

## CHAPTER 11

## (HB 108)

AN ACT relating to the preservation of rock fences and making an appropriation therefor.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

*As used in Sections 1 to 3 of this Act:*

- (1) *"Council" means the Kentucky Heritage Council;*
- (2) *"Historic drylaid rock fence" means any drylaid stone fence or wall at least fifty (50) years old that was originally constructed from natural stones and without mortar;*
- (3) *"Historic mortared rock fence" means any rock fence at least fifty (50) years old that was originally constructed from natural stones and mortar; and*
- (4) *"Nonhistoric drylaid rock fence" means any rock fence constructed within the last fifty (50) years from natural stones and without mortar that the Kentucky Heritage Council certifies meets the guidelines for drystone masonry set forth by the Dry Stone Conservancy.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

*There is hereby established in the State Treasury a rock fence preservation fund, which shall be administered by the council. The fund may receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources, to be used for reconstruction and repair of the Commonwealth's historic drylaid rock fences and historic mortared rock fences.*

- (1) *Moneys deposited in the fund shall be disbursed by the State Treasurer under the Rock Fence Preservation Program established in Section 3 of this Act.*
- (2) *Fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year. Income earned from investment of the fund shall become part of the fund and shall not lapse.*
- (3) *Amounts deposited in the fund are hereby appropriated for the purposes set forth in Sections 1 to 3 of this Act, and in no case shall the funds be used for executive agency administrative costs.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

- (1) *The rock fence preservation program is established and shall be administered by the council. The council shall seek guidance on all technical issues regarding rock fence preservation from the Dry Stone Conservancy. The program shall provide funding for the preservation of historic drylaid rock fences and historic mortared rock fences.*
- (2) *The council shall promulgate administrative regulations in consultation with the Dry Stone Conservancy relating to the establishment of a grant program, including:*
  - (a) *Application and reporting procedures;*
  - (b) *Accountability criteria for grant recipients; and*
  - (c) *Grant appropriation amounts and eligible expenditures.*
- (3) *No funds from the program established in this section shall be utilized for restoration projects which utilize stone removed, harvested, or taken from other historic stone structures without prior approval of the Kentucky Heritage Council in consultation with the Dry Stone Conservancy.*

Section 4. KRS 171.381 is amended to read as follows:

- (1) The Kentucky Heritage Council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.
- (2) The duties and functions of the council shall be to:

- (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;
  - (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;
  - (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private;~~and~~
  - (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those ~~such~~ landmarks which possess statewide or national significance; **and**
  - (e) ***Conduct a survey and maintain a catalog of Kentucky's historic drylaid and historic mortared rock fences as defined in Section 1 of this Act.***
- (3) The council may:
- (a) Accept grants or other funds or property from any available source, public or private;
  - (b) Employ, with the approval of the Governor,~~such~~ staff as may be necessary. Any member of ***the***~~such~~ staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;
  - (c) Enter into~~such~~ contractual relationships as may be necessary;
  - (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;
  - (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and
  - (f) Adopt~~such~~ rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.
- (4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.
- (5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.
- (6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Commerce Cabinet. The director of the Heritage Division shall be the state historic preservation officer.
- (7) The responsibilities of the state historic preservation officer shall include:
- (a) Development for the State Historic Preservation Program;
  - (b) Direction of a comprehensive statewide survey of historic properties;
  - (c) Nomination of historic properties to the National Register of Historic Places;
  - (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
  - (e) Cooperation in the integration of historic preservation planning with all levels of planning;
  - (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
  - (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;

- (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
- (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
- (j) Development and operation of a program of public information and education concerning the preservation program;
- (k) Administration of the grants program within the state;
- (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and
- (m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Department for Local Government of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

**Approved March 19, 2007.**