

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 6 of this Act:*

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

8 *(2) "BIDA region" means Pulaski County and all of the adjacent counties;*

9 *(3) "Board" means the board of directors of BIDA;*

10 *(4) "Commissioner" means the commissioner of the Department for Local*
11 *Government;*

12 *(5) "Day" means any calendar day;*

13 *(6) "Department" means the Department of Parks; and*

14 *(7) "General Burnside Island State Park" means an approximately four hundred*
15 *thirty (430) acre island surrounded by the Big South Fork Cumberland River that*
16 *is located in the Lake Cumberland basin in Pulaski County and situated within*
17 *the city limits of the City of Burnside, and any other successor park.*

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

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

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

3 (2) The purpose of the authority is to develop, finance, operate, maintain, improve,
4 and promote lodging and restaurant facilities and recreational amenities on
5 General Burnside Island State Park and the surrounding area for public park
6 purposes to increase economic development, tourism, and outdoor recreation for
7 residents and visitors, except as limited by subsection (1)(b) of Section 4 of this
8 Act.

9 (3) The authority shall be governed by a board of directors, established in
10 accordance with Section 3 of this Act.

11 (4) (a) The authority and board shall become operational when a majority of the
12 members of the board have been appointed. Within fourteen (14) days of the
13 authority and board being operational, the commissioner shall notify the
14 Pulaski County judge/executive, the mayor of the City of Burnside, and the
15 board members listed in Section 3 of this Act that the requirements have
16 been met for the authority and board to become operational.

17 (b) The commissioner shall establish a date, time, and place for an initial
18 organizational meeting of the board, to be held within thirty (30) days of
19 notification required in paragraph (a) of this subsection. The commissioner
20 shall serve as interim chair of the initial organizational meeting until such
21 time as a chair is elected by a majority of the board members. The chair, or
22 interim chair, as appropriate, shall make the final determination in the
23 event of a tie vote of the board.

24 (5) The authority shall comply with:

25 (a) KRS Chapter 65A;
26 (b) The Open Meetings Act, KRS 61.805 to 61.850; and
27 (c) The Open Records Act, KRS 61.870 to 61.884.

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

3 **(1) The board shall consist of the following members:**

4 **(a) The secretary of the Tourism, Arts and Heritage Cabinet or his or her**
5 **designee;**

6 **(b) The commissioner of the Department for Local Government or his or her**
7 **designee;**

8 **(c) The commissioner of the Department of Fish and Wildlife Resources or his**
9 **or her designee;**

10 **(d) The Auditor of Public Accounts or his or her designee;**

11 **(e) Two (2) members appointed by the Governor from a list of six (6) persons**
12 **submitted by the mayor of the City of Burnside;**

13 **(f) Two (2) members appointed by the Governor from a list of six (6) persons**
14 **submitted by the county judge/executive of Pulaski County;**

15 **(g) The mayor of the City of Burnside or his or her designee;**

16 **(h) The executive director of the Burnside Tourism and Recreation**
17 **Commission or his or her designee;**

18 **(i) The county judge/executive of Pulaski County or his or her designee;**

19 **(j) The executive director of the Somerset-Pulaski County Convention and**
20 **Visitors Bureau or his or her designee;**

21 **(k) One (1) State Representative from the BIDA region appointed to a two (2)**
22 **year term by the Speaker of the House of Representatives, who shall serve**
23 **as an ex officio nonvoting member and shall not serve another term**
24 **consecutively with a prior term; and**

25 **(l) One (1) State Senator from the BIDA region appointed to a two (2) year**
26 **term by the President of the Senate, who shall serve as an ex officio**
27 **nonvoting member and shall not serve another term consecutively with a**

1 prior term.

2 (2) (a) The terms of the appointed members of the board shall be three (3) years.
3 All appointments or reappointments made by the Governor shall be subject
4 to Senate confirmation in accordance with KRS 11.160.

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

8 (3) (a) The board shall meet at least once every quarter to perform all duties as
9 prescribed by Sections 1 to 6 of this Act and as may be prescribed in the
10 authority's bylaws. The board chair may call special meetings at any time.

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

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

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

21 (e) The board shall comply with the Open Meetings Act, KRS 61.805 to 61.850,
22 and the Open Records Act, KRS 61.870 to 61.884.

23 (4) The board:

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

26 (b) May appoint temporary and standing committees to accomplish the
27 purposes of Sections 1 to 6 of this Act and shall clearly describe the role,

1 responsibilities, and tenure of each committee so created;

2 (c) Shall adopt bylaws for the management and regulation of its affairs and all
3 other matters necessary to effect proper management and accountability of
4 the board. The bylaws shall include, at a minimum, the following:

5 1. The powers and duties of the board's members and the manner and
6 number of officers to be elected from among the board members; and
7 2. The terms, conditions, and manner in which a board member may be
8 removed;

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

10 (e) May seek administrative and management assistance through written
11 agreements with state agencies, local area development districts, or local
12 governing bodies; and

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

15 (5) 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 BIDA. 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 4. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) (a) The authority shall:

24 1. Supervise the design, construction, financing, operations, and
25 maintenance of lodging facilities, restaurants, boat facilities, and
26 other recreational or entertainment facilities, and conduct any other
27 improvements it deems necessary on General Burnside Island State

1 Park, and any other property or facilities built, acquired, or leased
2 pursuant to its powers under Sections 1 to 6 of this Act, through a
3 public-private partnership;

4 2. Assume all administrative and management functions of the
5 department for the facilities and amenities on General Burnside
6 Island State Park that are included in the public-private partnership
7 agreement, according to the terms of a public-private partnership
8 agreement; and

9 3. Procure insurance against any losses in connection with its property,
10 licenses, easements, operations, assets, or contracts, including hold-
11 harmless agreements, in the amounts and from the insurers as the
12 board considers desirable.

13 (b) The authority shall not operate or maintain the existing eighteen (18) hole
14 golf course, campground, or boat ramp facilities. A private partner may
15 negotiate access to the golf course, campground, or boat ramp with the
16 department, which the department shall not unreasonably withhold.

17 (2) The board may carry out any of the following to accomplish the purposes of
18 Sections 1 to 6 of this Act:

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

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

24 (c) Lease property, whether as lessee or lessor, and acquire or grant through
25 easement, license, or other appropriate legal form, the right to develop and
26 use property and open it to the use of the public;

27 (d) In accordance with KRS 148.255, acquire authorization of the General

1 Assembly prior to sale, trade, or disposal of real property valued greater
2 than four hundred thousand dollars (\$400,000) that is owned by the
3 Commonwealth and managed by the department;

4 (e) Mortgage or otherwise grant security interests in its property;
5 (f) Maintain sinking funds and reserves as the board determines appropriate
6 for the purposes of meeting future monetary obligations and needs of the
7 authority;

8 (g) Sue and be sued, plead and be impleaded, or complain and defend in any
9 court;

10 (h) Make contracts and execute instruments necessary for carrying on its
11 business, including contracts with any state agency, the federal government,
12 or any person, individual, partnership, or corporation to affect any or all of
13 the purposes of Sections 1 to 6 of this Act;

14 (i) Accept appropriations, grants, and loans and enter into contracts and other
15 transactions with any federal agency, regional commission, or state agency
16 for accomplishing the purposes of Sections 1 to 6 of this Act;

17 (j) Receive revenue from a public-private partnership agreement;
18 (k) Borrow money and issue bonds, security interests, or notes;
19 (l) Provide for and secure the payment of the bonds, security interests, or
20 notes;

21 (m) Provide for the rights of the holders of the bonds, security interests, or
22 notes;

23 (n) Purchase, hold, and dispose of any of its bonds, security interests, or notes;
24 (o) Accept gifts or grants of property, security interests, money, labor, supplies,
25 or services from any governmental unit or from any person, firm, or
26 corporation;

27 (p) Establish a fee-based system of permits, user registrations, or other facility

1 access mechanisms as follows:

2 1. The fees may be imposed for access to and use of the trails, parking at
3 lodging facilities, visitor centers, or other park-related recreational
4 purpose facilities or recreation activities, or as an admission to an
5 event, that are subject to a public-private partnership agreement
6 between BIDA and its private partner;

7 2. The fees shall be decided by the board; and

8 3. BIDA shall retain and use the revenue from fees for any purposes
9 consistent with Sections 1 to 6 of this Act;

10 (q) Promulgate administrative regulations in accordance with KRS Chapter
11 13A to govern the use and maintenance of General Burnside Island State
12 Park and any other matters for effective management of BIDA; and

13 (r) Exercise all of the powers that a corporation may lawfully exercise under
14 the laws of the Commonwealth.

15 (3) Notwithstanding KRS 45A.077 or 65.028(12) or any other provision of law to the
16 contrary, solicitation of a public-private partnership shall be subject to KRS
17 65.028, except that any public-private partnership shall be authorized by the
18 General Assembly by inclusion in an executive branch budget bill or any other
19 means specified by the General Assembly that explicitly identifies and authorizes
20 the utilization of a public-private partnership delivery method for the applicable
21 capital project.

22 (4) This section shall not be construed as a waiver of sovereign immunity.

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

25 (1) Revenue bonds and revenue refunding bonds of the authority issued under
26 Sections 1 to 6 of this Act do not constitute a debt of the Commonwealth or of any
27 political subdivision thereof or a pledge of the faith and credit of the

1 Commonwealth or of any political subdivision, but the bonds shall be payable
2 solely from the revenues resulting from the issuance of bonds or assets of the
3 authority.

4 (2) All bonds shall contain on the face of the bond a statement to the effect that
5 neither the Commonwealth nor any political subdivision of the Commonwealth is
6 obligated to pay the bond or the interest on the bond, except from revenues of the
7 project or projects for which they are issued. Obligations issued under this section
8 shall not be deemed a debt, liability, or obligation of the Commonwealth or of any
9 political subdivision thereof or a pledge of the faith and credit of the
10 Commonwealth or of any political subdivision, but shall be payable solely from
11 the revenues resulting from the issuance of bonds or assets of the authority.

12 ➔ SECTION 6. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO
13 READ AS FOLLOWS:

14 (1) The department shall:

15 (a) Continue to operate and maintain the facilities and amenities on General
16 Burnside Island State Park in the usual and customary manner until an
17 agreement between BIDA and a private partner to provide such services
18 takes effect, upon which time the department shall provide for an orderly
19 transition of its administrative and management functions to BIDA and its
20 private partner. The department shall continue to operate and maintain any
21 facilities and amenities not subject to the public-private partnership
22 agreement between BIDA and its private partner;

23 (b) Provide technical assistance to BIDA to achieve the legislative intent of
24 Sections 1 to 6 of this Act, including but not limited to procurement,
25 contracting, administrative, and marketing support;

26 (c) In collaboration with BIDA, negotiate in good faith the renewals of any
27 lease agreements with the United States Army Corps of Engineers on and in

1 the vicinity of General Burnside Island State Park and assign such
2 agreements to BIDA or otherwise permit BIDA to carry out all functions in
3 Sections 1 to 6 of this Act on the lands leased from the United States Army
4 Corps of Engineers;

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

9 (e) Both before and after paragraph (d) of this subsection is met, continue to
10 include General Burnside Island State Park and the General Burnside
11 Island State Resort Park in the state park system.

12 (2) The department shall not develop lodging or restaurant facilities or additional
13 recreational or entertainment facilities on General Burnside Island State Park
14 without the express written permission of the BIDA board.

15 ➔ Section 7. KRS 132.195 is amended to read as follows:

16 (1) When any real or personal property which is exempt from taxation is leased or
17 possession is otherwise transferred to a natural person, association, partnership, or
18 corporation in connection with a business conducted for profit, the leasehold or
19 other interest in the property shall be subject to state and local taxation at the rate
20 applicable to real or personal property levied by each taxing jurisdiction.

21 (2) Subsection (1) of this section shall not apply to interests in:

22 (a) Industrial buildings, as defined under KRS 103.200, owned and financed by a
23 tax-exempt governmental unit or tax-exempt statutory authority under the
24 provisions of KRS Chapter 103, the taxation of which is provided for under
25 the provisions of KRS 132.020 and 132.200;

26 (b) Federal property for which payments are made in lieu of taxes in amounts
27 equivalent to taxes which might otherwise be lawfully assessed;

- (c) Property of any state-supported educational institution;
- (d) Vending stand locations and facilities operated by blind persons under the auspices of the Division of Kentucky Business Enterprise, regardless of whether the property is owned by the federal, state, or a local government;
- (e) Property of any free public library;
- (f) Property in Fayette County, Kentucky, administered by the Department of Military Affairs, Bluegrass Station Division;
- (g) All privately owned leasehold interests in residential property when the residential property is owned in fee simple by a purely public charity as of July 1, 2020:
 1. When the real property includes a residential property unit that is:
 - a. Leased by the purely public charity for a period of at least one (1) year to an individual person who is fifty-five (55) years of age or older;
 - b. Maintained as the individual person's permanent residence under a lease agreement that:
 - i. Prohibits the lessee from subleasing the unit; and
 - ii. Provides that the lessee's possessory interest in the unit is terminable by the lessor upon the death of the lessee, the physical or mental inability of the lessee to continue to reside in the unit, or the lessee's relocation to a nursing home or similar assisted living facility; and
 - c. Constructed on or before July 1, 2020, or constructed after July 1, 2020, on land that was privately owned in fee simple by the purely public charity on or before July 1, 2020;
 2. If the fee simple ownership is transferred by the purely public charity after July 1, 2020, it shall be transferred to another purely public charity

1 and the requirements established for the residential property unit in
2 subparagraph 1. of this paragraph shall be maintained; and

3 3. The taxation of which is provided for under KRS 132.020 and 132.200; ~~or~~
4 ~~or~~

5 (h) All privately owned leasehold interests in residential property owned in fee
6 simple by a purely public charity, which is exempt from ad valorem taxation
7 under Kentucky Constitution Section 170, when the residential property unit
8 is leased by the purely public charity to an individual person who is:

9 1. Receiving medical or educational supportive services from the purely
10 public charity; and

11 2. a. A postsecondary educational participant;
12 b. A minor;
13 c. Sick, disabled, or impoverished; or
14 d. Over the age of sixty-five (65); or

15 (i) Any interest in property or facilities developed, acquired, or leased under
16 Sections 1 to 6 of this Act.

17 (3) Taxes shall be assessed to lessees of exempt real or personal property and collected
18 in the same manner as taxes assessed to owners of other real or personal property,
19 except that taxes due under this section shall not become a lien against the property.
20 When due, such taxes shall constitute a debt due from the lessee to the state, county,
21 school district, special district, or urban-county government for which the taxes
22 were assessed and if unpaid shall be recoverable by the state as provided in KRS
23 Chapter 134.

24 ➔Section 8. Notwithstanding subsection (2)(a) of Section 3 of this Act, the
25 initial terms of the BIDA board members appointed by the Governor shall be staggered as
26 follows:

27 (1) One representative appointed from a list of persons submitted by the mayor of

1 the City of Burnside shall serve an initial term of three years, and the other shall serve an
2 initial term of two years;

3 (2) One representative appointed from a list of persons submitted by the county
4 judge/executive of Pulaski County shall serve an initial term of two years and the other
5 shall serve an initial term of one year.