AN ACT concerning historic properties; relating to projects within the environs of such properties; amending K.S.A. 75-2729 and K.S.A. 2011 Supp. 75-2724 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 2011 Supp. 75-2724 is hereby amended to read as follows: 75-2724. (a) The state or any political subdivision of the state, or any instrumentality thereof, shall not undertake any project which will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property until the state historic preservation officer has been given notice, as provided herein, and an opportunity to investigate and comment upon the proposed project. Except as provided in subsection (b), notice to the state historic preservation officer shall be given by the state or any political subdivision of the state when the proposed project, or any portion thereof, is located within 500 feet of the boundaries of a historic property located within the corporate limits of a city, or within 1,000 feet of the boundaries of a historic property located in the unincorporated portion of a county. Notwithstanding the notice herein required, nothing in this section shall be interpreted as limiting the authority of the state historic preservation officer to investigate, comment and make the determinations otherwise permitted by this section regardless of the proximity of any proposed project to the boundaries of a historic property. The state historic preservation officer may solicit the advice and recommendations of the historic sites board of review with respect to such project and may direct that a public hearing or hearings be held thereon. Any such public hearing or hearings held pursuant to this subsection or held pursuant to authority delegated by the state historical preservation officer under subsection (e) or (f) or (g) shall be held within 60 days from the date of receipt of notice by the state historical preservation officer from the state or any political subdivision of the state as provided herein. If the state historic preservation officer determines, with or without having been given notice of the proposed project, that such proposed project will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places or the environs of such property, such project shall not proceed until:
(1) The governor, in the case of a project of the state or an instrumentality thereof, or the governing body of the political subdivision, in the case of a project of a political subdivision or an instrumentality thereof, has made a determination, based on a consideration of all relevant factors, that there is no feasible and prudent alternative to the proposal and that the program includes all possible planning to minimize harm to such historic property resulting from such use; and

(2) five days notice of such determination has been given, by certified mail, to the state historic preservation officer.

(b) The governing body of any city following a public hearing on the issue may adopt an ordinance exempting itself from review according to the provisions of subsection (a). The city governing body shall make a finding: (1) That the provisions of subsection (a) will have a detrimental effect on economic development of the city; and (2) adopt its own standards to ensure the integrity of historic property included in the national registry of historic places or the state register of historic places.

(c) Any person aggrieved by the determination of the governor pursuant to this section may seek review of such determination in accordance with the Kansas judicial review act. Any person aggrieved by the determination of a governing body pursuant to this section may seek review of such determination in accordance with K.S.A. 60-2101, and amendments thereto.

(d) The failure of the state historic preservation officer to initiate an investigation of any proposed project within 30 days from the date of receipt of notice thereof shall constitute such officer’s approval of such project.

(e) Failure of any person or entity to apply for and obtain the proper or required building or demolition permit before undertaking a project that will encroach upon, damage or destroy any historic property included in the national register of historic places or the state register of historic places, or the environs of such property, shall be subject to a civil penalty not to exceed $25,000 for each violation. The attorney general may seek such penalties and other relief through actions filed in district court.

(f) The state historic preservation officer may enter into an agreement authorizing a city or county to make recommendations or to perform any or all responsibilities of the state historic preservation officer under subsections (a), (b) and (c) and (d) if the state historic preservation officer determines that the city or county has enacted a comprehensive local historic preservation ordinance, established a local historic preservation board or commission and is actively engaged in a local historic preservation program. The agreement shall specify the authority delegated to the city or county by the state historic preservation officer.
officer, the manner in which the city or county shall report its decisions to
the state historic preservation officer, the conditions under which the city
or county can request assistance from the state historic preservation officer
in performing certain project reviews, the length of time the agreement is
to be valid and provisions for termination of the agreement. Such
agreement shall provide that the state historic preservation officer shall
retain final authority to implement the provisions of this act. The state
historic preservation officer shall adopt any rules and regulations
necessary to implement the provisions of this subsection.

(2) An agreement with a city or county authorized by this subsection
shall not be construed as limiting the authority of the state historic
preservation officer to investigate, comment and make determinations
otherwise permitted by this section.

(g) The state historic preservation officer may enter into
agreements with the state board of regents or any state educational
institution under the control and supervision of the state board of regents
to perform any or all responsibilities of the state historic preservation
officer under subsections (a), (b) and (c) and (d).

Sec. 2. K.S.A. 75-2729 is hereby amended to read as follows: 75-
2729. (a) (1) There is hereby established in the state treasury the heritage
trust fund. All moneys deposited in the heritage trust fund shall be used
for the purpose of awarding grants to assist historic preservation projects
involving property included in the national register of historic places or the
state register of historic places, excluding property owned by the state or
federal government, and shall be used by the state historical society for the
administration of the heritage trust fund program. At least 50% of the
amount awarded annually in grants shall be used for the preservation of
eligible properties owned by county and local governments, county and
local historical societies and by private nonprofit organizations. The state
historical society may also provide grant assistance from moneys in the
heritage trust fund on a matching basis and also may establish a revolving
fund loan program from moneys in such fund. The state historical society
may establish different matching fund requirements for the various types
of applicants, but the matching contributions required from for-profit
corporations shall be dollar for dollar. For-profit corporation applicants
shall be assisted only if the property's continued existence is threatened or
its rehabilitation is not economically feasible without grant assistance. The
state historical society shall ensure that such moneys are expended for the
purpose of this section, and may adopt rules and regulations as necessary
to carry out the purpose of this section.

(2) In evaluating grant applications involving historic preservation
projects under subsection (a)(1), the state historical society shall consider
the following factors: The level of historical significance of the property;
the condition of the property; the urgency of the preservation work proposed; whether or not the property is endangered; the type of work proposed; a geographical distribution of assisted properties; the administrative ability of the applicant; the potential benefit to the community and the state; community support for the project; ineligibility of the project for other funds; and an assessment of the need of the owner for the grant assistance to do the project. The fact that a city has exempted itself from provisions of subsection (a) of K.S.A. 75-2724, and amendments thereto, and established its own standards to protect historic properties shall have no effect on the evaluation of grant applications.

(3) (A) The state historical society shall establish provisions to recapture grant moneys in accordance with the following factors: If an approved rehabilitated building is held by the grantee for longer than five years after the completion of the grant project, there is no recapture of the grant funds; if the owner, or designated heir, in the case of the owner's death, disposes of the property after a holding period of less than one year after the completion of the grant project, 100% of the grant is recaptured; and for properties held between one and five years, the grant recapture amount is reduced by 20% per year.

(B) The state historical society may inspect a rehabilitated property at any time during the five-year period and may revoke or invalidate the approval if work was not undertaken as presented in the grant application or if further unapproved alterations have been made. Modifications made during the five-year period following the completion of the grant shall be made in accordance with standards established by the state historical society.

(b) On or before the 10th of each month, the director of accounts and reports shall transfer from the state general fund to the heritage trust fund interest earnings based on:

(1) The average daily balance of moneys in the heritage trust fund for the preceding month; and

(2) the net earnings rate for the pooled money investment portfolio for the preceding month.

(c) Except as otherwise provided in this section, all expenditures from the heritage trust fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary of the state historical society or a person designated by the secretary.

Sec. 3. K.S.A. 75-2729 and K.S.A. 2011 Supp. 75-2724 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.