

## HOUSE BILL No. 2449

By Committee on Judiciary

1-16

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1 AN ACT concerning the historic preservation act; amending K.S.A. 2013  
2 Supp. 75-2724 and repealing the existing section.

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

5 Section 1. K.S.A. 2013 Supp. 75-2724 is hereby amended to read as  
6 follows: 75-2724. (a) The state or any political subdivision of the state, or  
7 any instrumentality thereof, shall not undertake any project which will  
8 damage or destroy any historic property included in the national register of  
9 historic places or the state register of historic places until the state historic  
10 preservation officer has been given notice, as provided herein, and an  
11 opportunity to investigate and comment upon the proposed project. Notice  
12 to the state historic preservation officer shall be given by the state or any  
13 political subdivision of the state when the proposed project, or any portion  
14 thereof, directly involves an historic property. Notwithstanding the notice  
15 herein required, nothing in this section shall be interpreted as limiting the  
16 authority of the state historic preservation officer to investigate, comment  
17 and make the determinations otherwise permitted by this section on a  
18 project directly involving an historic property. The state historic  
19 preservation officer may solicit the advice and recommendations of the  
20 historic sites board of review with respect to such project and may direct  
21 that a public hearing or hearings be held thereon. Any public hearing or  
22 hearings held pursuant to this subsection or held pursuant to authority  
23 delegated by the state historical preservation officer under subsection (e)  
24 or (f) shall be held within 60 days from the date of receipt of notice by the  
25 state historical preservation officer from the state or any political  
26 subdivision of the state as provided herein. If the state historic preservation  
27 officer determines, with or without having been given notice of the  
28 proposed project, that the proposed project will damage or destroy any  
29 historic property included in the national register of historic places or the  
30 state register of historic places, the project shall not proceed until:

31 (1) The governor, in the case of a project of the state or an  
32 instrumentality thereof, or the governing body of the political subdivision,  
33 in the case of a project of a political subdivision or an instrumentality  
34 thereof, has made a determination, based on a consideration of all relevant  
35 factors, that there is no feasible and prudent alternative to the proposal and  
36 that the program includes all possible planning substantial evidence, that

1 *the proposed project is planned* to minimize harm to such historic property  
2 resulting from such use; and

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

5 (b) Any ~~person~~ *applicant of the proposed project, and any owner of*  
6 *an historic property that the proposed project directly involves, who is*  
7 *aggrieved by the determination of the governor pursuant to this section*  
8 *may seek review of such determination in accordance with the Kansas*  
9 *judicial review act. Any ~~person~~ *applicant of the proposed project, and any*  
10 *owner of an historic property that the proposed project directly involves,*  
11 *who is aggrieved by the determination of a governing body pursuant to this*  
12 *section may seek review of such determination in accordance with K.S.A.*  
13 *60-2101, and amendments thereto.**

14 (c) The failure of the state historic preservation officer to initiate an  
15 investigation of any proposed project within 30 days from the date of  
16 receipt of notice thereof shall constitute such officer's approval of such  
17 project.

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

25 (e) (1) The state historic preservation officer may enter into an  
26 agreement authorizing a city or county to make recommendations or to  
27 perform any or all responsibilities of the state historic preservation officer  
28 under subsections (a), (b) and (c) if the state historic preservation officer  
29 determines that the city or county has enacted a comprehensive local  
30 historic preservation ordinance, established a local historic preservation  
31 board or commission and is actively engaged in a local historic  
32 preservation program. The agreement shall specify the authority delegated  
33 to the city or county by the state historic preservation officer, the manner  
34 in which the city or county shall report its decisions to the state historic  
35 preservation officer, the conditions under which the city or county can  
36 request assistance from the state historic preservation officer in performing  
37 certain project reviews, the length of time the agreement is to be valid and  
38 provisions for termination of the agreement. Such agreement shall provide  
39 that the state historic preservation officer shall retain final authority to  
40 implement the provisions of this act. The state historic preservation officer  
41 shall adopt any rules and regulations necessary to implement the  
42 provisions of this subsection.

43 (2) An agreement with a city or county authorized by this subsection

1 shall not be construed as limiting the authority of the state historic  
2 preservation officer to investigate, comment and make determinations  
3 otherwise permitted by this section.

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

9 Sec. 2. K.S.A. 2013 Supp. 75-2724 is hereby repealed.

10 Sec. 3. This act shall take effect and be in force from and after its  
11 publication in the statute book.