

SENATE BILL 409

P2, P1

6lr0897
CF HB 228

By: **Senators Manno, Conway, Gladden, Kagan, Lee, Madaleno, Nathan–Pulliam,
Pinsky, Pugh, Ramirez, Raskin, Rosapepe, and Young**

Introduced and read first time: January 29, 2016

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Aviation Administration – Baltimore–Washington International**
3 **Thurgood Marshall Airport – Management of Food Service and Retail**
4 **Concessions**

5 FOR the purpose of authorizing the Maryland Aviation Administration to enter into a
6 certain type of lease with a concessions developer to provide certain food service and
7 retail operations at the Baltimore–Washington International Thurgood Marshall
8 Airport; requiring the Administration to enter into certain leases if the
9 Administration terminates a lease with a concessions developer before the end of the
10 lease; providing that a sublessee in a certain type of tenancy is entitled to a certain
11 period of continued tenancy; providing that a landlord and sublessee may agree to
12 certain lease periods that are longer than the minimum required; requiring that on
13 or before a certain date the Administration issue a certain request for proposals with
14 certain provisions; requiring that on or before a certain date the Administration
15 exercise a certain option to terminate a certain lease; making the provisions of this
16 Act severable; and generally relating to food service and retail concessions services
17 at the Baltimore–Washington International Thurgood Marshall Airport.

18 BY adding to

19 Article – Transportation

20 Section 5–413(e)

21 Annotated Code of Maryland

22 (2015 Replacement Volume and 2015 Supplement)

23 Preamble

24 WHEREAS, In 2004, the State, through the Maryland Aviation Administration,
25 entered into a lease with AIRMALL USA for the development and management of the
26 concessions program at Baltimore–Washington International Thurgood Marshall Airport;
27 and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The lease agreement between the Maryland Aviation Administration
2 and AIRMALL USA terminates in March of 2022, but includes a provision that the
3 Maryland Aviation Administration has an option for an early termination on or after April
4 1, 2017, without cause; and

5 WHEREAS, The Maryland Aviation Administration received responses to a 2014
6 request for information that indicate the State may be able to significantly improve the
7 quality of the Baltimore–Washington International Thurgood Marshall Airport concessions
8 program and increase revenue derived from the concessions program; and

9 WHEREAS, Major airports around the nation have significantly improved
10 concessions services and revenues as a result of issuance of competitive requests for
11 proposals and other redevelopment processes; now, therefore,

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
13 That the Laws of Maryland read as follows:

14 **Article – Transportation**

15 5–413.

16 **(E) (1) IN THIS SUBSECTION:**

17 **(I) “ASSUME” MEANS TO CONTINUE A SUBLEASE UNDER THE**
18 **SAME PROVISIONS AND FOR THE MINIMUM PERIOD A SUBLEASE WOULD HAVE**
19 **REMAINED IN EFFECT HAD A PRIMARY LEASE NOT TERMINATED; AND**

20 **(II) “ASSUME” DOES NOT INCLUDE THE EXERCISE OF ANY**
21 **OPTIONS BY EITHER PARTY.**

22 **(2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE**
23 **ADMINISTRATION MAY ENTER INTO A LEASE WITH A CONCESSIONS DEVELOPER TO**
24 **PROVIDE FOOD SERVICE AND RETAIL OPERATIONS AT THE**
25 **BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

26 **(3) IF THE ADMINISTRATION TERMINATES A LEASE WITH A**
27 **CONCESSIONS DEVELOPER BEFORE THE END OF THE LEASE OR OF ANY EXTENSION**
28 **OPTIONS CONTAINED IN THE LEASE, THE ADMINISTRATION SHALL:**

29 **(I) REQUIRE THAT ANY SUBSEQUENT LEASE WITH A**
30 **CONCESSIONS DEVELOPER ASSUME THE EXTANT SUBLEASES BETWEEN THE PRIOR**
31 **CONCESSIONS DEVELOPER AND A FOOD SERVICE OR RETAIL OPERATOR AT THE**
32 **OPTION OF THE FOOD SERVICE OR RETAIL OPERATOR; OR**

1 **(II) ENTER INTO A DIRECT LEASE WITH ANY FOOD SERVICE OR**
2 **RETAIL OPERATOR THAT ASSUMES THE EXTANT SUBLEASE BETWEEN THE**
3 **CONCESSIONS DEVELOPER AND THE FOOD SERVICE OR RETAIL OPERATOR.**

4 **(4) FOR PURPOSES OF THIS SUBSECTION, IF A SUBLESSEE IS IN A**
5 **MONTH-TO-MONTH OR SHORTER TENANCY, THE SUBLESSEE IS ENTITLED TO AT**
6 **LEAST 18 MONTHS OF CONTINUED TENANCY.**

7 **(5) THIS SUBSECTION MAY NOT BE CONSTRUED TO PRECLUDE A**
8 **LANDLORD AND SUBLESSEE FROM AGREEING TO A PERIOD THAT IS LONGER THAN**
9 **THE MINIMUM PROVIDED UNDER THIS SUBSECTION.**

10 SECTION 2. AND BE IT FURTHER ENACTED, That:

11 (1) (i) On or before February 1, 2017, the Maryland Aviation
12 Administration shall issue a request for proposals for the operation and management of the
13 food service and retail concessions program at the Baltimore–Washington International
14 Thurgood Marshall Airport.

15 (ii) The request for proposals shall include a requirement that any
16 responding company provide a capital investment to the Maryland Aviation Administration
17 that is equal to or greater than the unamortized amount of debt the Maryland Aviation
18 Administration owes to AIRMALL USA at the time the lease is terminated.

19 (2) On or before October 1, 2017, the Maryland Aviation Administration
20 shall, as permitted in Article III, Term Section C, Supplement No. 2 to Lease and
21 Concessions Contract No. MAA–LC–04–001, terminate the lease at the
22 Baltimore–Washington International Thurgood Marshall Airport with AIRMALL USA.

23 SECTION 3. AND BE IT FURTHER ENACTED, That, if any provision of this Act or
24 the application thereof to any person or circumstance is held invalid for any reason in a
25 court of competent jurisdiction, the invalidity does not affect other provisions or any other
26 application of this Act that can be given effect without the invalid provision or application,
27 and for this purpose the provisions of this Act are declared severable.

28 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
29 October 1, 2016.