

HOUSE BILL No. 2168

By Committee on Agriculture

2-4

AN ACT concerning state historic property; relating to farming and ranching operations; amending K.S.A. 75-2714, 75-2715, 75-2716, 75-2720 and 75-2721 and repealing the existing sections.

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

Section 1. K.S.A. 75-2714 is hereby amended to read as follows: 75-2714. (a) Each agency and political subdivision of this state shall cooperate with the state historical society in its administration of the property under the society's jurisdiction and control in order to preserve the historic character and integrity thereof. The society may enter into agreements with any such agency or subdivision, with any agency of the federal government or with any private individual or entity concerning the construction or proposed construction of any road, street, highway or structure which, due to its proximity to property under the society's jurisdiction and control, would compromise the historic character or integrity of such property.

(b) No agency or political subdivision of the state and no other entity shall exercise the power of eminent domain with respect to any property under the society's jurisdiction and control without the prior written approval of the society. *Except as otherwise provided*, no such agency, subdivision or entity and no other person shall change or alter, or cause to be changed or altered, the physical features or historic character or integrity of such property without the prior written approval of the society. Within 20 days after receipt of notice of the society's refusal to grant such approval, which notice shall be sent by registered or restricted mail, any party aggrieved by the decision of the society may make written application to the secretary of state for a hearing thereon. Such hearing shall be held by the secretary of state within 30 days after receipt of the application therefor and shall be conducted in accordance with the provisions of the Kansas administrative procedure act, with the applicant and the society as parties thereto. Following the hearing, the secretary of state shall enter an order affirming, reversing or modifying the decision of the society. The decision of the secretary of state shall be final. *Except as otherwise provided, in any unincorporated portion of a county, the approval of the society as required in this subsection shall only apply to such*

1 *changes or alterations that are to be made within 500 feet of the historical*
2 *property and does not apply to any such changes or alterations to be*
3 *made beyond 500 feet of such historical property. In addition, the ap-*
4 *proval of the society as required in this subsection shall not apply to any*
5 *such changes or alterations within 500 feet of such historical property if*
6 *such changes or alterations are consistent with generally accepted good*
7 *agricultural practices.*

8 (c) The attorney general, on relation of the state historical society or
9 the secretary of state, shall file an action in the appropriate district court
10 to enjoin any agency or political subdivision of the state or any other
11 person or entity from doing any act in contravention of an order of the
12 secretary of state or from doing any act contemplated by subsection (b)
13 of this section without the prior written approval of the state historical
14 society, unless authority to do such act has been granted by the secretary
15 of state pursuant to that subsection.

16 (d) *Nothing in this act shall prohibit an owner of property from con-*
17 *structing, remodeling or maintaining farm-related buildings, primary*
18 *domicile or changing agriculture related practices that are consistent with*
19 *generally accepted agricultural practices.*

20 Sec. 2. K.S.A. 75-2715 is hereby amended to read as follows: 75-
21 2715. The legislature hereby finds that the historical, architectural, ar-
22 cheological and cultural heritage of Kansas is an important asset of the
23 state and that its preservation and maintenance should be among the
24 highest priorities of government. It is therefore declared to be the public
25 policy and in the public interest of the state to engage in a comprehensive
26 program of historic preservation and to foster and promote the conser-
27 vation and use of historic property for the education, inspiration, pleasure
28 and enrichment of the citizens of Kansas *and at the same time taking into*
29 *consideration the necessity of owners of property to making alterations in*
30 *environs and structures that are consistent with ~~good~~ generally accepted*
31 *agricultural practices.*

32 Sec. 3. K.S.A. 75-2716 is hereby amended to read as follows: 75-
33 2716. As used in this act, unless the context otherwise requires:

34 (a) “Historic preservation” means the study, identification, protec-
35 tion, restoration and rehabilitation of buildings, structures, objects, dis-
36 tricts, areas and sites significant in the history, architecture, archeology
37 or culture of the state of Kansas, its communities or the nation.

38 (b) “Historic property” means any building, structure, object, district,
39 area or site that is significant in the history, architecture, archeology or
40 culture of the state of Kansas, its communities or the nation.

41 (c) “Project” includes: (1) Activities directly undertaken by the state
42 or any political subdivision of the state, or any instrumentality thereof;

43 (2) activities undertaken by a person which are supported in whole

1 or in part through grants, subsidies, loans or other forms of financial
2 assistance from the state or any political subdivision of the state, or any
3 instrumentality thereof; and

4 (3) activities involving the issuance of a lease, permit, license, certifi-
5 cate or other entitlement for use, to any person by the state or any po-
6 litical subdivision of the state, or any instrumentality thereof, *except pro-*
7 *ject as described in this subsection shall not include activities involving*
8 *the issuance of a lease, permit, license, certificate or other entitlement for*
9 *use related to changes or alternations that are consistent with generally*
10 *accepted agricultural practices.*

11 (d) “State or any political subdivision of the state” means the state of
12 Kansas, any office, department, agency, authority, bureau, commission,
13 board, institution, hospital, college or university of the state, or any
14 county, township, city, school district, special district, regional agency,
15 redevelopment agency or any other political subdivision of the state.

16 (e) “Person” means any individual, firm, association, organization,
17 partnership, business, trust, corporation or company.

18 Sec. 4. K.S.A. 75-2720 is hereby amended to read as follows: 75-
19 2720. The state historic sites board of review shall have the power and
20 duty to: (a) Approve nominations to the state and national registers of
21 historic places. *The board shall not approve any nomination of property*
22 *unless the owner of the property has approved adding such property to*
23 *the state or national registers of historic places, or both and unless the*
24 *owners of any property within 500 feet of such property to be nominated*
25 *have been provided notice at least 30 days prior to the board meeting in*
26 *which such nomination is approved.*

27 (b) Review the state survey of historic properties undertaken in ac-
28 cordance with the provisions of this act.

29 (c) Review the content of the state preservation plan developed in
30 accordance with the provisions of this act.

31 (d) Approve the removal of properties from the state register of his-
32 toric places.

33 (e) Recommend the removal of properties from the national register
34 of historic places.

35 (f) Otherwise act in an advisory capacity to the state historic preser-
36 vation agency.

37 (g) Upon request, to advise the legislature concerning matters relat-
38 ing to historic properties and historic preservation.

39 (h) Elect a chairman and vice-chairman and establish such rules of
40 procedure as it deems necessary.

41 Sec. 5. K.S.A. 75-2721 is hereby amended to read as follows: 75-
42 2721. (a) The state historical society shall have the following historic pres-
43 ervation powers and duties:

1 (1) Undertake a statewide survey to identify and document historic
2 properties, including all those owned by the state, its instrumentalities
3 and political subdivisions.

4 (2) Prepare and maintain a state register of historic places, which shall
5 include all those listed on the national register of historic places. The
6 historical society shall adopt standards for the listing and maintenance of
7 historic properties on the state register consistent with relevant federal
8 standards for preservation and care of historic properties. *Such standards*
9 *shall include a requirement that approval of the owner of the property is*
10 *required before the listing of the property on the state register of historic*
11 *places.*

12 (3) Prepare the state's preservation plan, review such plan annually
13 and make appropriate revisions.

14 (4) Within limits of available resources, acquire historic properties by
15 gift, purchase, devise or bequest; preserve, restore and administer such
16 properties; and transfer such properties when authorized by law.

17 (5) Establish standards and criteria for the acquisition of historic
18 properties and for the preservation, restoration, maintenance and oper-
19 ation of properties under the jurisdiction of the agency, and, when
20 deemed proper, to charge reasonable admission fees to such properties.

21 (6) Undertake the procedures necessary to qualify the state for partic-
22 ipation in sources of federal aid for historic preservation purposes.

23 (7) Provide information concerning historic properties within the
24 state to the agencies and instrumentalities of the federal, state and local
25 governments and, where appropriate, to private individuals and
26 organizations.

27 (8) Cooperate with federal, state and local government agencies in
28 the planning and conduct of specific undertakings affecting historic prop-
29 erties and preservation objectives and in overall land-use planning.

30 (9) Disburse federal and state funds to local governments and private
31 agencies and individuals for historic preservation work; establish stan-
32 dards of eligibility to receive such funds; and enter into maintenance
33 agreements with local governments and private agencies concerning his-
34 toric properties.

35 (10) Participate in national and international conferences and pro-
36 grams concerning historic preservation and cooperate with federal offi-
37 cials and agencies in the conduct of such activities.

38 (11) Subject to limitations of staff and resources, provide technical
39 and financial assistance to local historic preservation organizations and
40 private parties involved in historic preservation activities.

41 (12) Assist, where possible, in developing public interest in historic
42 preservation through the development and implementation of interpre-
43 tive programs for historic properties and through the management of the

1 state's historical marker program.

2 (13) Develop an ongoing program of historical, architectural and ar-
3 cheological research and development, to include continuing surveys, ex-
4 cavation, scientific recording, interpretation and publication of the state's
5 historical, architectural, archeological and cultural resources. A reasona-
6 ble charge may be made for publications.

7 (14) Request that the attorney general take action authorized under
8 subsection (d) of K.S.A. 75-2724 and amendments thereto against any
9 person or entities who fail to obtain any demolition or building permit
10 required by local or state law.

11 (b) The state historic preservation officer shall adopt rules and reg-
12 ulations to implement and administer the provisions of K.S.A. 75-2715
13 through 75-2725, and amendments thereto.

14 New Sec. 6. Nothing in the provisions of K.S.A. 75-2714 *et seq.*, and
15 amendments thereto, shall prevent an owner of property upon which
16 property registered on the state or national register of historic places is
17 located or any owner of any surrounding property from selling such prop-
18 erty. Upon a proposed sale by the owner of such property, a political
19 subdivision of the state with a historic preservation interest in such prop-
20 erty shall have a right of first refusal to purchase such property at the
21 offered purchase price to the owner.

22 Sec. 7. K.S.A. 75-2714, 75-2715, 75-2716, 75-2720 and 75-2721 are
23 hereby repealed.

24 Sec. 8. This act shall take effect and be in force from and after its
25 publication in the statute book.

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