

HB 4567

FILED

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2008



ENROLLED

House Bill No. 4567

(By Delegates Stalnaker, Cann, Fragale,
Caputo and DeLong)



Passed March 8, 2008

In Effect Ninety Days from Passage

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H. B. 4567 OFFICE WEST VIRGINIA
SECRETARY OF STATE

(BY DELEGATES STALNAKER, CANN, FRAGALE,
CAPUTO AND DELONG)

[Passed March 8, 2008; in effect ninety days from passage.]

AN ACT to amend and reenact §20-5-16 of the Code of West Virginia, 1931, as amended, relating to allowing the Director of the Division of Natural Resources to enter into contracts granting long-term usage and related rights and privileges to third parties sufficient to attract private investment for the financing, construction and operation of additional lodging units at Stonewall Jackson Lake State Park; establishing requirements and restrictions regarding the development, operation and maintenance of additional lodging units and all contracts related to the additional lodging units; requiring the development of a lodging unit development plan that is to be presented to the Joint Committee on Government and Finance prior to development; and protecting the state from any liabilities or obligations associated with the development of the additional lodging units.

Be it enacted by the Legislature of West Virginia:

That §20-5-16 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 5. PARKS AND RECREATION.

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

1 (a) Notwithstanding any other provision of this code to
2 the contrary, in addition to all other powers and authority
3 vested in the director, he or she is hereby authorized and
4 empowered to:

5 (1) Enter into contracts with third parties for the
6 financing, construction and operation of recreational, lodging
7 and ancillary facilities at Chief Logan State Park, Beech Fork
8 State Park, Tomlinson Run State Park, Stonewall Jackson
9 Lake State Park, Lost River State Park and Canaan Valley
10 Resort State Park. The contracts may allow and recognize
11 both direct and subsidiary investment arrangements. The
12 term of the contracts may not exceed a period of twenty-five
13 years, at which time the full title to the recreational facilities
14 shall vest in the state, except as otherwise provided in this
15 section;

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

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

26 (4) Propose emergency and legislative rules, in
27 accordance with the provisions of article three, chapter
28 twenty-nine-a of this code, that set the conditions upon which

29 the director may enter into a contract with a single third party
30 proposing to construct cabins.

31 (b) All contracts shall be presented to the Joint
32 Committee on Government and Finance for review and
33 comment prior to execution.

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

37 (d) Except as otherwise authorized by this section, no
38 extension or renewal beyond the original twenty-five year
39 term may be executed by the director absent the approval of
40 the Joint Committee on Government and Finance.

41 (e) *Stonewall Jackson Lake State Park. --*

42 (1) With respect to the financing, construction and
43 operation of lodging at Stonewall Jackson Lake State Park,
44 in addition to the lodging in existence as of the first day of
45 July, two thousand eight, contracts entered into pursuant to
46 this section may grant, convey or provide for commercially
47 reasonable lodging usage and related rights and privileges all
48 on terms and conditions as the director may deem
49 appropriate, desirable or necessary to attract private
50 investment for the construction of additional lodging units.

51 (2) No contracts may be entered into prior to the
52 preparation of lodging unit development plans and standard
53 lodging unit contract documents in a form and at a level of
54 detail acceptable to the United States Army Corps of
55 Engineers and the director, and subsequent to the
56 presentation of the lodging unit development plans and
57 standard lodging unit contract documents to the Joint

58 Committee on Government and Finance for review and
59 comment.

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

63 (A) That no more than one hundred additional lodging
64 units may be constructed, in addition to the lodging in
65 existence as of the first day of July, two thousand eight;

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

77 (C) That a party granted rights and privileges under
78 lodging unit contracts awarded under the provisions of this
79 subsection shall have the right to renew his, her or its lodging
80 unit contract for successive terms not to extend beyond the
81 termination date of the state's lease with the United States
82 Army Corps of Engineers; or, in the event that the state's
83 lease with the United States Army Corps of Engineers is
84 extended beyond the termination date of the lease as of the
85 first day of July, two thousand seven, not to exceed five ten-
86 year extensions or renewals beyond the termination date of
87 the lease between the state and the United States Army Corps
88 of Engineers in effect as of the first day of July, two thousand

89 seven: *Provided*, That the party extended the renewal rights
90 is in compliance with all material rights, duties and
91 obligations arising under his, her or its contract and all
92 relevant and applicable provisions of federal, state and local
93 laws, rules, regulations, contracts or agreements at the time
94 of renewal: *Provided, however*, That if and in the event the
95 director makes an affirmative determination that further
96 renewals beyond the time periods set forth in this subsection
97 are in the best interest of the state and Stonewall Jackson
98 Lake State Park, giving due consideration to financial,
99 operational and other considerations deemed relevant and
100 material by the director, that the director may authorize
101 further renewals;

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

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

117 (F) That at any time following the initial term and first
118 renewal period of any lodging unit contract entered into with
119 a private party with respect to an additional lodging unit that
120 is constructed under this section, the state shall have the right
121 and option, in its sole discretion, to purchase a lodging unit

122 or lodging units in accordance with the provisions of this
123 subsection and any and all contracts that may be entered into
124 from time to time under this section;

125 (G) That at its sole option and discretion, the state may
126 elect to purchase a lodging unit from a private party. In that
127 event, the private party shall be paid the fair value of the
128 private party's residual rights and privileges under the
129 lodging unit contract, the residual rights and privileges to be
130 valued generally in accordance with the valuation standards
131 set forth in the National Park Service's standard contract
132 provisions, or other relevant federal agency standards
133 applicable to similar or like contract rights and provisions as
134 may be in existence at the time of transfer, all as the same
135 may be deemed relevant and appropriate by the director, and
136 all in the exercise of the director's reasonable discretion.
137 Nothing in this section is intended or shall be construed to
138 impose an obligation on the state to purchase, purchase, buy,
139 buy out or otherwise acquire or pay for any lodging unit
140 under this section, or to limit the right and ability of a private
141 party to donate or contribute his, her or its interest in and to
142 any lodging unit constructed under this section to the state or
143 any charitable foundation that may be established and
144 operating from time to time to support the continued
145 operation and development of Stonewall Jackson Lake State
146 Park;

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

151 (I) The director shall have the right to review and approve
152 the form and content of all contracts that may be entered into
153 pursuant to this subsection in connection with the
154 development, operation and maintenance of additional
155 lodging units at Stonewall Jackson Lake State Park.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



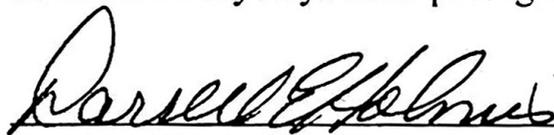
Chairman Senate Committee



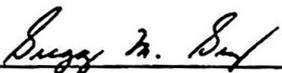
Chairman House Committee

Originating in the House.

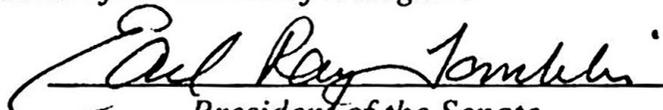
In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

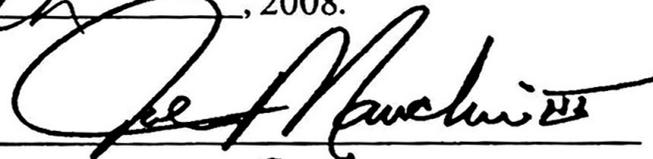


President of the Senate



Speaker of the House of Delegates

The within is approved this the 3/4
day of March, 2008.



Governor

PRESENTED TO THE GOVERNOR

MAR 26 2008

Time 3:05 pm