

1 AN ACT relating to recreation and tourism development.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
4 READ AS FOLLOWS:

5 *As used in Sections 1 to 5 of this Act:*

6 *(1) "Authority" or "BIDA" means the Burnside Island Development Authority*
7 *established in Section 2 of this Act;*

8 *(2) "Board" means the board of directors of BIDA;*

9 *(3) "Commissioner" means the commissioner of the Department for Local*
10 *Government;*

11 *(4) "Day" means any calendar day;*

12 *(5) "Department" means the Department of Parks; and*

13 *(6) "General Burnside Island State Park" means an approximately four hundred*
14 *thirty (430) acre island surrounded by the Big South Fork Cumberland River that*
15 *is located in the Lake Cumberland basin in Pulaski County situated south from*
16 *the City of Somerset and within the city limits of the City of Burnside.*

17 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
18 READ AS FOLLOWS:

19 *(1) The Burnside Island Development Authority is hereby established as an*
20 *independent, de jure municipal corporation and political subdivision of the*
21 *Commonwealth and shall exercise all powers that a corporation may lawfully*
22 *exercise under the laws of the Commonwealth. The authority shall be a public*
23 *body corporate and politic and an instrumentality of the Commonwealth,*
24 *established with all the general corporate powers incidental thereto. The*
25 *authority shall be attached to the Department for Local Government for*
26 *administrative purposes only. The authority shall be authorized for a period of*
27 *five (5) years from the effective date of this Act, and may be renewed by the*

1 General Assembly. The authority may adopt bylaws, and administrative
2 regulations in accordance with KRS Chapter 13A for the orderly conduct of its
3 affairs.

4 (2) The purpose of the authority is to develop, finance, operate, maintain, improve,
5 and promote lodging and restaurant facilities and recreational amenities on
6 General Burnside Island State Park and surrounding area for public park
7 purposes to increase economic development, tourism, and outdoor recreation for
8 residents and visitors.

9 (3) The authority shall be governed by a board of directors consisting of
10 representatives from participating local governments and the Commonwealth as
11 provided in this section.

12 (4) The authority and board shall become operational when a majority of the
13 members of the authority have been appointed. Within fourteen (14) days of the
14 authority and board being operational, the commissioner shall notify the Pulaski
15 County judge/executive, the mayor of the City of Burnside, the mayor of the City
16 of Somerset, the chair of the Dream Big Burnside Authority, and the president of
17 the Somerset-Pulaski Economic Development Authority, as well as the board
18 members described in subsection (5) of this section, that the requirements have
19 been met for the authority and board to become operational. The commissioner
20 shall also establish a date, time, and place for an initial organizational meeting of
21 the board, to be held within thirty (30) days. The commissioner shall serve as
22 interim chair of the initial organizational meeting until such time as a chair is
23 elected by a majority of the board members. The chair shall make the final
24 determination in the event of a tie vote of the board.

25 (5) The BIDA board shall consist of the following members:

26 (a) The secretary of the Tourism, Arts and Heritage Cabinet or his or her
27 designee;

- 1 **(b) The commissioner of the Department for Local Government or his or her**
2 **designee;**
- 3 **(c) The commissioner of the Department of Fish and Wildlife Resources or his**
4 **or her designee;**
- 5 **(d) The Auditor of Public Accounts or his or her designee;**
- 6 **(e) The executive director of BIDA if one has been employed pursuant to**
7 **subsection (9) of this section, who shall serve as a nonvoting member;**
- 8 **(f) Two (2) members appointed by the Governor from a list of six (6) persons**
9 **submitted by the chair of the Dream Big Burnside Authority;**
- 10 **(g) Two (2) members appointed by the Governor from a list of six (6) persons**
11 **submitted by the president of the Somerset-Pulaski Economic Development**
12 **Authority;**
- 13 **(h) Two (2) members appointed by the Governor from a list of six (6) persons**
14 **submitted by the mayor of the City of Burnside;**
- 15 **(i) Two (2) members appointed by the Governor from a list of six (6) persons**
16 **submitted by the mayor of the City of Somerset;**
- 17 **(j) Two (2) members appointed by the Governor from a list of six (6) persons**
18 **submitted by the county judge/executive of Pulaski County;**
- 19 **(k) One (1) State Representative who is from the BIDA region appointed to a**
20 **two (2) year term by the Speaker of the House of Representatives, who shall**
21 **serve as a nonvoting member and shall not serve another term consecutively**
22 **with a prior term; and**
- 23 **(l) One (1) State Senator who is from the BIDA region appointed to a two (2)**
24 **year term by the President of the Senate, who shall serve as a nonvoting**
25 **member and shall not serve another term consecutively with a prior term.**
- 26 **(6) (a) The terms of the appointed members of the board shall be three (3) years.**
27 **All appointments or reappointments made by the Governor shall be subject**

1 to Senate confirmation in accordance with KRS 11.160.

2 (b) If a vacancy occurs among the appointed members of the board, the
3 unexpired term shall be filled pursuant to the requirements and procedures
4 for the original appointments.

5 (7) (a) The board shall meet at least once every quarter to elect officers, establish a
6 regular meeting schedule, and perform other duties as may be prescribed in
7 the authority's bylaws. The board chair may call special meetings at any
8 time.

9 (b) Notice of each meeting shall be made in writing and delivered to board
10 members at least seven (7) days before the scheduled meeting date.
11 Electronic mail is an acceptable form of notice of special meetings, so long
12 as it is sent to directors at least seven (7) days before the scheduled meeting
13 date.

14 (c) Accommodations shall be made for remote attendance for each board
15 meeting, whether regular or special, through means such as video
16 conferencing, conference call, or similar services.

17 (d) A majority of the voting members of the BIDA board shall constitute a
18 quorum. Vacant board positions shall be counted against the quorum total
19 necessary for board action.

20 (8) The BIDA board:

21 (a) Shall elect a chair, vice chair, secretary, treasurer, and any other officers as
22 established in the bylaws of the board;

23 (b) May appoint temporary and standing committees to accomplish the
24 purposes of Sections 1 to 5 of this Act and shall clearly describe the role,
25 responsibilities, and tenure of each committee so created;

26 (c) Shall adopt bylaws for the management and regulation of its affairs and all
27 other matters necessary to effect proper management and accountability of

1 *the board. The bylaws shall include, at a minimum, the following:*

2 *1. The powers and duties of the board's members and the manner and*
 3 *number of officers to be elected from among the board members; and*

4 *2. The terms, conditions, and manner in which a board member may be*
 5 *removed;*

6 *(d) Shall review and approve an annual budget;*

7 *(e) May seek administrative and management assistance through written*
 8 *agreements with state agencies, local area development districts, or local*
 9 *governing bodies; and*

10 *(f) May employ an executive director to act as its chief executive officer to*
 11 *serve at its will and pleasure.*

12 *(9) The authority shall comply with the provisions of KRS Chapter 65A.*

13 *(10) Board members shall serve without compensation, but may be reimbursed for*
 14 *actual and necessary travel expenses incurred in the performance of their duties,*
 15 *subject to Finance and Administration Cabinet administrative regulations. Board*
 16 *members may have their lodging reimbursed by BIDA. Any reimbursement*
 17 *requests exceeding five hundred dollars (\$500) per person shall be submitted to*
 18 *the Department for Local Government for approval.*

19 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
 20 READ AS FOLLOWS:

21 *(1) The Burnside Island Development Authority shall:*

22 *(a) Supervise the design, construction, financing, operations, and maintenance*
 23 *of lodging facilities, restaurants, boat facilities, campgrounds, and other*
 24 *recreational or entertainment facilities to include an eighteen (18) hole golf*
 25 *course, and conduct any other improvements it deems necessary, on*
 26 *General Burnside Island State Park, and any other property or facilities*
 27 *built, acquired, or leased pursuant to its powers under Sections 1 to 5 of this*

- 1 Act, through a public-private partnership;
- 2 **(b) Assume all administrative and management functions of the Department of**
- 3 **Parks for the facilities and amenities on General Burnside Island State**
- 4 **Park that are included in the public-private partnership agreement,**
- 5 **according to the terms of the public-private partnership agreement; and**
- 6 **(c) Procure insurance against any losses in connection with its property,**
- 7 **licenses, easements, or contracts, including hold-harmless agreements,**
- 8 **operations, or assets in such amounts and from such insurers as the board**
- 9 **considers desirable.**
- 10 **(2) The board may carry out any of the following to accomplish the purposes of**
- 11 **Sections 1 to 5 of this Act:**
- 12 **(a) Acquire, own, and hold property, and all interests therein, by deed,**
- 13 **purchase, gift, devise, bequest, or lease, or by transfer from the State**
- 14 **Property and Buildings Commission, except that the authority shall not**
- 15 **acquire property through the exercise of the power of eminent domain;**
- 16 **(b) Dispose of any property acquired in any manner provided by law;**
- 17 **(c) Lease property, whether as lessee or lessor, and acquire or grant through**
- 18 **easement, license, or other appropriate legal form, the right to develop and**
- 19 **use property and open it to the use of the public;**
- 20 **(d) In accordance with KRS 148.255, acquire authorization of the General**
- 21 **Assembly prior to sale, trade, or disposal of real property valued greater**
- 22 **than four hundred thousand dollars (\$400,000) that is owned by the**
- 23 **Commonwealth and managed by the Department of Parks;**
- 24 **(e) Mortgage or otherwise grant security interests in its property;**
- 25 **(f) Maintain sinking funds and reserves as the board determines appropriate**
- 26 **for the purposes of meeting future monetary obligations and needs of the**
- 27 **authority;**

- 1 (g) Sue and be sued, plead and be impleaded, or complain and defend in any
2 court;
- 3 (h) Make contracts and execute instruments necessary for carrying on its
4 business, including contracts with any state agency, the federal government,
5 or any person, individual, partnership, or corporation to affect any or all of
6 the purposes of Sections 1 to 5 of this Act;
- 7 (i) Accept grants and loans and enter into contracts and other transactions
8 with any federal agency, regional commission, or state agency for
9 accomplishing the purposes of Sections 1 to 5 of this Act;
- 10 (j) Borrow money and issue bonds, security interests, or notes;
- 11 (k) Provide for and secure the payment of the bonds, security interests, or
12 notes;
- 13 (l) Provide for the rights of the holders of the bonds, security interests, or
14 notes;
- 15 (m) Purchase, hold, and dispose of any of its bonds, security interests, or notes;
- 16 (n) Accept gifts or grants of property, security interests, money, labor, supplies,
17 or services from any governmental unit or from any person, firm, or
18 corporation;
- 19 (o) Establish a fee-based system of permits, user registrations, or other facility
20 access mechanisms as follows:
- 21 1. The fees may be imposed for access to and use of the trails, parking
22 facilities, visitor centers, or other park-related recreational purpose
23 facilities or recreation activities that are part of BIDA or as an
24 admission to an event;
- 25 2. The fees shall be decided by the board; and
- 26 3. BIDA shall retain and use the revenue from fees for any purposes
27 consistent with Sections 1 to 5 of this Act;

1 (p) Promulgate administrative regulations in accordance with KRS Chapter
2 13A to govern use and maintenance of BIDA and any other matters for
3 effective management of BIDA; and

4 (q) Exercise all of the powers that a corporation may lawfully exercise under
5 the laws of the Commonwealth.

6 (3) Notwithstanding KRS 45A.077 or 65.028(12) or any other provision of law to the
7 contrary, solicitation of a public-private partnership shall be subject to KRS
8 65.028, except that any public-private partnership with an aggregate value of
9 twenty-five million dollars (\$25,000,000) or more shall be authorized by the
10 General Assembly by inclusion in the executive branch budget bill or any means
11 specified by the General Assembly, explicitly identifying and authorizing the
12 utilization of a public-private partnership delivery method for the applicable
13 capital project.

14 (4) Nothing in this section shall be construed as a waiver of sovereign immunity.

15 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) Revenue bonds and revenue refunding bonds of the authority issued under
18 Sections 1 to 5 of this Act do not constitute a debt of the Commonwealth or of any
19 political subdivision thereof or a pledge of the faith and credit of the
20 Commonwealth or of any political subdivision, but the bonds shall be payable
21 solely from the funds from revenues resulting from the issuance of bonds.

22 (2) All bonds shall contain on the face of the bond a statement to the effect that
23 neither the Commonwealth nor any political subdivision of the Commonwealth is
24 obligated to pay the bond or the interest on the bond, except from revenues of the
25 project or projects for which they are issued. Obligations issued under this section
26 shall not be deemed a debt, liability, or obligation of the Commonwealth or any
27 political subdivision thereof or a pledge of the faith and credit of the

1 Commonwealth or any such political subdivision, but shall be payable solely from
2 the revenues or assets of the corporation.

3 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
4 READ AS FOLLOWS:

5 (1) The Department of Parks shall:

6 (a) Continue to operate and maintain the facilities and amenities on General
7 Burnside Island State Park in the usual manner until an agreement
8 between BIDA and a private partner to provide such services takes effect,
9 upon which time the department shall provide for an orderly transition of its
10 administrative and management functions to BIDA and its private partners.

11 The department shall continue to operate and maintain any facilities and
12 amenities not subject to the public-private partnership agreement between
13 BIDA and its private partner;

14 (b) Provide technical assistance to BIDA to achieve the legislative intent of
15 Sections 1 to 5 of this Act, including but not limited to procurement,
16 contracting, administrative, and marketing support;

17 (c) In collaboration with BIDA, negotiate in good faith the renewals of any
18 lease agreements with the United States Army Corps of Engineers on and in
19 the vicinity of General Burnside Island State Park and assign such
20 agreements to BIDA or otherwise permit BIDA to carry out all functions in
21 Sections 1 to 5 of this Act on such lands leased from the United States Army
22 Corps of Engineers;

23 (d) Within thirty (30) days of notification from the chair of the BIDA board that
24 construction of lodging and restaurant facilities are substantially complete,
25 redesignate the General Burnside Island State Park as the General
26 Burnside Island State Resort Park; and

27 (e) Continue to include General Burnside Island State Resort Park in the state

1 *park system.*

2 *(2) After public-private partnership is created, the department shall not develop*
3 *lodging or restaurant facilities or additional recreational or entertainment*
4 *facilities on General Burnside Island State Park without the express written*
5 *permission of the BIDA board.*

6 ➔Section 6. Notwithstanding subsection (6)(a) of Section 2 of this Act, the
7 initial terms of the BIDA board members appointed by the Governor shall be staggered as
8 follows:

9 (1) One representative appointed from a list of persons submitted by the chair of
10 the Dream Big Burnside Authority shall serve an initial term of three years and the other
11 shall serve an initial term of two years;

12 (2) One representative selected from a list of persons submitted by the president
13 of the Somerset-Pulaski Economic Development Authority shall serve an initial term of
14 two years and the other shall serve an initial term of one year;

15 (3) One representative selected from a list of persons submitted by the mayor of
16 the City of Burnside shall serve an initial term of three years, and the other shall serve an
17 initial term of two years;

18 (4) One representative selected from a list of persons submitted by the mayor of
19 the City of Somerset shall serve an initial term of three years and the other shall serve an
20 initial term of one year; and

21 (5) One representative selected from a list of persons submitted by the county
22 judge/executive of Pulaski County shall serve an initial term of two years and the other
23 shall serve an initial term of one year.