

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 "DBBDA" means the Dream Big Burnside Development*
7 *Authority established in Section 2 of this Act;*
- 8 *(2) "Board" means the board of directors of the DBBDA;*
- 9 *(3) "County" means a county, charter county, urban-county government, unified*
10 *local government, or consolidated local government;*
- 11 *(4) "General Burnside Island" means a four hundred thirty (430) acre island*
12 *surrounded by the Big South Fork Cumberland River that is located in the Lake*
13 *Cumberland basin in Pulaski County situated south from the City of Somerset*
14 *and north of the City of Burnside;*
- 15 *(5) "Land" means roads, water, watercourses, buildings, structures, and machinery*
16 *or equipment thereon when attached to the realty;*
- 17 *(6) "Participating county" means a county that has qualified under subsection (5) of*
18 *Section 2 of this Act;*
- 19 *(7) "Recreational area" or "RA" means lands on which there is a system of*
20 *recreational trails, including streams, rivers, and other waterways, and*
21 *appurtenant facilities, including trailhead centers, parking areas, camping*
22 *facilities, picnic areas, historic or cultural interpretive sites, and other facilities in*
23 *Kentucky and designated by the DBBDA as part of the RA; and*
- 24 *(8) "Recreational purposes" means all-terrain vehicle riding, bicycling, canoeing,*
25 *golfing, fishing, hiking, camping, horseback riding, hunting, kayaking,*
26 *motorcycle riding, rock climbing, swimming, archaeological activities, nature*
27 *study, off-highway vehicle driving, pleasure driving, watersports, winter sports,*

1 visiting or viewing historical or scenic sites, and otherwise using land for
2 purposes pertaining to recreation or trail activities.

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

5 (1) The Dream Big Burnside Development Authority is hereby established as an
6 independent, de jure municipal corporation and political subdivision of the
7 Commonwealth and shall exercise all powers that a corporation may lawfully
8 exercise under the laws of the Commonwealth. The authority shall be a public
9 body corporate and politic and an instrumentality of the Commonwealth,
10 established with all the general corporate powers incidental thereto. The
11 authority shall be attached to the Department for Local Government for
12 administrative purposes only. The authority shall be authorized for a period of
13 five (5) years from the effective date of this Act, and may be renewed by the
14 General Assembly. The authority may adopt bylaws, and administrative
15 regulations in accordance with KRS Chapter 13A, for the orderly conduct of its
16 affairs.

17 (2) The purpose of the authority is to develop, finance, maintain, improve, and
18 promote lodging and restaurant facilities and recreational amenities on General
19 Burnside Island State Park and surrounding area for public park purposes to
20 increase economic development, tourism, and outdoor recreation for residents
21 and visitors.

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

25 (4) The authority and board shall become operational when all members of the
26 authority complete the requirements established by subsection (5)(a) of this
27 section. The commissioner of the Department for Local Government shall notify

- 1 the county judge/executive of the participating county, the mayor of a
2 participating city, as well as the board members described in subsection (6) of this
3 section, that the requirements have been met for the authority and board to
4 become operational. The commissioner shall also establish a date, time, and place
5 for an initial organizational meeting of the board, and shall serve as interim
6 chair of the initial organizational meeting until such time as a chair is elected.
7 The chair shall be a resident of the city or county.
- 8 (5) Any local government located within the RA may become a participating county
9 upon adoption of a resolution or ordinance by the governing body of the county
10 specifically approving the county's participation in the DBBDA and submission
11 of the adopted resolution or ordinance to:
- 12 (a) The commissioner of the Department for Local Government if the
13 resolution or ordinance is adopted prior to the DBBDA becoming
14 operational pursuant to subsection (4) of this section; or
- 15 (b) The DBBDA if the resolution or ordinance is adopted after DBBDA
16 becomes operational.
- 17 (6) The DBBDA board shall consist of the following members:
- 18 (a) The secretary of the Tourism, Arts and Heritage Cabinet or his or her
19 designee;
- 20 (b) The commissioner of the Department for Local Government or his or her
21 designee;
- 22 (c) The commissioner of the Department of Fish and Wildlife Resources or his
23 or her designee;
- 24 (d) If an executive director of the authority has been employed under
25 subsection (10) of this section, he or she shall serve as a nonvoting member,
26 except in the event of a tie vote of the board;
- 27 (e) Two (2) representatives selected from six (6) candidates submitted by the

- 1 chair of the Somerset-Pulaski Economic Development Authority;
- 2 (f) Two (2) representatives selected from six (6) candidates provided by the
- 3 chair of the Somerset-Pulaski Economic Development Authority;
- 4 (g) Two (2) representatives appointed by the mayor of the City of Burnside;
- 5 (h) Two (2) representatives appointed by the mayor of the City of Somerset;
- 6 (i) Two (2) representatives appointed by the county judge/executive of Pulaski
- 7 County;
- 8 (j) The county judge/executive of Pulaski County or his or her designee;
- 9 (k) One (1) state Representative who is from the DBBDA region shall serve as a
- 10 nonvoting member, appointed to a two (2) year term by the Speaker of the
- 11 House of Representatives, and shall not serve another term consecutively
- 12 with a prior term; and
- 13 (l) One (1) state Senator who is from the DBBDA region shall serve as a
- 14 nonvoting member, appointed to two (2) year term by the President of the
- 15 Senate.
- 16 (7) A county judge/executive shall only serve on the board while holding the office
- 17 for which he or she was elected. If a county judge/executive ceases to serve as the
- 18 county judge/executive prior to the end of his or her term, he or she shall be
- 19 removed from the board, and his or her replacement as county judge/executive
- 20 shall serve on the board for the remainder of the term.
- 21 (8) (a) The voting members of the board shall be:
- 22 1. The county judge/executive;
- 23 2. The secretary of the Tourism, Arts and Heritage Cabinet or his or her
- 24 designee;
- 25 3. The commissioner of the Department for Local Government or his or
- 26 her designee; and
- 27 4. The commissioner of the Department of Fish and Wildlife Resources

1 or his or her designee.

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 original appointments.

5 (9) (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) The presence of a majority of the total voting members of the DBBDA board
18 shall constitute a quorum. Vacant board positions shall be counted against
19 the quorum total necessary for board action.

20 (10) The DBBDA 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 will be
5 removed;

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

7 (e) Shall ensure that all administrative costs for operating the authority are
8 paid from funds accruing to the authority;

9 (f) May seek administrative and management assistance through written
10 agreement with state agencies, local area development districts, or local
11 governing bodies until such time as the board has secured sufficient
12 funding through grants, loans, fee systems, or any other funding source to
13 hire staff; and

14 (g) Shall employ an executive director to act as its chief executive officer to
15 serve at its will and pleasure.

16 (11) The authority shall comply with the provisions of KRS Chapter 65A.

17 (12) The executive director:

18 (a) Shall be a person who is domiciled in a DBBDA participating county;

19 (b) May, with permission of the board and approval of the commissioner of the
20 Department for Local Government or his or her designee, employ any other
21 hourly personnel considered necessary and retain temporary services. Pay
22 raises for any personnel shall require approval of the board and the
23 commissioner of the Department for Local Government or his or her
24 designee;

25 (c) Shall carry out plans to implement Sections 1 to 5 of this Act and to exercise
26 those powers enumerated in the bylaws of the board;

27 (d) Shall, along with any staff with responsibilities so delegated by the executive

1 director, ensure that all minutes, records, and orders of the authority and its
2 board are complete and available for public inspection, if necessary;

3 (e) Shall prepare narrative and financial reports of the authority's fiscal
4 obligations and submit these reports to the board at regularly scheduled
5 meetings or as otherwise directed; and

6 (f) May cast a tiebreaking vote in board decisions, but shall not be permitted to
7 cast a vote under any other circumstances. Until such time as an executive
8 director is hired, the chairperson of the board shall make the final
9 determination in the event of a tie vote of the board.

10 (13) The executive director, all full-time or part-time personnel, all seasonal
11 employees, and all contractual employees, if any, shall be paid from funds
12 accruing to the authority and authorized in a budget approved by the board,
13 unless the Department for Local Government has temporarily taken on the
14 responsibility of paying any of those employees.

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

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

23 (1) The Dream Big Burnside Development Authority shall:

24 (a) Supervise the design, construction, financing, operations, and maintenance
25 within the RA and provide all management functions for the park, lodging
26 facilities, restaurants, boat facilities, campground, and other recreational or
27 entertainment facilities to include an 18-hole golf course, and any other

1 property build, acquired, or leased pursuant to its powers under Sections 1
2 to 5 of this Act;

3 (b) Construct, develop, manage, maintain, operate, improvise, renovate,
4 finance, or otherwise provide for recreational activities on designated public
5 lands and private lands who have voluntarily entered into use agreements
6 with the board;

7 (c) Promote the growth and development of the reactional area, tourism, and
8 the hotel, restaurant, and entertainment industry within the RA and the
9 Commonwealth, through marketing the RA to enhance local economic and
10 tourism development;

11 (d) Establish agreements with other persons, businesses, agencies,
12 organizations, or any other entity to levy a surcharge on tickets for events,
13 activities, festivals, or functions that are cosponsored with other entities and
14 contribute to the authority's operating revenue; and

15 (e) Procure insurance against any losses in connection with its property,
16 licenses, easements, or contracts, including hold-harmless agreements,
17 operations, or assets in such amounts and from such insurers as the board
18 considers desirable.

19 (2) The board may carry out any of the following to accomplish the purposes of
20 Sections 1 to 5 of this Act:

21 (a) Acquire, own, and hold property, and all interests therein, by deed,
22 purchase, gift, devise, bequest, or lease, or by transfer from the State
23 Property and Buildings Commission, except that the authority shall not
24 acquire property through the exercise of the power of eminent domain;

25 (b) Dispose of any property acquired in any manner provided by law;

26 (c) Lease property, whether as lessee or lessor, and acquire or grant through
27 easement, license, or other appropriate legal form, the right to develop and

- 1 use property and open it to the use of the public;
- 2 (d) In accordance with KRS 148.255, acquire authorization of the General
3 Assembly prior to sale, trade, or disposal of real property valued greater
4 than four thousand dollars (\$400,000) that is owned by the Commonwealth
5 and managed by the Department of Parks;
- 6 (e) Mortgage or otherwise grant security interests in its property;
- 7 (f) Maintain sinking funds and reserves as the board determines appropriate
8 for the purposes of meeting future monetary obligations and needs of the
9 authority; however, contributions to a sinking fund during a fiscal year
10 shall not exceed ten percent (10%) of the total fees collected during the
11 prior year;
- 12 (g) Sue and be sued, plead and be impleaded, and complain and defend in any
13 court;
- 14 (h) Make contracts and execute instruments necessary for carrying on its
15 business, including contracts with any state agency, the federal government,
16 or any person, individual, partnership, or corporation to effect any or all of
17 the purposes of Sections 1 to 5 of this Act as follows:
- 18 1. Contracts shall go through a public bidding process;
- 19 2. Contracts for one thousand dollars (\$1,000) or more shall be sent,
20 with at least three (3) bids from separate entities, to the Department
21 for Local Government for review and final approval;
- 22 a. Bids from entities with DBBDA participants are to be given
23 preference over competing bidders from outside of DBBDA
24 participants; and
- 25 b. If the Department for Local Government has not given a
26 response in the form of an approval or rejection after five (5)
27 business days from the date the department received the contract

- 1 to be reviewed, it shall be considered approved; and
- 2 3. Solicit or bid to participate and enter into a public-private partnership;
- 3 (i) Accept grants and loans from and enter into contracts and other
- 4 transactions with any federal agency, regional commission, or state agency
- 5 for accomplishing the purposes of Sections 1 to 5 of this Act;
- 6 (j) Borrow money and issue bonds, security interests, or notes;
- 7 (k) Provide for and secure the payment of the bonds, security interests, or
- 8 notes;
- 9 (l) Provide for the rights of the holders of the bonds, security interests, or
- 10 notes;
- 11 (m) Purchase, hold, and dispose of any of its bonds, security interests, or notes;
- 12 (n) Accept gifts or grants of property, security interests, money, labor, supplies,
- 13 or services from any governmental unit or from any person, firm, or
- 14 corporation;
- 15 (o) Establish a recreational park system based upon contracts and agreements
- 16 with participating landowners. The board may enter into contracts with
- 17 landowners, and other persons holding an interest in the land being used
- 18 for its recreational facilities, to hold those landowners harmless with respect
- 19 to any claim in tort growing out of the use of the land for public recreation
- 20 or growing out of the recreational activities operated or managed by the
- 21 board from any claim, except a claim for damages proximately caused by
- 22 the willful or malicious conduct of the landowner or any of his or her
- 23 agents or employees;
- 24 (p) Establish a fee-based system of permits, user registrations, or other facility
- 25 access mechanisms as follows:
- 26 1. The fees may be imposed for access to and use of the trails, parking
- 27 facilities, visitor centers, or other park-related recreational purpose

- 1 facilities or recreation activities that are part of the DBBDA or as an
2 admission to an event;
- 3 2. The fees shall be decided by the board; and
- 4 3. The DBBDA shall retain and use the revenue from fees for any
5 purposes consistent with Sections 1 to 5 of this Act and within the
6 guidelines in subsection (3) of this section;
- 7 (q) Promulgate administrative regulations in accordance with KRS Chapter
8 13A to govern use and maintenance of the DBBDA and any other matters
9 for effective management of the DBBDA; and
- 10 (r) Exercise all of the powers that a corporation may lawfully exercise under
11 the laws of the Commonwealth.
- 12 (3) The fees collected by the DBBDA are to be used within the following guidelines:
- 13 (a) To pay the salary of the executive director and all staff of the DBBDA;
14 (b) To reimburse travel expenses of board members including lodging, subject
15 to Finance and Administration Cabinet administrative regulations;
16 (c) To fund the construction, maintenance, and all necessary expenses of the
17 DBBDA system;
18 (d) To maintain a sinking fund with contributions to the fund during a fiscal
19 year not to exceed ten percent (10%) of the total fees collected during the
20 prior year and the total fund not to exceed a balance of one million dollars
21 (\$1,000,000) at the end of any fiscal year; and
22 (e) Any remaining moneys not already appropriated in accordance with
23 Sections 1 to 5 of this Act at the end of the fiscal year are to be sent to the
24 Department for Local Government to be placed into an account to be used
25 exclusively for economic development grants in DBBDA participating
26 counties.
- 27 (4) Nothing in this section shall be construed as a waiver of sovereign immunity.

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

3 (1) Revenue bonds and revenue refunding bonds of the authority issued under
4 Sections 1 to 5 of this Act do not constitute a debt of the Commonwealth or of any
5 political subdivision of the Commonwealth or a pledge of the faith and credit of
6 the Commonwealth or of any political subdivision, but the bonds shall be payable
7 solely from the funds provided for in Section 1 to 5 of this Act from revenues
8 resulting from the issuance of bonds.

9 (2) All bonds shall contain on the face of the bond a statement to the effect that
10 neither the Commonwealth nor any political subdivision of the Commonwealth is
11 obligated to pay the bond or the interest on the bond, except from revenues of the
12 recreational project or projects for which they are issued, and that neither the
13 faith or credit nor the taxing power of the Commonwealth or any political
14 subdivision of the Commonwealth is pledged to the payment of the principal or
15 the interest on the bonds.

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

18 A participating landowner who has a contractual agreement with the DBBDA for use
19 of private land as part of the RA does not waive any protection granted to the
20 landowner by KRS 411.190.