§3551. Utilization of air rights

1. Lease authorized; proceeds. Except as provided in paragraph A, any municipality may lease at one time or from time to time for a term or terms not to exceed 99 years, upon any terms and conditions that the municipal officers consider advisable, air rights over public streets and ways, parking facilities and other public buildings, land and water, in which the public has a right of travel or in which the municipality holds less than a fee interest. These leases may be made for any nonmunicipal purpose which, in the opinion of the municipal officers, will not impair the construction, full use, safety, maintenance or repair of those streets and ways, facilities, buildings, land and water. The proceeds from any lease granted under this chapter shall be paid into the municipal treasury.

A. No lease of air rights may be granted under this chapter with regard to any dedicated park land, including rights for support, access, utilities, light and air. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Any lease granted under this chapter for air rights over state and state aid highways must be approved by the Department of Transportation. [PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

2. Assignment, pledge or mortgage; reversionary rights. Any lease granted under this chapter may, with the consent of the municipal officers, be assigned, pledged or mortgaged and the lien of that pledge or mortgage may be foreclosed by appropriate action. Any lease granted under this chapter for air rights over public streets and ways in which the municipalities own an easement, but not a fee interest, does not affect the reversionary rights, if any, of the holder of the fee in the public street or way.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

3. Fee interests unaffected. This chapter does not reduce the right of a municipality holding a fee interest in streets, ways, facilities, buildings, land or water from conveying air rights in fee or by lease.

[PL 1987, c. 737, Pt. A, §2 (NEW); PL 1987, c. 737, Pt. C, §106 (NEW); PL 1989, c. 6 (AMD); PL 1989, c. 9, §2 (AMD); PL 1989, c. 104, Pt. C, §§8, 10 (AMD).]

SECTION HISTORY

PL 1987, c. 737, §§A2,C106 (NEW). PL 1989, c. 6 (AMD). PL 1989, c. 9, §2 (AMD). PL 1989, c. 104, §§C8,10 (AMD).

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