

1 AN ACT relating to historical preservation.

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

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
4 READ AS FOLLOWS:

5 *Sections 1 to 9 of this Act may be cited as the Kentucky Memorial Preservation Act of*
6 *2018.*

7 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
8 READ AS FOLLOWS:

9 *As used in Sections 1 to 9 of this Act:*

10 *(1) "Committee" means the Committee on Kentucky Monument Protection created*
11 *in Section 5 of this Act;*

12 *(2) "Public property" means all property owned or leased by the State of Kentucky;*
13 *any county, municipal, or metropolitan government in the state; or any other*
14 *entity created by an act of the Kentucky General Assembly to perform any public*
15 *function; and*

16 *(3) The following definitions shall apply to all architecturally significant buildings,*
17 *memorial buildings, memorial schools, memorial streets, and monuments in the*
18 *Commonwealth that have been memorialized, established, named, dedicated, or*
19 *erected prior to 1960:*

20 *(a) "Architecturally significant building" means a building located on public*
21 *property that by its very nature, inherent design, or structure constitutes a*
22 *monument;*

23 *(b) "Memorial building" means a building, structure, park, or other*
24 *institution, other than a memorial school, that is located on public property*
25 *and has been erected for, or named or dedicated in honor of, an event, a*
26 *person, a group, a movement, or military service;*

27 *(c) "Memorial school" means a K-12 or two (2) year postsecondary institution*

1 or facility that is located on public property and has been erected for, or
 2 named or dedicated in honor of, an event, a person, a group, a movement,
 3 or military service prior to;

4 (d) "Memorial street" means a street that is located on public property and has
 5 been constructed for, or named or dedicated in honor of, an event, a person,
 6 a group, a movement, or military service; and

7 (e) "Monument":

8 1. Means a statue, portrait, or marker intended at the time of dedication
 9 to be a permanent memorial to an event, a person, a group, a
 10 movement, or military service that is part of the history of the people
 11 or geography now comprising the State of Kentucky; and

12 2. Does not include signage bearing historical interpretive text,
 13 commonly known as a historical marker or wayside exhibit, or
 14 portraits or plaques installed by temporary means and not intended to
 15 be permanent at the time of installation.

16 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
 17 READ AS FOLLOWS:

18 An architecturally significant building, memorial building, memorial school,
 19 memorial street, or monument that is located on public property shall not be relocated,
 20 removed, altered, renamed, or otherwise disturbed, except as provided in Section 7 of
 21 this Act.

22 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
 23 READ AS FOLLOWS:

24 No person may prevent the governmental entity having responsibility for maintaining
 25 any architecturally significant building, memorial building, memorial school,
 26 memorial street, or monument from taking proper and appropriate measures, and
 27 exercising proper and appropriate means, for the protection, preservation, care, repair,

1 or restoration of the building, school, street, or monument.

2 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
3 READ AS FOLLOWS:

4 (1) The Committee on Kentucky Monument Protection is created, and the appointing
5 authorities shall coordinate their appointments to ensure committee membership
6 is inclusive and reflects the racial, gender, geographic, urban, rural, and
7 economic diversity of the state. Members shall be appointed as follows:

8 (a) The Speaker of the House of Representative shall appoint:

9 1. Two (2) members of the House of Representatives, one (1) from the
10 majority party and one (1) from the minority party; and

11 2. One (1) member of the public;

12 (b) The President of the Senate shall appoint:

13 1 Two (2) members of the Senate, one (1) from the majority party and
14 one (1) from the minority party; and

15 2. One (1) member of the public; and

16 (c) The Governor shall appoint:

17 1. Two (2) members of the public;

18 2. One (1) currently serving county judge/executive;

19 3. One (1) currently serving mayor of a city, urban-county government,
20 charter county government, consolidated local government, or unified
21 local government of the first class as established in KRS 81.005; and

22 4. One (1) currently serving mayor of a city, urban-county government,
23 charter county government, consolidated local government, or unified
24 local government of the home rule class as established in KRS 81.005.

25 (2) (a) The legislative members of the committee shall be appointed at the
26 beginning of the regular session of the General Assembly every four (4)
27 years beginning in 2019, and shall be nonvoting members of the committee.

- 1 (b) The public members of the committee shall be appointed by September 1,
2 beginning in 2019, and shall serve for terms of four (4) years that expire on
3 September 30, except that initial terms shall be staggered as provided in
4 subsection (4) of this section.
- 5 (c) The county judge/executive and mayors shall be appointed by September 1,
6 2019, and each shall serve a four (4) year term or until he or she no longer
7 holds office, whichever occurs first.
- 8 (3) To assist the appointing authorities in the process of appointing public members
9 to the committee, each of the following entities may submit a list of no more than
10 three (3) names to the Speaker of the House of Representatives, three (3) names
11 to the President of the Senate, and three (3) names to the Governor for
12 consideration for appointment:
- 13 (a) The Kentucky Historical Society;
14 (b) The Historic Properties Advisory Commission;
15 (c) The Kentucky Department of Parks;
16 (d) The Kentucky African-American Heritage Commission;
17 (e) The Department for Libraries and Archives;
18 (f) The Tourism, Arts and Heritage Cabinet;
19 (g) The Department of Military Affairs; and
20 (h) The Council on Postsecondary Education.
- 21 (4) The four (4) initially appointed public members shall draw lots to determine
22 which two (2) of those members shall serve an initial term of two (2) years
23 expiring on September 30, 2021, and which two (2) of those members shall serve
24 an initial term of four (4) years expiring on September 30, 2023.
- 25 (5) The committee shall hold an initial organizational meeting before October 1,
26 2019, at which time the members shall select a chair and a vice chair, who shall
27 serve in those positions for one (1) year.

1 (6) The committee shall meet at least once each year, during the month of October,
2 to select a chair and vice chair. Thereafter, the committee shall meet at the call of
3 the chair or any majority of the members of the committee. The committee shall
4 have a continuing existence and may meet, act, and conduct committee business
5 at any place within this state.

6 (7) Public members shall begin serving immediately upon appointment. Each public
7 member is subject to confirmation by the Senate during the next regular session
8 of the General Assembly after the appointment is made. A public member
9 appointee may serve in the position pending confirmation by the Senate. Failure
10 of the Senate to act on the appointment during the next regular session of the
11 General Assembly shall constitute confirmation by the Senate.

12 (8) Each member of the committee shall:

13 (a) Serve after the expiration of his or her term until his or her successor is
14 appointed or the member is reappointed to serve one (1) additional term
15 only; and

16 (b) Be reimbursed for actual expenses, which shall include meals, lodging, and
17 mileage.

18 (9) The Committee on Kentucky Monument Protection shall be administered by the
19 Division of Historic Properties within the Department for Facilities and Support
20 Services in the Finance and Administration Cabinet.

21 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) The committee shall perform all duties prescribed by Sections 1 to 9 of this Act.

24 (2) The chair of the committee may create advisory subcommittees and appoint
25 persons to a subcommittee, which may include:

26 (a) Members of the committee;

27 (b) Representatives from governmental agencies; and

1 (c) Members of the public with interest and expertise in the objectives of the
2 committee.

3 (3) The chair of the committee shall create no more than two (2) active advisory
4 subcommittees at any given time, unless the committee as a whole votes
5 unanimously for additional subcommittees.

6 (4) Members of a subcommittee shall be reimbursed for actual expenses, which shall
7 include meals, lodging, and mileage.

8 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
9 READ AS FOLLOWS:

10 (1) Any entity exercising control of public property on which an architecturally
11 significant building, memorial building, memorial school, memorial street, or
12 monument is located may petition the committee for a waiver to relocate, remove,
13 alter, disturb, or rename any property protected under Section 3 of this Act
14 through an application that includes, at a minimum, the following:

15 (a) A resolution by the controlling entity seeking a waiver for the relocation,
16 removal, alteration, renaming, or other disturbance of the architecturally
17 significant building, memorial building, memorial school, memorial street,
18 or monument and the reasons for the request for a waiver;

19 (b) Written documentation of the origin of the architecturally significant
20 building, memorial building, memorial school, memorial street, or
21 monument; the intent of the sponsoring entity at the time of dedication;
22 and any subsequent alteration, renaming, or other disturbance of the
23 architecturally significant building, memorial building, memorial school,
24 memorial street or monument; and

25 (c) A written statement of any facts that were not known at the time of the
26 origin of the architecturally significant building, memorial building,
27 memorial school, memorial street, or monument, but are now known, that

1 the committee should consider in granting the waiver. The absence of such
2 facts shall serve as a presumption against the granting of a waiver by the
3 committee.

4 (2) If the committee grants a waiver, the committee may provide reasonable
5 conditions and instructions to ensure that the architecturally significant building,
6 memorial building, memorial school, memorial street, or monument is restored
7 or preserved to the greatest extent possible.

8 (3) If the committee fails to act on a completed application for a waiver within ninety
9 (90) days after the application is submitted to the committee, the waiver shall be
10 deemed granted.

11 (4) If the Attorney General determines that an entity exercising control of public
12 property has:

13 (a) Relocated, removed, altered, renamed, or otherwise disturbed an
14 architecturally significant building, memorial building, memorial school,
15 memorial street, or monument on public property without first obtaining a
16 waiver from the committee as required by this section; or

17 (b) Failed to comply with the conditions and instructions issued by the
18 committee upon the grant of a waiver under this section;

19 then the controlling entity shall be fined twenty-five thousand dollars (\$25,000)
20 for each violation. The fine shall be collected by the Attorney General, forwarded
21 by his or her office to the State Treasurer, and deposited into the historic
22 properties endowment trust fund established in subsection (7) of Section 10 of
23 this Act.

24 (5) Judicial review of the final decision of the committee or of findings made by the
25 Attorney General may be sought in accordance with KRS 13B.140.

26 (6) If there is a need for emergency repairs to or construction at the site of an
27 architecturally significant building, memorial building, memorial school,

1 memorial street, monument, or an adjacent property:

2 (a) The controlling entity may temporarily relocate or otherwise protect the
 3 architecturally significant building, memorial building, memorial school,
 4 memorial street, or monument without seeking a waiver under the process
 5 provided in this section; and

6 (b) The architecturally significant building, memorial building, memorial
 7 school, memorial street, or monument shall be returned to its prior location
 8 or condition, or both, as soon as safely and reasonably possible, and no
 9 later than one (1) year after the completion of the repair or construction. If
 10 the repairs or construction is expected to take more than one (1) year, the
 11 controlling entity shall seek a waiver under the process specified in this
 12 section.

13 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
 14 READ AS FOLLOWS:

15 Sections 1 to 9 of this Act shall not apply to the following:

16 (1) Art and artifacts in the collections of museums, archives, and libraries; and

17 (2) Any architecturally significant building, memorial building, memorial school,
 18 memorial street, or monument that is:

19 (a) Located on public property under the control of or acquired by the
 20 Kentucky Department of Transportation, which may interfere with the
 21 construction, maintenance, or operation of the public transportation
 22 system. The Department of Transportation shall strive to ensure that any
 23 architecturally significant building, memorial building, memorial school,
 24 memorial street, or monument is preserved to the greatest extent possible;

25 (b) Located on public property under the control of or acquired by a county or
 26 municipal body or a university, which may interfere with the construction,
 27 maintenance, or operation of the public transportation system. The

1 governing body of the county, municipality, or university shall strive to
 2 ensure that any architecturally significant building, memorial building,
 3 memorial school, memorial street, or monument is preserved to the greatest
 4 extent possible; or

5 (c) Located on public property operated or used by a utility, which may
 6 interfere with providing utility service. The utility shall strive to ensure that
 7 any architecturally significant building, memorial building, memorial
 8 school, memorial street, or monument is preserved to the greatest extent
 9 possible.

10 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO
 11 READ AS FOLLOWS:

12 The Division of Historic Properties shall promulgate administrative regulations under
 13 KRS Chapter 13A for the implementation of Sections 1 to 9 of this Act.

14 ➔Section 10. KRS 11.026 is amended to read as follows:

15 (1) As used in this section, "state curator" means the director of the Division of Historic
 16 Properties within the Department for Facilities and Support Services in the Finance
 17 and Administration Cabinet with responsibilities for the preservation, restoration,
 18 acquisition, and conservation of all decorations, objects of art, chandeliers, china,
 19 silver, statues, paintings, furnishings, accouterments, and other aesthetic materials
 20 that have been acquired, donated, loaned, and otherwise obtained by the
 21 Commonwealth of Kentucky for the Executive Mansion, the Old Governor's
 22 Mansion, the Vest Lindsey House, the New State Capitol, and other historic
 23 properties under the control of the Finance and Administration Cabinet.

24 (2) The Historic Properties Advisory Commission is established to provide continuing
 25 attention to the maintenance, furnishings, and repairs of the Executive Mansion, Old
 26 Governor's Mansion, the Vest Lindsey House, and New State Capitol. The
 27 commission shall be attached to the Finance and Administration Cabinet for

1 administrative purposes.

2 (3) The commission shall consist of fourteen (14) members, one (1) of whom shall be
3 the director of the Kentucky Heritage Council. It is recommended that one (1) shall
4 be the state curator, one (1) shall be the executive director of the Kentucky
5 Historical Society, one (1) shall be a resident of Franklin County with experience in
6 restoration, one (1) shall be the director of the Executive Mansion, one (1) shall be
7 the director of the Old Governor's Mansion, and the remainder of the membership
8 shall be selected from the state-at-large from persons with experience in historical
9 restoration.

10 (4) The officers of the commission shall consist of a chair~~chairman~~, who shall be
11 appointed by the Governor, and a secretary, who shall be responsible for the keeping
12 of the records and administering the directions of the commission. The state curator
13 of the Commonwealth of Kentucky shall serve as the secretary of the commission. A
14 member of the Governor's family may serve as an honorary, nonvoting member of
15 the commission. A simple majority of the membership shall constitute a quorum for
16 the transaction of business by the commission.

17 (5) The public members of the commission shall be appointed by the Governor and shall
18 serve terms of four (4) years except that of the members initially appointed, two (2)
19 members shall serve terms of one (1) year; two (2) members shall serve terms of two
20 (2) years; one (1) member shall serve a term of three (3) years; and one (1) member
21 shall serve a term of four (4) years. The executive director of the Historical Society
22 and director of the Executive Mansion shall serve on the commission in an ex officio
23 capacity. The persons holding the offices of executive director of the Historical
24 Society, director of the Executive Mansion, director of the Kentucky Heritage
25 Council, and state curator shall serve terms concurrent with holding their respective
26 offices.

27 (6) Each commission member shall be reimbursed for his or her necessary travel and

1 other expenses actually incurred in the discharge of his *or her* duties on the
2 commission.

3 (7) There is established in the State Treasury a historic properties endowment trust fund
4 which shall be administered by the director of the Division of Historic Properties
5 under the supervision of the Commissioner of the Department for Facilities and
6 Support Services. The fund may receive state appropriations, gifts, grants, ~~and~~
7 federal funds, and fines collected under Section 7 of this Act, and shall be
8 disbursed by the State Treasurer upon warrant of the secretary of finance and
9 administration. The fund shall be used for carrying out the functions of the Division
10 of Historic Properties. The Division of Historic Properties may publish written
11 material pertaining to historic properties of the state and charge and collect a
12 reasonable fee for any such publications. The proceeds shall be deposited to the
13 credit of the fund and after paying the costs of publication, the balance of the
14 proceeds shall be used for purposes specified in KRS 11.027.

15 (8) In addition to the historic properties endowment trust fund, there shall be established
16 in the State Treasury a separate and distinct endowment trust fund known as the Ida
17 Lee Willis-Vest Lindsey House endowment trust fund, which shall be jointly
18 administered by the director of the Kentucky Heritage Council and the director of
19 the Division of Historic Properties under the supervision of the commissioner of the
20 Department for Facilities and Support Services. The fund may receive state
21 appropriations, gifts, grants, and federal funds and shall be disbursed by the State
22 Treasurer upon warrant of the secretary of finance and administration. The fund shall
23 be used solely for the benefit of, or related to, the Vest Lindsey House, including but
24 not limited to building maintenance and repairs, structural restoration or renovation,
25 acquisition and maintenance of furnishings or decorations, and the development of
26 interpretative materials regarding the historical and architectural significance of the
27 Vest Lindsey House and its relation to other sites in the North Frankfort area. The

1 creation of the Ida Lee Willis-Vest Lindsey House endowment trust fund is intended
2 to be a supplemental source of funds and in no way restricts the expenditure of funds
3 from the historic properties endowment trust fund or any state fund for the benefit of
4 the Vest Lindsey House.