

CHAPTER 74
HOUSE BILL No. 2531

AN ACT concerning state historic property; relating to agricultural use of land; amending K.S.A. 75-2714, 75-2715, 75-2716 and 75-2720 and repealing the existing sections.

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

New Section 1. (a) No provision of this act, or any rule and regulation promulgated thereunder, shall prohibit, hinder or otherwise restrict the agricultural use of any land used for agricultural purposes when such land is located within the environs of a historic property, whether proposed or established.

(b) No provision of this act shall prohibit, hinder or otherwise restrict an owner of any land used for agricultural purposes from constructing, erecting, remodeling or maintaining any agriculturally related building or structure located on such land.

(c) No provision of this act shall require an owner of any land used for agricultural purposes, or the owner's authorized agent, to change or modify the agricultural use of such land.

New Sec. 2. K.S.A. 75-2715 through 75-2725, and amendments thereto, and section 1 and this section, and amendments thereto, shall be known and may be cited as the historic preservation act.

Sec. 3. 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. 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~~ *subject to appeal in accordance with the provisions of the act for judicial review and civil enforcement of agency actions, K.S.A. 77-601 et seq., and amendments thereto.*

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

Sec. 4. K.S.A. 75-2715 is hereby amended to read as follows: 75-2715. The legislature hereby finds that the historical, architectural, archeological and cultural heritage of Kansas is an important asset of the state and that its preservation and maintenance should be among the highest priorities of government. It is therefore declared to be the public policy and in the public interest of the state to engage in a comprehensive program of historic preservation and to foster and promote the conservation and use of historic property for the education, inspiration, pleasure

and enrichment of the citizens of Kansas *taking into consideration land used for agricultural purposes located within the environs of any historic property.*

Sec. 5. K.S.A. 75-2716 is hereby amended to read as follows: 75-2716. As used in this act, unless the context otherwise requires:

(a) *“Land used for agricultural purposes”:*

(1) *Means land which is devoted to the production of plants, animals or horticultural products, including but not limited to forages; grains and feed crops; dairy animals and dairy products; poultry and poultry products; beef cattle, sheep, swine and horses; bees and apiary products; trees and forest products; fruits, nuts and berries; vegetables; or nursery, sod, floral, ornamental and greenhouse products;*

(2) *includes any road, water, watercourse and private way located upon or within the boundaries of such land and buildings, structures and machinery or equipment when attached to such land; and*

(3) *includes any farm home, including any associated farmyard, whenever any portion of such property is used for:*

(A) *Any of the activities listed in paragraph (1) of this subsection; or*

(B) *an agriculturally related business;*

(4) *includes any agricultural land used incidentally for recreational purposes; and*

(5) *includes any land used for agricultural purposes within the meaning of K.S.A. 12-758, 19-2908, 19-2921 and 19-2960 and amendments thereto.*

Except as provided in paragraph (4), land used for agricultural purposes shall not include land which is used for recreational purposes, suburban residential acreages, rural homes, including any associated farmyards, whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Land used for agricultural purposes which is located within 500 feet of a historic property shall be deemed to be located within the environs of such historic property.

(b) *“Historic preservation” means the study, identification, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas and sites significant in the history, architecture, archeology or culture of the state of Kansas, its communities or the nation.*

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

~~(c)~~ (d) *“Person” means any individual, firm, association, organization, partnership, business, trust, corporation or company.*

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

(2) *activities undertaken by a person which are supported in whole or in part through grants, subsidies, loans or other forms of financial assistance from the state or any political subdivision of the state, or any instrumentality thereof; and*

(3) *activities involving the issuance of a lease, permit, license, certificate or other entitlement for use, to any person by the state or any political subdivision of the state, or any instrumentality thereof.*

~~(d)~~ (f) *“Recreational purpose” shall have the meaning ascribed to it in K.S.A. 58-3202, and amendments thereto;*

(g) *“state or any political subdivision of the state” means the state of Kansas, any office, department, agency, authority, bureau, commission, board, institution, hospital, college or university of the state, or any county, township, city, school district, special district, regional agency, redevelopment agency or any other political subdivision of the state.*

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

Sec. 6. K.S.A. 75-2720 is hereby amended to read as follows: 75-2720. (a) The state historic sites board of review shall have the power and duty to: ~~(a)~~ (1) *Subject to the provisions of subsection (b), approve nominations to the state and national registers of historic places.*

~~(b)~~ (2) *Review the state survey of historic properties undertaken in accordance with the provisions of this act.*

~~(c)~~ (3) *Review the content of the state preservation plan developed in accordance with the provisions of this act.*

~~(d)~~ (4) *Approve the removal of properties from the state register of*

historic places.

~~(e)~~ (5) Recommend the removal of properties from the national register of historic places.

~~(f)~~ (6) Otherwise act in an advisory capacity to the state historic preservation agency.

~~(g)~~ (7) Upon request, to advise the legislature concerning matters relating to historic properties and historic preservation.

~~(h)~~ (8) Elect a chairman and vice-chairman and establish such rules of procedure as it deems necessary.

(b) The state historic sites board of review shall not consider or approve any nomination of historic property located in an unincorporated area of any county to either the state register of historic places or the national register of historic places unless owners of land located within 500 feet of the boundaries of a proposed historic property have been notified of the time and place of the board meeting at which such nomination is to be considered or approved. Notification shall be by mail or publication notice. Publication notice shall be published at least once each week for two consecutive weeks in a newspaper of general circulation in each county in which all, or any part, of the proposed historic property is located. The last publication shall be at least 30 days, but not more than 50 days, prior to the date of such board meeting. Whenever the state historic sites board of review submits a notice to a newspaper for publication under this subsection, such board shall, at the same time, also submit a copy of such notice to the secretary of the department of wildlife and parks.

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

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

Approved April 14, 2004.
