

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

Debat John
Nancy & Ben
Colin V. Smith
Mary Jane Smith
Paula Beltrone

Law & Major Contracts

Debat John
Nancy & Ben
Colin V. Smith
Mary Jane Smith

Dated: January 31st, 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: _____

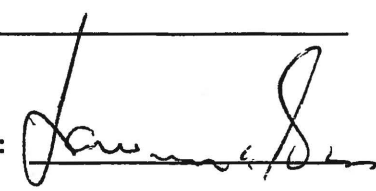
Next Four Years: _____

Prepared by: Dianne Vanadia

Title: Sr. Budget Analyst

Department: Budget

Date: February 1, 2022

Reviewed By: 
Budget Director
Date: 2/1/22

ACT NO. 7 -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.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 7 - 2022, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on February 7, 2022, and approved by the County Executive on February 9, 2022.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 11th day of February, 2022.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

