

107TH CONGRESS  
2D SESSION

**H. R. 1979**

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**AN ACT**

To amend title 49, United States Code, to provide assistance for the construction of certain air traffic control towers.



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## AN ACT

To amend title 49, United States Code, to provide assistance for the construction of certain air traffic control towers.

1        *Be it enacted by the Senate and House of Representa-*  
2        *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Small Airport Safety,  
3 Security, and Air Service Improvement Act of 2002”.

4 **SEC. 2. INCLUSION OF TOWERS IN AIRPORT DEVELOP-**  
5 **MENT.**

6 Section 47102(3) of title 49, United States Code, is  
7 amended by adding at the end the following:

8 “(M) constructing an air traffic control  
9 tower or acquiring and installing air traffic con-  
10 trol, communications, and related equipment at  
11 an air traffic control tower under the terms  
12 specified in section 47124(b)(4).”.

13 **SEC. 3. CONSTRUCTION OF AIR TRAFFIC CONTROL TOW-**  
14 **ERS.**

15 (a) IN GENERAL.—Section 47124(b)(4) of title 49,  
16 United States Code, is amended to read as follows:

17 “(4) CONSTRUCTION OF AIR TRAFFIC CONTROL  
18 TOWERS.—

19 “(A) GRANTS.—The Secretary may pro-  
20 vide grants to a sponsor of—

21 “(i) a primary airport—

22 “(I) from amounts made avail-  
23 able under sections 47114(c)(1) and  
24 47114(c)(2) for the construction or  
25 improvement of a nonapproach control  
26 tower, as defined by the Secretary,

1 and for the acquisition and installa-  
2 tion of air traffic control, communica-  
3 tions, and related equipment to be  
4 used in that tower;

5 “(II) from amounts made avail-  
6 able under sections 47114(c)(1) and  
7 47114(c)(2) for reimbursement for  
8 the cost of construction or improve-  
9 ment of a nonapproach control tower,  
10 as defined by the Secretary, incurred  
11 after October 1, 1996, if the sponsor  
12 complied with the requirements of sec-  
13 tions 47107(e), 47112(b), and  
14 47112(c) in constructing or improving  
15 that tower; and

16 “(III) from amounts made avail-  
17 able under sections 47114(c)(1) and  
18 47114(c)(2) for reimbursement for  
19 the cost of acquiring and installing in  
20 that tower air traffic control, commu-  
21 nications, and related equipment that  
22 was acquired or installed after Octo-  
23 ber 1, 1996; and

24 “(ii) a public-use airport that is not a  
25 primary airport—

1           “(I) from amounts made avail-  
2           able under sections 47114(c)(2) and  
3           47114(d) for the construction or im-  
4           provement of a nonapproach control  
5           tower, as defined by the Secretary,  
6           and for the acquisition and installa-  
7           tion of air traffic control, communica-  
8           tions, and related equipment to be  
9           used in that tower;

10           “(II) from amounts made avail-  
11           able under sections 47114(c)(2) and  
12           47114(d)(3)(A) for reimbursement for  
13           the cost of construction or improve-  
14           ment of a nonapproach control tower,  
15           as defined by the Secretary, incurred  
16           after October 1, 1996, if the sponsor  
17           complied with the requirements of sec-  
18           tions 47107(e), 47112(b), and  
19           47112(c) in constructing or improving  
20           that tower; and

21           “(III) from amounts made avail-  
22           able under sections 47114(c)(2) and  
23           47114(d)(3)(A) for reimbursement for  
24           the cost of acquiring and installing in  
25           that tower air traffic control, commu-

1                    communications, and related equipment that  
2                    was acquired or installed after Octo-  
3                    ber 1, 1996.

4                    “(B) ELIGIBILITY.—An airport sponsor  
5                    shall be eligible for a grant under this para-  
6                    graph only if—

7                    “(i)(I) the sponsor is a participant in  
8                    the Federal Aviation Administration con-  
9                    tract tower program established under sub-  
10                   section (a) and continued under paragraph  
11                   (1) or the pilot program established under  
12                   paragraph (3); or

13                   “(II) construction of a nonapproach  
14                   control tower would qualify the sponsor to  
15                   be eligible to participate in such program;

16                   “(ii) the sponsor certifies that it will  
17                   pay not less than 10 percent of the cost of  
18                   the activities for which the sponsor is re-  
19                   ceiving assistance under this paragraph;

20                   “(iii) the Secretary affirmatively ac-  
21                   cepts the proposed contract tower into a  
22                   contract tower program under this section  
23                   and certifies that the Secretary will seek  
24                   future appropriations to pay the Federal  
25                   Aviation Administration’s cost of the con-

1           tract to operate the tower to be con-  
2           structed under this paragraph;

3           “ (iv) the sponsor certifies that it will  
4           pay its share of the cost of the contract to  
5           operate the tower to be constructed under  
6           this paragraph; and

7           “ (v) in the case of a tower to be con-  
8           structed under this paragraph from  
9           amounts made available under section  
10          47114(d)(2) or 47114(d)(3)(B), the Sec-  
11          retary certifies that—

12           “ (I) the Federal Aviation Admin-  
13           istration has consulted the State with-  
14           in the borders of which the tower is to  
15           be constructed and the State supports  
16           the construction of the tower as part  
17           of its State airport capital plan; and

18           “ (II) the selection of the tower  
19           for funding is based on objective cri-  
20           teria, giving no weight to any congres-  
21           sional committee report, joint explana-  
22           tory statement of a conference com-  
23           mittee, or statutory designation.

24           “ (C) LIMITATION ON FEDERAL SHARE.—

25           The Federal share of the cost of construction of



1           a nonapproach control tower under this para-  
2           graph may not exceed \$1,100,000.”.

3           (b) CONFORMING AMENDMENTS.—Section 47124(b)  
4 of such title is amended—

5           (1) in paragraph (3)(A) by striking “Level I air  
6           traffic control towers, as defined by the Secretary,”  
7           and inserting “nonapproach control towers, as de-  
8           fined by the Secretary,”; and

9           (2) in paragraph (3)(E) by striking “Subject to  
10          paragraph (4)(D), of” and inserting “Of”.

11          (c) SAVINGS CLAUSE.—Notwithstanding the amend-  
12          ments made by this section, the 2 towers for which assist-  
13          ance is being provided on the day before the date of enact-  
14          ment of this Act under section 47124(b)(4) of title 49,  
15          United States Code, as in effect on such day, may con-  
16          tinue to be provided such assistance under the terms of  
17          such section.

18       **SEC. 4. NONAPPROACH CONTROL TOWERS.**

19          (a) IN GENERAL.—The Administrator of the Federal  
20          Aviation Administration may enter into a lease agreement  
21          or contract agreement with a private entity to provide for  
22          construction and operation of a nonapproach control tower  
23          as defined by the Secretary of Transportation.

24          (b) TERMS AND CONDITIONS.—An agreement en-  
25          tered into under this section—

1           (1) shall be negotiated under such procedures  
2 as the Administrator considers necessary to ensure  
3 the integrity of the selection process, the safety of  
4 air travel, and to protect the interests of the United  
5 States;

6           (2) may provide a lease option to the United  
7 States, to be exercised at the discretion of the Ad-  
8 ministrator, to occupy any general-purpose space in  
9 a facility covered by the agreement;

10          (3) shall not require, unless specifically deter-  
11 mined otherwise by the Administrator, Federal own-  
12 ership of a facility covered under the agreement  
13 after the expiration of the agreement;

14          (4) shall describe the consideration, duties, and  
15 responsibilities for which the United States and the  
16 private entity are responsible;

17          (5) shall provide that the United States will not  
18 be liable for any action, debt, or liability of any enti-  
19 ty created by the agreement;

20          (6) shall provide that the private entity may not  
21 execute any instrument or document creating or evi-  
22 dencing any indebtedness with respect to a facility  
23 covered by the agreement unless such instrument or  
24 document specifically disclaims any liability of the

1 United States under the instrument or document;  
2 and

3 (7) shall include such other terms and condi-  
4 tions as the Administrator considers appropriate.

5 **SEC. 5. USE OF APPORTIONMENTS TO PAY NON-FEDERAL**  
6 **SHARE OF OPERATION COSTS.**

7 (a) STUDY.—The Secretary of Transportation shall  
8 conduct a study of the feasibility, costs, and benefits of  
9 allowing the sponsor of an airport to use not to exceed  
10 10 percent of amounts apportioned to the sponsor under  
11 section 47114 to pay the non-Federal share of the cost  
12 of operation of an air traffic control tower under section  
13 47124(b) of title 49, United States Code.

14 (b) REPORT.—Not later than 1 year after the date  
15 of enactment of this Act, the Secretary shall transmit to  
16 Congress a report on the results of the study.

Passed the House of Representatives June 20, 2002.

Attest:

*Clerk.*