

BOARD OF LEGISLATORS  
COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act which, if approved, would authorize the commencement of legal action, including litigation, against certain airlines that operate at the Westchester County Airport (the Airport).

Section 712.462 of the Laws of Westchester County sets forth the Airport's Terminal Use Procedures (TUPs). Subsection 1 states that the TUPs "shall apply to all use of the passenger terminal" by any airline "providing Passenger Service," and that "[a]ll Passenger Service provided at the Airport shall be provided at the Terminal." Subsection 2 defines "Passenger Service" as "any air service to or from the Airport for which seats are individually offered or sold to the public or a segment of the public, regardless of whether such individual seats are offered or sold directly by the aircraft operator, a charterer, another Airline, or any other entity." These TUPs have been reviewed by the Federal Aviation Administration (FAA), whose Office of the Chief Counsel has represented to the County that the TUPs comply with federal aviation law.

Your Committee has been informed by the County Attorney and the Airport Director that certain airlines operating at the Airport have been violating the aforementioned law by operating flights at the Airport (for which seats are sold to the public) not from the Terminal, as required, but rather from Forward Operating Bases (FBOs). The Office of the County Attorney has sent cease-and-desist letters to these airlines, in conjunction with outside aviation law counsel. Certain of these airlines remain in violation of the TUPs, however. Accordingly, the County Attorney seeks authorization to commence litigation against those airlines.

Your Committee concurs with the Westchester County Attorney, and therefore recommends that your Board approve the annexed Act to commence legal action, including litigation against these airlines for declaratory and injunctive relief.

Dated: January 31st, 2022  
White Plains, New York

COMMITTEES ON

Budget & Appropriations

*Debra J. Lewis*  
*Nancy E. Ban*  
*Colin V. Smith*  
*Mary Jane Murphy*  
*Scott R. ...*

Law & Major Contracts

*Debra J. Lewis*  
*Nancy E. Ban*  
*Colin V. Smith*  
~~*Scott R. ...*~~  
*Mary Jane Murphy*

Dated: January 31<sup>st</sup>, 2022

White Plains, New York

**The following members attended the meeting remotely, pursuant to Chapter 1 of New York State Laws of 2022, and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.**

Committee(s) on:

**Budget & Appropriations**



Catherine F. Parker



**Law & Major Contracts**



Catherine F. Parker

# FISCAL IMPACT STATEMENT

SUBJECT: Terminal Use Legal Action  NO FISCAL IMPACT PROJECTED

## OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

### SECTION A - FUND

GENERAL FUND  AIRPORT FUND  SPECIAL DISTRICTS FUND

### SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ 100,000

Total Current Year Revenue \$ -

Source of Funds (check one):  Current Appropriations  Transfer of Existing Appropriations

Additional Appropriations  Other (explain)

Identify Accounts: 161-44-4110-4420

Potential Related Operating Budget Expenses: Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Potential Related Operating Budget Revenues: Annual Amount \_\_\_\_\_

Describe: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: \_\_\_\_\_

\_\_\_\_\_

Next Four Years: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Prepared by: Dianne Vanadia

Title: Sr. Budget Analyst

Department: Budget

Date: February 1, 2022

Reviewed By: *[Signature]*

Budget Director

Date: *2/1/22*

Dated: White Plains, New York

\_\_\_\_\_, 2022

COMMITTEE ON

ACT NO.

-2022

AN ACT authorizing the County Attorney to commence legal action, including litigation, against certain airlines that operate at the Westchester County Airport to enjoin them from violating the County's Terminal Use Procedures.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is hereby authorized on behalf of the County of Westchester to commence legal action, including litigation, against certain airlines that operate at the Westchester County Airport (the Airport), and any other necessary parties, to enjoin them from further violation of the Laws of Westchester County, including but not limited to Section 712.462 thereof, which sets forth the Airport's Terminal Use Procedures (TUPs). Certain airlines have been in violation, and continue to be in violation, of the TUPs by operating flights at the Airport (for which seats are sold to the public) not from the Terminal, as required, but from Forward Operating Bases (FBOs). These airlines have each refused to comply with cease-and-desist letters and other communications intended to resolve the issue from both the Office of the County Attorney and from the Wicks Group, the County's outside aviation counsel.

Section 2. The County Attorney is hereby authorized and empowered to undertake such legal proceedings and prepare all documents necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.