WEST VIRGINIA CODE: §20-5-16

§20-5-16. Authority to enter into contracts with third parties to construct recreational facilities and cabins; public comment.

(a) Notwithstanding any other provision of this code to the contrary, in addition to all other powers and authority vested in the director, he or she may:

(1) Enter into contracts with third parties for the financing, construction, and operation of new recreational, lodging, and ancillary facilities at all state parks and state forests under the jurisdiction of the Division of Natural Resources except for Watoga State Park. The contracts may allow and recognize both direct and subsidiary investment arrangements. The term of the contracts may not exceed a period of 40 years, at which time the full title to the recreational facilities shall vest in the state, except as otherwise provided in this section;

(2) Enter into contracts with third parties for the construction, but not the operation, of cabins at any state park or forest. Upon completion of the construction of the cabins, full title to the cabins shall immediately vest in the state and the cabins shall be operated by the parks and recreation section;

(3) Authorize the construction of at least five cabins by any single third party in state parks and state forests which do not offer the facilities on the effective date of this subsection; and

(4) Propose emergency and legislative rules, in accordance with §29A-3-1 *et seq*. of this code, that set the conditions upon which the director may enter into a contract with a single third party proposing to construct cabins.

(b) Any contract entered into pursuant to this section shall be approved prior to execution by the Secretary of the Department of Commerce, the Secretary of the Department of Tourism, and the Secretary of the Department of Economic Development.

(c) A contract may provide for renewal for the purpose of permitting continued operation of the facilities at the option of the director for a term or terms not to exceed 10 years.

(d) The director shall provide prior electronic notice of any contract, extension, and renewal entered into pursuant to this section to the Joint Committee on Government and Finance.

(e) Any vendor which is contracted with pursuant to this section may not employ or contract with the individual who holds the position of director when the contract is executed for a period of one year following the individual’s separation from the position of director.

(f) Prior to initiating a contract for new recreational, lodging, and ancillary facilities at all state parks and state forests under the jurisdiction of the Division of Natural resources, the director shall conduct a public hearing to be held at a reasonable time and place within the county in which the facility is located. Notice of the time, place and purpose of the public

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hearing shall be provided as a Class II legal advertisement in accordance with §59-3-2 of this code which notice shall be given at least for the first publication 20 days in advance of the hearing.

(g) *Stonewall Jackson Lake State Park*. —

(1) With respect to the financing, construction, and operation of lodging at Stonewall Jackson Lake State Park, in addition to the lodging in existence as of July 1, 2008, contracts entered into pursuant to this section may grant, convey, or provide for commercially reasonable lodging usage and related rights and privileges all on terms and conditions as the director may deem appropriate, desirable or necessary to attract private investment for the construction of additional lodging units.

(2) No contracts may be entered into prior to the preparation of lodging unit development plans and standard lodging unit contract documents in a form and at a level of detail acceptable to the United States Army Corps of Engineers and the director, and subsequent to the presentation of the lodging unit development plans and standard lodging unit contract documents to the Joint Committee on Government and Finance for review and comment.

(3) At a minimum, the lodging unit development plans and standard lodging unit contracts shall comply with the following requirements:

(A) That no more than 100 additional lodging units may be constructed, in addition to the lodging in existence as of July 1, 2008;

(B) That lodging unit contracts, with respect to any additional lodging units that may be financed, constructed or operated pursuant to the provision of this section, shall generally conform to the contracts entered into by federal agencies or the National Park Service with private parties regarding privately financed property that is constructed, developed or operated on public lands administered by federal agencies or the National Park Service, subject to modification and adaptation by the director as the director deems appropriate, suitable and relevant to any lodging units to be constructed at Stonewall Jackson Lake State Park.

(C) That a party granted rights and privileges under lodging unit contracts awarded under the provisions of this subsection shall have the right to renew his or her or its lodging unit contract for successive terms not to extend beyond the termination date of the state's lease with the United States Army Corps of Engineers; or, in the event that the state's lease with the United States Army Corps of Engineers is extended beyond the termination date of the lease as of July 1, 2007, not to exceed five 10-year extensions or renewals beyond the termination date of the lease between the state and the United States Army Corps of Engineers in effect as of July 1, 2007: *Provided*, That the party extended the renewal rights is in compliance with all material rights, duties and obligations arising under his or her or its contract and all relevant and applicable provisions of federal, state and local laws, rules, regulations, contracts or agreements at the time of renewal: *Provided, however*, That if the

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director makes an affirmative determination that further renewals beyond the time periods set forth in this subsection are in the best interest of the state and Stonewall Jackson Lake State Park, giving due consideration to financial, operational and other considerations deemed relevant and material by the director, that the director may authorize further renewals;

(D) That all rights and privileges arising under a lodging unit contract shall be transferred to the state or the state's designee upon the expiration or termination of the contract, upon the terms and conditions as each contract may provide or as may otherwise be agreed upon between the parties;

(E) That the state is not obligated for any costs, expenses, fees, or other charges associated with the development of the additional lodging units under this subsection or the operation and maintenance of the additional lodging units over time, including, but not limited to, costs associated with infrastructure improvements associated with development or operation of the additional lodging units. In his or her discretion, the director may engage professionals to assist the state in connection with its review and oversight of development of the additional lodging units;

(F) That at any time following the initial term and first renewal period of any lodging unit contract entered into with a private party with respect to an additional lodging unit that is constructed under this section, the state shall have the right and option, in its sole discretion, to purchase a lodging unit or lodging units in accordance with the provisions of this subsection and any and all contracts that may be entered into from time to time under this section;

(G) That the state may elect to purchase a lodging unit from a private party. If the private party is paid the fair value of the private party's residual rights and privileges under the lodging unit contract, the residual rights and privileges to be valued generally in accordance with the valuation standards set forth in the National Park Service's standard contract provisions, or other relevant federal agency standards applicable to similar or like contract rights and provisions as may be in existence at the time of transfer, all as the same may be considered relevant and appropriate by the director, and all in the exercise of the director's reasonable discretion. Nothing in this section is intended or may be construed to impose an obligation on the state to purchase, buy, buy out or otherwise acquire or pay for any lodging unit under this section, or to limit the right and ability of a private party to donate or contribute his or her or its interest in and to any lodging unit constructed under this section to the state or any charitable foundation that may be established and operating from time to time to support the continued operation and development of Stonewall Jackson Lake State Park;

(H) That the state has no obligation whatsoever to purchase, buy, buy out or otherwise acquire or pay for any lodging unit that is developed or constructed under this section; and

(I) The director may review and approve the form and content of all contracts that may be

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entered into pursuant to this subsection in connection with the development, operation, and maintenance of additional lodging units at Stonewall Jackson Lake State Park.

(h) Any facilities constructed under the authority granted under this section must be in accordance with the purpose, powers, and duties of the Section of Parks and Recreation as provided by §20-5-3 of this code.

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