STATE OF NEW YORK

8473

2021-2022 Regular Sessions

IN ASSEMBLY

November 17, 2021

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to allowing for compensation for noise pollution by rotorcraft; to amend chapter 592 of the laws of 1998, constituting the Hudson river park act, in relation to the use of certain heliports in the city of New York; and to amend the New York city charter, in relation to the granting of certain franchises, consents and concessions relating to the use of certain heliports

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The general obligations law is amended by adding a new section 11-108 to read as follows:

§ 11-108. Compensation for noise pollution by rotorcraft. 1. For the purposes of this section, "rotorcraft" means an aircraft whose lift is derived principally from rotating airfoils, including but not limited to a helicopter.

2. Any person who shall have suffered interference with the use and enjoyment of private property or public parkland by a rotorcraft used in a manner that creates an unreasonable level of sustained noise at ground level, including the interior, balcony, or other outdoor area of a building, shall have a right of action against any person, except a passenger with no control of the operation of the rotorcraft other than the selection of a pre-designated route, who shall have caused or contributed to the use of such rotorcraft in such manner.

3. Such action may be brought in any court of competent jurisdiction.

4. (a) A person shall not be liable under this section if the use of the rotorcraft in such a manner was necessary for purposes of heavy-lift operations in support of construction and infrastructure maintenance or purposes of public health and safety, including law enforcement, emergency response, disaster response, the provision of medical services,

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [-] is old law to be omitted.

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and providing other services for the benefit of the general public, including flights carried out for research or for official purposes by a news organization.

5. A person found liable under this section shall be liable for a penalty of not less than one thousand dollars and not more than ten thousand dollars for each day the rotorcraft creates an unreasonable level of noise at ground level, including the interior, balcony, or other outdoor area of a building.

6. The attorney general, in the name of the people of the state of New York, or a city corporation counsel on behalf of the locality, may bring an action to enjoin and restrain violations of this section and to obtain restitution and damages.

§ 2. Paragraph (v) of subdivision (g) of section 3 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as amended by chapter 517 of the laws of 2013, is amended to read as follows:

(v) a non-tourism/non-recreation heliport for [~~commercial and emergency~~] essential transportation use necessary for purposes of heavy-lift operations in support of construction and infrastructure maintenance or purposes of public health and safety, including law enforcement, emergency response, disaster response, the provision of medical services, and providing other services for the benefit of the general public, including flights carried out for research or for official purposes by a news organization; and

§ 3. Paragraph (v) of subdivision (m) of section 3 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as added by chapter 517 of the laws of 2013, is amended to read as follows:

(v) the development, operation and maintenance of a non-tourism/non-recreational heliport for essential transportation use located between [~~west~~] West 29th and [~~west~~] West 32nd streets provided (A) that there shall be no structures other than the helicopter take-off or landing pads built on floating structures; and (B) such floating structures shall be no higher than a pier deck at low tide; and

§ 4. Subparagraph (ii) of paragraph (i) of subdivision 9 of section 7 of chapter 592 of the laws of 1998, constituting the Hudson river park act, as added by chapter 517 of the laws of 2013, is amended to read as follows:

(ii) a one story heliport terminal building, fuel tank structure and five accessory parking spaces used in connection with a water dependent non-tourism/non-recreational heliport for essential transportation use to be located on a floating structure located between [~~west~~] West 29th and [~~west~~] West 32nd streets provided that the landing and takeoff area located east of the bulkhead may continue to operate until the landing and takeoff area west of the bulkhead is completed and operational; or

§ 5. The New York city charter is amended by adding a new section 366 to read as follows:

§ 366. Prohibited franchises, revocable consents, and concessions. Notwithstanding any law, rule or regulation to the contrary, the city may not, directly or indirectly, grant any franchise, revocable consent or concession that allows for the use of heliports for any purpose except purposes of heavy-lift operations in support of construction and infrastructure maintenance or purposes of public health and safety, including law enforcement, emergency response, disaster response, the provision of medical services, and providing other services for the benefit of the general public, including flights carried out for research or for official purposes by a news organization. Any franchise or concession in effect upon the effective date of this section that

would be prohibited under this section shall continue only pursuant to the contractual terms of the agreement and only for the term thereof or pursuant to any extension according to the terms thereof if, but only if, the option to extend is exercised solely by and is a contractual right of the grantee.

§ 6. This act shall take effect on the thirtieth day after it shall have become a law; provided that uses permitted under any lease, permit, license, or other instrument in effect upon the effective date of this act that would be prohibited upon the enactment of sections two, three and four of this act may continue only pursuant to the terms of the instrument and only for the term thereof or pursuant to any extension according to the terms thereof if, but only if, the option to extend is exercised solely by and is a contractual right of the lessee, permittee, licensee or other contractual user.