.

(3) In granting any permit or variance under this section, the administrative agency or board of adjustment may, if it deems such action advisable to effectuate the purposes of this act and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

History: L. 1945, ch. 10, §7; C. 1943, Supp., 4-0-74.

Meaning of "this act." — See note under § 2-4-15.

COLLATERAL REFERENCES

A.L.R. — Alteration, extension, reconstruction, or repair of nonconforming structure or structure devoted to nonconforming use as violation of zoning ordinance, 63 A.L.R.4th 275.

2-4-8. Appeals to board of adjustment — Procedure — Stay of proceedings — Hearing and judgment.

(1) Any person aggrieved, or taxpayer affected, by any decision of any administrative agency made in its administration of airport zoning regulations adopted under this act, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

(2) All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

(3) An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the board on notice to the agency from which the appeal is taken and on due cause shown.

(4) The board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

(5) The board may, in conformity with the provisions of this act, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

History: L. 1945, ch. 10, § 8; C. 1943, Supp., 4-0-75.

Meaning of "this act." — See note under § 2-4-15.

2-4-9. Airport zoning regulations — Administration and enforcement.

All airport zoning regulations adopted under this act shall provide for the administration and enforcement of such regulations by an administrative agency which may be an agency created by such regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board adopting the regulations, if satisfactory to that political subdivision but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to this act shall include that of hearing and deciding all permits under Subsection 2-4-7(1), but such agency shall not have or exercise any of the powers herein delegated to the board of adjustment.

History: L. 1945, ch. 10, § 9; C. 1943, Supp., 4-0-76.

Meaning of "this act." — See note under § 2-4-15.

2-4-10. Board of adjustment — Powers — Appointment and membership of board — Hearings and decisions by board — Meetings — Adoption of rules.

(1) All airport zoning regulations adopted under this act shall provide for a board of adjustment to have and exercise the following powers:

(a) to hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations, as provided in Section 2-4-8;

(b) to hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations; and

(c) to hear and decide specific variances under Subsection 2-4-7(2).

(2) Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment. Otherwise, the board of adjustment shall consist of five members, each to be appointed for a term of three years, by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and after public hearing.

(3) The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

(4) The board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record.

History: L. 1945, ch. 10, § 10; C. 1943, Supp., 4-0-77.

Meaning of "this act." — See note under § 2-4-15.

Cross-References. — Administrative rule-making, Title 63, Chapter 46a.

COLLATERAL REFERENCES

C.J.S. — 101A C.J.S. Zoning & Land Planning §§ 180 to 190.

Key Numbers. — Zoning and Planning 351 et seq.

2-4-11. Appeals to district courts — Procedure — Findings, judgment and costs — Regulations invalid as to one structure or parcel of land.

(1) Any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or any joint airport zoning board, which is of the opinion that a decision of a board of adjustment is illegal, may present to the district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board.

(2) Upon presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment to review such decision of the board. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

(3) The board of adjustment shall not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

(4) The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and if need be, to order further proceedings by the board of adjustment. The findings of fact of the board shall be considered by the court unless such objection shall have been urged before the board, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

(5) Costs shall not be allowed against the board of adjustment unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.

(6) In any case in which airport zoning regulations adopted under this act, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the Constitution of this state or the Constitution of the United States, such holding shall not affect the application of such regulations to other structures and parcels of land.

History: L. 1945, ch. 10, § 11; C. 1943, Supp., 4-0-78.

Meaning of "this act." — See note under § 2-4-15.

2-4-12. Violations of chapter or rulings — Misdemeanor — Remedies of political subdivisions.

Each violation of this act or of any regulations, orders, or rulings promulgated or made pursuant to this act, shall constitute a misdemeanor. In addition, the political subdivision or agency adopting zoning regulations under this act may institute in any court of competent jurisdiction, an action to prevent, restrain, correct or abate any violation of this act, or of airport zoning regulations adopted under this act, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this act and of the regulations adopted and orders and rulings made pursuant thereto.

History: L. 1945, ch. 10, § 12; C. 1943, Supp., 4-0-79.

Meaning of "this act." — See note under § 2-4-15.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

2-4-13. Purchase or condemnation of air rights or navigation easements.

In any case which: (1) it is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this act; or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations, the political subdivision within which the property or nonconforming use is located or the political subdivision owning the airport or served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which political subdivisions are authorized to acquire real property for public purposes, such air right, navigation easement, or other estate or interest in the property or nonconforming structure or use in question as may be necessary to effectuate the purposes of this act.

History: L. 1945, ch. 10, § 13; C. 1943, Supp., 4-0-80.

Meaning of "this act." — See note under § 2-4-15.

Cross-References. — Eminent domain, § 78-34-1 et seq.

2-4-14. Separability clause.

If any provision of this act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

History: L. 1945, ch. 10, § 14; C. 1943, Supp., 4-0-81.

Meaning of "this act." — See note under § 2-4-15.

COLLATERAL REFERENCES

C.J.S. — 82 C.J.S. Statutes § 94.
Key Numbers. — Statutes ⇌ 64.

2-4-15. Short title.

This act shall be known and may be cited as the "Airport Zoning Act."

History: L. 1945, ch. 10, § 15; C. 1943, act" means Laws 1945, ch. 10, which enacted
 Supp., 4-0-82. §§ 2-4-1 to 2-4-15. The term probably should
Meaning of "this act." — The term "this read "this chapter."

2-4-16. Exchange of private property near federal airports.

(1) If any governmental entity or agency adopts any measure which infringes upon the use of privately owned property, or which is designed to assure development compatible with the continued operation of a federal airport, the owner of that private property, if the owner has continuously owned the land from the date of the measure and whose land is wholly or partially within the area directly affected by the measure, may request an exchange of the affected land for state land outside the affected area.

(2) Upon a request pursuant to Subsection (1), the Board of State Lands, without cost to the affected landowner, shall appraise the subject land taking into consideration the fair market value of any and all improvements, and may offer a land exchange at the earliest practicable time. The state may identify at least one, and may identify up to three parcels of state land of a substantially equal value to the land requested to be exchanged, and which can otherwise be exchanged in a manner which will not prejudice the interest of the state and which will not be inconsistent with proper management, control, protection, and use of state land. The state may provide for the use of qualified appraisers to expedite the process of the request.

History: C. 1953, 2-4-16, enacted by L. 1988, ch. 231, § 1.

Compiler's Notes. — The reference in Subsection (2) to the Board of State Lands should

be construed, according to § 65A-1-2, as a reference to the Sovereign Lands Advisory Council or the Division of Sovereign Lands and Forestry.

CHAPTER 5**AIRPORT AUTHORITY ACT**

(Renumbered by Laws 1990, ch. 186, §§ 717 to 743.)

2-5-1 to 2-5-27. Renumbered.

Renumbered. — Laws 1990, ch. 186, 17A, Chapter 2, Part 15, effective April 23,
 §§ 717 to 743 renumbered this chapter as Title 1990.

CHAPTER 6

FLYING WHILE INTOXICATED

<p>Section 2-6-101.</p>	<p>Flying under the influence of alcohol, drugs, or with specified or unsafe blood alcohol concentration — Measurement of blood or breath alcohol — Criminal punishment — Arrest without warrant.</p>	<p>Section</p>	<p>pable of refusal — Results of test available — Who may give test — Evidence.</p>
<p>2-6-102.</p>	<p>Implied consent to chemical tests for alcohol or drug — Number of tests — Refusal — Person inca-</p>	<p>2-6-103.</p>	<p>Standards for chemical breath analysis — Evidence.</p>
		<p>2-6-104.</p>	<p>Admissibility of chemical test results in actions for flying under the influence — Weight of evidence.</p>

2-6-101. Flying under the influence of alcohol, drugs, or with specified or unsafe blood alcohol concentration — Measurement of blood or breath alcohol — Criminal punishment — Arrest without warrant.

- (1) (a) A person may not operate or be in actual physical control of an aircraft within this state if the person:
 - (i) has a blood or breath alcohol concentration of .04 grams or greater as shown by a chemical test given within two hours after the alleged operation or physical control; or
 - (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating an aircraft.

(b) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating this section.
- (2) Alcohol concentration in the blood shall be based upon grams of alcohol per 100 milliliters of blood, and alcohol concentration in the breath shall be based upon grams of alcohol per 210 liters of breath.
- (3) (a) A person convicted of a violation of Subsection (1) is guilty of a:
 - (i) class B misdemeanor; or
 - (ii) class A misdemeanor if the person has also inflicted bodily injury upon another as a proximate result of having operated the aircraft in a negligent manner.

(b) In this section, the standard of negligence is that of simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- (4) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe:
 - (a) the violation has occurred, although not in his presence; and
 - (b) the violation was committed by that person.

History: C. 1953, 2-6-101, enacted by L. 1993, ch. 84, § 1.

Effective Dates. — Laws 1993, ch. 84 became effective on May 3, 1993, pursuant to

Utah Const., Art. VI, Sec. 25.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

COLLATERAL REFERENCES

A.L.R. — Construction and application of statutes creating presumption or other inference of intoxication from specified percentages of alcohol present in system, 16 A.L.R.3d 748.

Failure to restrain drunk driver as ground of liability of state or local governmental unit or officer, 48 A.L.R.4th 287.

Validity, construction, and application of statutes directly proscribing driving with blood-alcohol level in excess of established percentage, 54 A.L.R.4th 149.

Cough medicine as "intoxicating liquor" under DUI statute, 65 A.L.R.4th 1238.

2-6-102. Implied consent to chemical tests for alcohol or drug — Number of tests — Refusal — Person incapable of refusal — Results of test available — Who may give test — Evidence.

- (1) (a) A person operating an aircraft in this state consents to a chemical test or tests of his breath, blood, or urine:
 - (i) for the purpose of determining whether he was operating or in actual physical control of an aircraft while having a blood or breath alcohol content statutorily prohibited under Section 2-6-101, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 2-6-101, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of an aircraft in violation of Section 2-6-101; or
 - (ii) if the person operating the aircraft is involved in an accident that results in death, serious injury, or substantial aircraft damage.
- (b) (i) The peace officer determines which of the tests are administered and how many of them are administered.
 - (ii) The peace officer may order any or all tests of the person's breath, blood, or urine.
 - (iii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though he does submit to any other requested test or tests, is a refusal under this section.
- (c) (i) A person who has been requested under this section to submit to a chemical test or tests of his breath, blood, or urine may not select the test or tests to be administered.
 - (ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.
- (2) (a) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8).

(b) Following this warning, unless the person immediately requests that the chemical test offered by a peace officer be administered, a test may not be given.

(3) Any person who is dead, unconscious, or in any other condition rendering him incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.

(4) Upon the request of the person who was tested, the results of the test or tests shall be made available to him.

(5) (a) Only a physician, registered nurse, practical nurse, or person authorized under Subsection 26-1-30(1)(r) to draw blood under Section 41-6-44.10, acting at the request of a peace officer, may withdraw blood to determine the alcohol or drug content. This limitation does not apply to the taking of a urine or breath specimen.

(b) Any physician, registered nurse, practical nurse, or person authorized under Subsection 26-1-30(1)(r) to draw blood under Section 41-6-44.10 who, at the direction of a peace officer, draws a sample of blood from any person whom a peace officer has reason to believe is flying in violation of this chapter, or hospital or medical facility at which the sample is drawn, is immune from any civil or criminal liability arising from drawing the sample, if the test is administered according to standard medical practice.

(6) (a) The person to be tested may, at his own expense, have a physician of his own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.

(b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

(c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.

(7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.

(8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of an aircraft while under the influence of alcohol, any drug, or combination of alcohol and any drug.

(9) The results of any test taken under this section or the refusal to be tested shall be reported to the Federal Aviation Administration by the peace officer requesting the test.

History: C. 1953, 2-6-102, enacted by L. 1993, ch. 84, § 2.

Effective Dates. — Laws 1993, ch. 84 be-

came effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

COLLATERAL REFERENCES

A.L.R. — Construction and application of statutes creating presumption or other inference of intoxication from specified percentages of alcohol present in system, 16 A.L.R.3d 748.

Duty of law enforcement officer to offer suspect chemical sobriety test under implied consent law, 95 A.L.R.3d 710.

Request before submitting to chemical sobriety test to communicate with counsel as refusal to take test, 97 A.L.R.3d 852.

Request for prior administration of additional test as constituting refusal to submit to chemical sobriety test under implied consent law, 98 A.L.R.3d 572.

Motorist's right to private sobriety test, 45 A.L.R.4th 11.

Sufficiency of showing of physical inability to take tests for driving while intoxicated to justify refusal, 68 A.L.R.4th 776.

2-6-103. Standards for chemical breath analysis — Evidence.

(1) The commissioner of the Department of Public Safety shall establish standards for the administration and interpretation of chemical analysis of a person's breath, including standards of training.

(2) In any action or proceeding in which it is material to prove that a person was operating or in actual physical control of an aircraft while under the influence of alcohol or any drug or operating with a blood or breath alcohol content statutorily prohibited, documents offered as memoranda or records of acts, conditions, or events to prove that the analysis was made and the instrument used was accurate, according to standards established in Subsection (1), are admissible if:

(a) the judge finds that they were made in the regular course of the investigation at or about the time of the act, condition, or event; and

(b) the source of information from which made and the method and circumstances of their preparation indicate their trustworthiness.

(3) If the judge finds that the standards established under Subsection (1) and the conditions of Subsection (2) have been met, there is a presumption that the test results are valid and further foundation for introduction of the evidence is unnecessary.

History: C. 1953, 2-6-103, enacted by L. 1993, ch. 84, § 3.

Effective Dates. — Laws 1993, ch. 84 became effective on May 3, 1993, pursuant to

Utah Const., Art. VI, Sec. 25.

Cross-References. — Department of Public Safety, § 53-1-103.

COLLATERAL REFERENCES

A.L.R. — Necessity and sufficiency of proof that tests of blood alcohol concentration were

conducted in conformance with prescribed methods, 96 A.L.R.3d 745.

2-6-104. Admissibility of chemical test results in actions for flying under the influence — Weight of evidence.

(1) (a) In any civil or criminal action or proceeding in which it is material to prove that a person was operating or in actual physical control of an aircraft while under the influence of alcohol, drugs, or with a blood or breath alcohol content statutorily prohibited, the results of a chemical test or tests as authorized in Section 2-6-102 are admissible as evidence.

(b) In a criminal proceeding, noncompliance with Section 2-6-102 does not render the results of the chemical test inadmissible. Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

(2) If the chemical test was taken more than two hours after the alleged flying or actual physical control, the test result is admissible as evidence of the person's blood or breath alcohol level at the time of the alleged operating or actual physical control, but the trier of fact shall determine what weight is given to the result of the test.

(3) This section does not prevent a court from receiving otherwise admissible evidence as to a defendant's blood or breath alcohol level or drug level at the time of the alleged operating or actual physical control.

History: C. 1953, 2-6-104, enacted by L. 1993, ch. 84, § 4.

came effective on May 3, 1993, pursuant to Utah Const., Art. VI, Sec. 25.

Effective Dates. — Laws 1993, ch. 84 be-