

1 AN ACT relating to pedestrian swinging bridges.

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

3 ➔Section 1. KRS 67.083 is amended to read as follows:

- 4 (1) It is the purpose of this section to provide counties as units of general purpose local
5 government with the necessary latitude and flexibility to provide and finance
6 various governmental services within those functional areas specified in subsection
7 (3) of this section, while the General Assembly retains full authority to prescribe
8 and limit by statute local governmental activities when it deems ~~the~~^{such} action
9 necessary.
- 10 (2) The fiscal court of any county is hereby authorized to levy all taxes not in conflict
11 with the Constitution and statutes of this Commonwealth~~[state]~~ now or hereafter
12 enacted.
- 13 (3) The fiscal court shall have the power to carry out governmental functions necessary
14 for the operation of the county. Except as otherwise provided by statute or the
15 Kentucky Constitution, the fiscal court of any county may enact ordinances, issue
16 regulations, levy taxes, issue bonds, appropriate funds, and employ personnel in
17 performance of the following public functions:
- 18 (a) Control of animals~~[,]~~ and abatement of public nuisances;
 - 19 (b) Regulation of public gatherings;
 - 20 (c) Public sanitation and vector control;
 - 21 (d) Provision of hospitals, ambulance service, programs for the health and welfare
22 of the aging and juveniles, and other public health facilities and services;
 - 23 (e) Provision of corrections facilities and services, and programs for the
24 confinement, care, and rehabilitation of juvenile law offenders;
 - 25 (f) Provision of parks, nature preserves, swimming pools, recreation areas,
26 libraries, museums, and other recreational and cultural facilities and
27 programs;

- 1 (g) Provision of cemeteries and memorials;
- 2 (h) Conservation, preservation, and enhancement of natural resources including
3 soils, water, air, vegetation, and wildlife;
- 4 (i) Control of floods;
- 5 (j) Facilitating the construction and purchase of new and existing housing;
6 causing the repair or demolition of structures which present a hazard to public
7 health, safety, or morals or are otherwise inimical to the welfare of residents
8 of the county; causing the redevelopment of housing and related commercial,
9 industrial, and service facilities in urban or rural areas; providing education
10 and counseling services and technical assistance to present and future
11 residents of publicly assisted housing;
- 12 (k) Planning, zoning, and subdivision control according to the provisions of KRS
13 Chapter 100;
- 14 (l) Adoption, by reference or in full, of technical codes governing new
15 construction, renovation, or maintenance of structures intended for human
16 occupancy;
- 17 (m) Regulation of commerce for the protection and convenience of the public;
- 18 (n) Regulation of the sale of alcoholic beverages according to the provisions of
19 KRS Chapters 241 to 244;
- 20 (o) Exclusive management of solid wastes by ordinance, ~~or~~ contract, ~~or by~~
21 both and disposition of abandoned vehicles;
- 22 (p) Provision of public buildings, including armories, necessary for the effective
23 delivery of public services;
- 24 (q) Cooperation with other units of government and private agencies for the
25 provision of public services, including ~~but not limited to~~ training,
26 educational services, and cooperative extension service programs;
- 27 (r) Provision of water, ~~and~~ sewage, and garbage disposal service but not gas or

- 1 electricity; including management of onsite sewage disposal systems;
- 2 (s) Licensing or franchising of cable television;
- 3 (t) Provision of streets and roads, bridges, tunnels and related facilities,
4 elimination of grade crossings, provision of parking facilities, and
5 enforcement of traffic and parking regulations;
- 6 (u) Provision of police and fire protection;
- 7 (v) Regulation of taxis, buses, and other passenger vehicles for hire;
- 8 (w) Provision and operation of air, rail and bus terminals, port facilities, and
9 public transportation systems;
- 10 (x) Promotion of economic development of the county, directly or in cooperation
11 with public or private agencies, including the provision of access roads, land
12 and buildings, and promotion of tourism and conventions;
- 13 (y) **Care and maintenance of pedestrian swinging bridges that are available for**
14 **recreation and public enjoyment;**
- 15 (z) Preservation of historic structures; and
- 16 ~~(aa)~~ Regulation of establishments or commercial enterprises offering adult
17 entertainment and adult entertainment activities.
- 18 (4) The county judge/executive is hereby authorized and empowered to exercise all~~[-of]~~
19 the executive powers pursuant to this section.
- 20 (5) A county acting under authority of this section may assume, own, possess, and
21 control assets, rights, and liabilities related to the functions and services of the
22 county.
- 23 (6) **(a)** If a county is authorized to regulate an area which the **Commonwealth**~~[state]~~
24 also regulates, the county government may regulate the area only by enacting
25 ordinances which are consistent with state law or administrative regulation~~[-]~~
- 26 **(b)**~~(a)~~ If the state statute or administrative regulation prescribes a single
27 standard of conduct, a county ordinance is consistent if it is identical to the

1 state statute or administrative regulation.~~;~~

2 ~~(c)~~~~(b)~~ If the state statute or administrative regulation prescribes a minimal
3 standard of conduct, a county ordinance is consistent if it establishes a
4 standard which is the same as or more stringent than the state standard.~~;~~

5 ~~(d)~~~~(e)~~ A county government may adopt ordinances which incorporate by
6 reference state statutes and administrative regulations in areas in which a
7 county government is authorized to act.

8 (7) County ordinances which prescribe penalties for their violation shall be enforced
9 throughout the entire area of the county unless:

10 (a) Otherwise provided by statute; or

11 (b) The legislative body of any city within the county has adopted an ordinance
12 pertaining to the same subject matter which is the same as or more stringent
13 than the standards that are set forth in the county ordinance. The fiscal court
14 shall forward a copy of each ordinance which is to be enforced throughout the
15 entire area of the county to the mayor of each city in the county.

16 (8) (a) The powers granted to counties by this section shall be in addition to all other
17 powers granted to counties by other provisions of law. These powers, other
18 than the power to tax, may be exercised cooperatively by:

19 1. Two (2) or more counties;~~;~~ ~~or by~~

20 2. A county and a city;~~;~~ ~~or by~~

21 3. A county and a special district;~~;~~ or ~~by~~

22 4. A county and the **Commonwealth**~~[state]~~ through, but not limited to,
23 joint contracts, joint ownership of property, or the exchange of services,
24 including personnel and equipment.

25 When counties cooperate in the provision of public services, contracts shall be
26 drawn to document the benefits and relative cost for each of the participating
27 governments. One (1) government may pay one hundred percent (100%), or a

1 lesser percentage, of all or any part of the cost of the joint undertaking, based
2 upon the written contract required by this subsection.

3 (b) A permissive procedure authorized by this section shall not be deemed to be
4 exclusive or to prohibit the exercise of other existing laws and laws which
5 may hereafter be enacted but shall be an alternative or supplement thereto.

6 (9) Any agency of county government exercising authority pursuant to subsection
7 (3)(z)(y) of this section shall, prior to exercising ~~the~~^{such} authority, obtain the
8 voluntary written consent of the owner of the structure. Consent may be obtained
9 only after advising the owner in writing of any advantages and disadvantages to the
10 owner which are likely to result from the exercise of ~~the~~^{such} authority.

11 ➔Section 2. KRS 411.190 is amended to read as follows:

12 (1) As used in this section:

13 (a) "Land" means land, rocks, boulders, cliffs, roads, water, watercourses,
14 pedestrian swinging bridges, private ways and buildings, structures, and
15 machinery or equipment when attached to the realty;

16 (b) "Owner" means the possessor of a fee, reversionary, or easement interest, a
17 tenant, lessee, occupant, local government that expends public funds to
18 maintain pedestrian swinging bridges that are available for recreation and
19 public enjoyment, or person in control of the premises;

20 (c) "Recreational purpose" includes~~[,]~~ but is not limited to~~[,]~~ any of the following,
21 or any combination thereof: hunting, fishing, swimming, boating, camping,
22 picnicking, hiking, rock climbing, bouldering, rappelling, bicycling,
23 horseback riding, pleasure driving, nature study, water-skiing, winter sports,
24 and viewing or enjoying historical, archaeological, scenic, or scientific sites;
25 and

26 (d) "Charge" means the admission price or fee asked in return for invitation or
27 permission to enter or go upon the land but does not include fees for general

1 use permits issued by a government agency for access to public lands if the
2 permits are valid for a period of not less than thirty (30) days.

3 (2) The purpose of this section is to encourage owners of land to make land and water
4 areas available to the public for recreational purposes by limiting their liability
5 toward persons entering thereon for such purposes.

6 (3) Except as specifically recognized by or provided in subsection (6) of this section, an
7 owner of land owes no duty of care to keep the premises safe for entry or use by
8 others for recreational purposes, or to give any warning of a dangerous condition,
9 use, structure, or activity on the premises to persons entering for such purposes.

10 (4) Except as specifically recognized by or provided in subsection (6) of this section, an
11 owner of land who either directly or indirectly invites or permits without charge any
12 person to use the property for recreation purposes does not thereby:

13 (a) Extend any assurance that the premises are safe for any purpose;

14 (b) Confer upon the person the legal status of an invitee or licensee to whom a
15 duty of care is owed; or

16 (c) Assume responsibility for or incur liability for any injury to person or
17 property caused by an act or omission of those persons.

18 (5) Unless otherwise agreed in writing, the provisions of subsections (3) and (4) of this
19 section shall be deemed applicable to the duties and liability of an owner of land
20 leased to:

21 (a) The state or any subdivision thereof for recreational purposes; and

22 (b) A local government that maintains one (1) or more pedestrian swinging
23 bridges that are available for recreation and public enjoyment on the land.

24 (6) ~~Nothing in~~ This section shall not limit~~limits~~ in any way any liability that~~which~~
25 otherwise exists:

26 (a) For willful or malicious failure to guard or warn against a dangerous
27 condition, use, structure, or activity; or

- 1 (b) For injury suffered in any case where the owner of land charges the person or
2 persons who enter or go on the land for the recreational use thereof, except
3 that in the case of land leased to the state or a subdivision thereof, any
4 consideration received by the owner for the lease shall not be deemed a
5 charge within the meaning of this section.
- 6 (7) ~~Nothing in~~ This section shall ***not*** be construed to:
- 7 (a) Create a duty of care, ***a duty of protection from danger or risk to any***
8 ***individual or the public in general***, or ***other*** ground of liability for injury to
9 persons or property;
- 10 (b) Relieve any person using the land of another for recreational purposes from
11 any obligation which he or she may have in the absence of this section to
12 exercise care in his or her use of the land and in his or her activities thereon,
13 or from the legal consequences of failure to employ such care; or
- 14 (c) Ripen into a claim for adverse possession~~[-]~~ absent a claim of title or legal
15 right.
- 16 (8) ***An***~~No~~ action for the recovery of real property, including establishment of
17 prescriptive easement, right-of-way, or adverse possession, ***shall not***~~may~~ be
18 brought by any person whose claim is based on use solely for recreational purposes.