



in its entirety—**The National Historic Preservation Act of 1966, (reference FPB Annual Report, PROGRAM, F. Historical and Natural Features) as amended through 2000**

With annotations, provided by Historic Preservation Services (HPS)

[This Act became law on October 15, 1966 (Public Law 89-665; 16 U.S.C. 470 et seq.). Subsequent amendments to the Act include Public Law 91-243, Public Law 93-54, Public Law 94-422, Public Law 94-458, Public Law 96-199, Public Law 96-244, Public Law 96-515, Public Law 98-483, Public Law 99-514, Public Law 100-127, Public Law 102-575, Public Law 103-437, Public Law 104-333, Public Law 106-113, Public Law 106-176, Public Law 106-208, and Public Law 106-355. This description of the Act, as amended, tracts the language of the United States Code except that (in following common usage) we refer to the “Act”(meaning the Act, as amended) rather than to the “subchapter” or the “title” of the Code. This description also excludes some of the notes found in the Code as well as those sections of the amendments dealing with completed reports. Until the Code is updated through the end of the 106th Congress, the Code citations for Sections 308 and 309 are speculative.]

AN ACT to Establish a Program for the Preservation of Additional Historic Properties throughout the Nation, and for Other Purposes.

Section 1

[16 U.S.C. 470 — Short title of the Act]

(a) This Act may be cited as the “**National Historic Preservation Act**”.

[Purpose of the Act]

(b) The Congress finds and declares that - —

- (1) the spirit and direction of the Nation are founded upon and reflected in its historic heritage;
- (2) the historical and cultural foundations of the Nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people;
- (3) historic properties significant to the Nation’s heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (4) the preservation of this irreplaceable heritage is in the public interest so that its vital legacy of cultural, educational, aesthetic, inspirational, economic, and energy benefits will be maintained and enriched for future generations of Americans;
- (5) in the face of ever-increasing extensions of urban centers, highways, and residential, commercial, and industrial developments, the present governmental and nongovernmental historic preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation;
- (6) the increased knowledge of our historic resources, the establishment of better means of identifying and administering them, and the encouragement of their



preservation will improve the planning and execution of Federal and federally assisted projects and will assist economic growth and development; and

- (7) although the major burdens of historic preservation have been borne and major efforts initiated by private agencies and individuals, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its historic preservation programs and activities, to give maximum encouragement to agencies and individuals undertaking preservation by private means, and to assist State and local governments and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

Section 2

[16 U.S.C. 470-1 — Declaration of policy of the Federal Government]

It shall be the policy of the Federal Government, in cooperation with other nations and in partnership with the States, local governments, Indian tribes, and private organizations and individuals to —

- (1) use measures, including financial and technical assistance, to foster conditions under which our modern society and our prehistoric and historic resources can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations;
- (2) provide leadership in the preservation of the prehistoric and historic resources of the United States and of the international community of nations and in the administration of the national preservation program in partnership with States, Indian tribes, Native Hawaiians, and local governments;
- (3) administer federally owned, administered, or controlled prehistoric and historic resources in a spirit of stewardship for the inspiration and benefit of present and future generations;
- (4) contribute to the preservation of nonfederally owned prehistoric and historic resources and give maximum encouragement to organizations and individuals undertaking preservation by private means;
- (5) encourage the public and private preservation and utilization of all usable elements of the Nation's historic built environment; and
- (6) assist State and local governments, Indian tribes and Native Hawaiian organizations and the National Trust for Historic Preservation in the United States to expand and accelerate their historic preservation programs and activities.

TITLE I

Section 101

[16 U.S.C. 470a(a) — National Register of Historic Places, expansion and maintenance]

- (a) (1) (A) The Secretary of the Interior is authorized to expand and maintain a National Register of Historic Places composed of districts, sites, buildings, structures, and objects significant in American history, architecture, archaeology, engineering, and culture. Notwithstanding section 1125(c) of Title 15 [of the U.S. Code], buildings and structures on or eligible for inclusion on the National Register of Historic Places (either individually or as part of a historic district),



or designated as an individual landmark or as a contributing building in a historic district by a unit of State or local government, may retain the name historically associated with the building or structure.

[National Historic Landmarks, designation]

(B) Properties meeting the criteria for National Historic Landmarks established pursuant to paragraph (2) shall be designated as “National Historic Landmarks” and included on the National Register, subject to the requirements of paragraph (6). All historic properties included on the National Register on December 12, 1980 [the date of enactment of the National Historic Preservation Act Amendments of 1980], shall be deemed to be included on the National Register as of their initial listing for purposes of this Act. All historic properties listed in the Federal Register of February 6, 1979, as “National Historic Landmarks” or thereafter prior to the effective date of this Act are declared by Congress to be National historic Landmarks of national historic significance as of their initial listing as such in the Federal Register for purposes of this Act and the Act of August 21, 1935 (49 Stat.666) [16 U.S.C. 461 to 467]; except that in cases of National Historic Landmark districts for which no boundaries have been established, boundaries must first be published in the Federal Register.

[Criteria for National Register and National Historic Landmarks and regulations]

(2) The Secretary in consultation with national historic and archaeological associations, shall establish or revise criteria for properties to be included on the National Register and criteria for National Historic Landmarks, and shall also promulgate or revise regulations as may be necessary for —

- (A) nominating properties for inclusion in, and removal from, the National Register and the recommendation of properties by certified local governments;
- (B) designating properties as National Historic Landmarks and removing such designation;
- (C) considering appeals from such recommendations, nomination, removals, and designations (or any failure or refusal by a nominating authority to nominate or designate);
- (D) nominating historic properties for inclusion in the World Heritage List in accordance with the terms of the Convention concerning the Protection of the World Cultural and Natural Heritage;
- (E) making determinations of eligibility of properties for inclusion on the National Register; and
- (F) notifying the owner of a property, any appropriate local governments, and the general public, when the property is being considered for inclusion on the National Register, for designation as a National Historic Landmark or for nomination to the World Heritage List.

[Nominations to the National Register]

(3) Subject to the requirements of paragraph (6), any State which is carrying out a program approved under subsection (b) of this section, shall nominate to the



Secretary properties which meet the criteria promulgated under subsection (a) of this section for inclusion on the National Register. Subject to paragraph (6), any property nominated under this paragraph or under section 110 (a)(2) of this Act shall be included on the National Register on the date forty-five days after receipt by the Secretary of the nomination and the necessary documentation, unless the Secretary disapproves such nomination within such forty-five day period or unless an appeal is filed under paragraph (5).

[Nominations from individuals and local governments]

- (4) Subject to the requirements of paragraph (6) the Secretary may accept a nomination directly from any person or local government for inclusion of a property on the National Register only if such property is located in a State where there is no program approved under subsection (b) of this section. The Secretary may include on the National Register any property for which such a nomination is made if he determines that such property is eligible in accordance with the regulations promulgated under paragraph (2). Such determinations shall be made within ninety days from the date of nomination unless the nomination is appealed under paragraph (5).

[Appeals of nominations]

- (5) Any person or local government may appeal to the Secretary a nomination of any historic property for inclusion on the National Register and may appeal to the Secretary the failure or refusal of a nominating authority to nominate a property in accordance with this subsection.

[Owner participation in nomination process]

- (6) The Secretary shall promulgate regulations requiring that before any property or district may be included on the National Register or designated as a National Historic Landmark, the owner or owners of such property, or a majority of the owners of the properties within the district in the case of an historic district, shall be given the opportunity (including a reasonable period of time) to concur in, or object to, the nomination of the property or district for such inclusion or designation. If the owner or owners of any privately owned property, or a majority of the owners of such properties within the district in the case of an historic district, object to such inclusion or designation, such property shall not be included on the National Register or designated as a National Historic Landmark until such objection is withdrawn. The Secretary shall review the nomination of the property or district where any such objection has been made and shall determine whether or not the property or district is eligible for such inclusion or designation, and if the Secretary determines that such property or district is eligible for such inclusion or designation, he shall inform the Advisory Council on Historic Preservation, the appropriate State Historic Preservation Officer, the appropriate chief elected local official and the owner or owners of such property, of his determination. The regulations under this paragraph shall include provisions to carry out the purposes of this paragraph in the case of multiple ownership of a single property.

[Regulations for curation, documentation, and local government certification]

- (7) The Secretary shall promulgate, or revise, regulations —
- (A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 110 of this Act [16 U.S.C. 470h-2], the Act of June



27, 1960 (16 U.S.C. 469c), and the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa and following) are deposited in an institution with adequate long-term curatorial capabilities;

(B) establishing a uniform process and standards for documenting historic properties by public agencies and private parties for purposes of incorporation into, or complementing, the national historic architectural and engineering records within the Library of Congress; and

(C) certifying local governments, in accordance with subsection (c)(1) of this section and for the allocation of funds pursuant to section 103 (c) of this Act [16 U.S.C. 470c(c)].

[Review threats to eligible and listed properties and recommend action]

(8) The Secretary shall, at least once every 4 years, in consultation with the Council and with State Historic Preservation Officers, review significant threats to properties included in, or eligible for inclusion on, the National Register, in order to —

(A) determine the kinds of properties that may be threatened;

(B) ascertain the causes of the threats; and

(C) develop and submit to the President and Congress recommendations for appropriate action.

[16 U.S.C. 470a(b) — State Historic Preservation Programs]

(b) (1) The Secretary, in consultation with the National Conference of State Historic Preservation Officers and the National Trust for Historic Preservation, shall promulgate or revise regulations for State Historic Preservation Programs. Such regulations shall provide that a State program submitted to the Secretary under this section shall be approved by the Secretary if he determines that the program

[Designation of the State Historic Preservation Officer (SHPO)]

(A) provides for the designation and appointment by the Governor of a “State Historic Preservation Officer” to administer such program in accordance with paragraph (3) and for the employment or appointment by such officer of such professionally qualified staff as may be necessary for such purposes;

[Designation of the State Review Board]

(B) provides for an adequate and qualified State historic preservation review board designated by the State Historic Preservation Officer unless otherwise provided for by State law; and

(C) provides for adequate public participation in the State Historic Preservation Program, including the process of recommending properties for nomination to the National Register.

[Review of State programs]

(2) (A) Periodically, but not less than every 4 years after the approval of any State program under this subsection, the Secretary, in consultation with the Council on the appropriate provisions of this Act, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this Act.



- (B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this Act, the Secretary shall disapprove the program and suspend in whole or in part any contracts or cooperative agreements with the State and the State Historic Preservation Officer under this Act, until the program is consistent with this Act, unless the Secretary determines that the program will be made consistent with this Act within a reasonable period of time.
- (C) The Secretary, in consultation with State Historic Preservation Officers, shall establish oversight methods to ensure State program consistency and quality without imposing undue review burdens on State Historic Preservation Officers.
- (D) At the discretion of the Secretary, a State system of fiscal audit and management may be substituted for comparable Federal systems so long as the State system —
 - (i) establishes and maintains substantially similar accountability standards; and
 - (ii) provides for independent professional peer review.

The Secretary may also conduct periodic fiscal audits of State programs approved under this section as needed and shall ensure that such programs meet applicable accountability standards.

[SHPO responsibilities]

- (3) It shall be the responsibility of the State Historic Preservation Officer to administer the State Historic Preservation Program and to —
 - (A) in cooperation with Federal and State agencies, local governments, and private organizations and individuals, direct and conduct a comprehensive statewide survey of historic properties and maintain inventories of such properties;
 - (B) identify and nominate eligible properties to the National Register and otherwise administer applications for listing historic properties on the National Register;
 - (C) prepare and implement a comprehensive statewide historic preservation plan;
 - (D) administer the State program of Federal assistance for historic preservation within the State;
 - (E) advise and assist, as appropriate, Federal and State agencies and local governments in carrying out their historic preservation responsibilities;
 - (F) cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development;
 - (G) provide public information, education, and training, and technical assistance in historic preservation;



- (H) cooperate with local governments in the development of local historic preservation programs and assist local governments in becoming certified pursuant to subsection (c) of this section;
- (I) consult with the appropriate Federal agencies in accordance with this Act on —
 - (i) Federal undertakings that may affect historic properties; and
 - (ii) the content and sufficiency of any plans developed to protect, manage, or to reduce or mitigate harm to such properties; and
- (J) advise and assist in the evaluation of proposals for rehabilitation projects that may qualify for Federal assistance.

[Arrangements with nonprofit organizations]

- (4) Any State may carry out all or any part of its responsibilities under this subsection by contract or cooperative agreement with any qualified nonprofit organization or educational institution.

[Approval of existing programs]

- (5) Any State historic preservation program in effect under prior authority of law may be treated as an approved program for purposes of this subsection until the earlier of —
 - (A) the date on which the Secretary approves a program submitted by the State under this subsection, or
 - (B) three years after October 30, 1992 [the date of the enactment of the National Historic Preservation Act Amendments of 1992].

[Contracts or cooperative agreements with State Historic Preservation Officers]

- (6) (A) Subject to subparagraphs (C) and (D), the Secretary may enter into contracts or cooperative agreements with a State Historic Preservation Officer for any State authorizing such Officer to assist the Secretary in carrying out one or more of the following responsibilities within that State —
 - (i) Identification and preservation of historic properties.
 - (ii) Determination of the eligibility of properties for listing on the National Register.
 - (iii) Preparation of nominations for inclusion on the National Register.
 - (iv) Maintenance of historical and archaeological data bases.
 - (v) Evaluation of eligibility for Federal preservation incentives.

Nothing in this paragraph shall be construed to provide that any State Historic Preservation Officer or any other person other than the Secretary shall have the authority to maintain the National Register for properties in any State.

- (B) The Secretary may enter into a contract or cooperative agreement under subparagraph (A) only if —
 - (i) the State Historic Preservation Officer has requested the additional responsibility;
 - (ii) the Secretary has approved the State historic preservation program pursuant to subsection (b)(1) and (2) of this section;



- (iii) the State Historic Preservation Officer agrees to carry out the additional responsibility in a timely and efficient manner acceptable to the Secretary and the Secretary determines that such Officer is fully capable of carrying out such responsibility in such manner;
 - (iv) the State Historic Preservation Officer agrees to permit the Secretary to review and revise, as appropriate in the discretion of the Secretary, decisions made by the Officer pursuant to such contract or cooperative agreement; and
 - (v) the Secretary and the State Historic Preservation Officer agree on the terms of additional financial assistance to the State, if there is to be any, for the costs of carrying out such responsibility.
- (C) For each significant program area under the Secretary's authority, the Secretary shall establish specific conditions and criteria essential for the assumption by State Historic Preservation Officers of the Secretary's duties in each such program.
- (D) Nothing in this subsection shall have the effect of diminishing the preservation programs and activities of the National Park Service.

[16 U.S.C. 470a(c) — Certification of local governments]

- (c) (1) Any State program approved under this section shall provide a mechanism for the certification by the State Historic Preservation Officer of local governments to carry out the purposes of this Act and provide for the transfer, in accordance with section 103(c) of this Act [16 U.S.C. 470c(c)], of a portion of the grants received by the States under this Act, to such local governments. Any local government shall be certified to participate under the provisions of this section if the applicable State Historic Preservation Officer, and the Secretary, certifies that the local government —
- (A) enforces appropriate State or local legislation for the designation and protection of historic properties;
 - (B) has established an adequate and qualified historic preservation review commission by State or local legislation;
 - (C) maintains a system for the survey and inventory of historic properties that furthers the purposes of subsection (b) of this section;
 - (D) provides for adequate public participation in the local historic preservation program, including the process of recommending properties for nomination to the National Register; and
 - (E) satisfactorily performs the responsibilities delegated to it under this Act.

Where there is no approved State program, a local government may be certified by the Secretary if he determines that such local government meets the requirements of subparagraphs (A) through (E); and in any such case the Secretary may make grants-in-aid to the local government for purposes of this section.

[Participation of certified local governments in National Register nominations]

- (2) (A) Before a property within the jurisdiction of the certified local government may be considered by the State to be nominated to the Secretary for inclusion on the National Register, the State Historic Preservation Officer shall notify the owner, the applicable chief local elected official, and the local historic preservation commission. The commission, after reasonable opportunity for public comment, shall prepare a report as to whether or not such property, in its opinion, meets the criteria of the National Register. Within sixty days of



notice from the State Historic Preservation Officer, the chief local elected official shall transmit the report of the commission and his recommendation to the state Historic Preservation Officer. Except as provided in subparagraph (B), after receipt of such report and recommendation, or if no such report and recommendation are received within sixty days, the State shall make the nomination pursuant to subsection (a) of this subsection. The State may expedite such process with the concurrence of the certified local government.

- (B) If both the commission and the chief local elected official recommend that a property not be nominated to the National Register, the State Historic Preservation Officer shall take no further action, unless within thirty days of the receipt of such recommendation by the State Historic Preservation Officer an appeal is filed with the State. If such an appeal is filed, the State shall follow the procedures for making a nomination pursuant to subsection (a) of this section. Any report and recommendations made under this section shall be included with any nomination submitted by the State to the Secretary.
- (3) Any local government certified under this section or which is making efforts to become so certified shall be eligible for funds under the provision of section 103 (c) of this Act [16 U.S.C. 470c(c)], and shall carry out any responsibilities delegated to it in accordance with such terms *and conditions as the Secretary deems necessary or advisable*.

[Definitions]

(4) For the purposes of this section the term —

- (A) “**designation**” means the identification and registration of properties for protection that meet criteria established by the State or the locality for significant historic and prehistoric resources within the jurisdiction of a local government; and
- (B) “**protection**” means a local review process under State or local law for proposed demolition of, changes to, or other action that may affect historic properties designated pursuant to this subsection.

[16 U.S.C. 470a(d) — Establish program and regulations to assist Indian tribes]

- (d) (1) (A) The Secretary shall establish a program and promulgate regulations to assist Indian tribes in preserving their particular historic properties. The Secretary shall foster communication and cooperation between Indian tribes and State Historic Preservation Officers in the administration of the national historic preservation program to ensure that all types of historic properties and all public interests in such properties are given due consideration, and to encourage coordination among Indian tribes, State Historic Preservation Officers, and Federal agencies in historic preservation planning and in the identification, evaluation, protection, and interpretation of historic properties.
- (B) The program under subparagraph (A) shall be developed in such a manner as to ensure that tribal values are taken into account to the extent feasible. The Secretary may waive or modify requirements of this section to conform to the cultural setting of tribal heritage preservation goals and objectives. The tribal programs implemented by specific tribal organizations may vary in scope, as determined by each tribe’s chief governing authority.



(C) The Secretary shall consult with Indian tribes, other Federal agencies, State Historic Preservation Officers, and other interested parties and initiate the program under subparagraph (A) by not later than October 1, 1994.

[Indian Tribes may assume State Historic Preservation Officer functions]

(2) A tribe may assume all or any part of the functions of a State Historic Preservation Officer in accordance with subsections (b)(2) and (b)(3) of this section, with respect to tribal lands, as such responsibilities may be modified for tribal programs through regulations issued by the Secretary if —

(A) the tribe's chief governing authority so requests;

(B) the tribe designates a tribal preservation official to administer the tribal historic preservation program, through appointment by the tribe's chief governing authority or as a tribal ordinance may otherwise provide;

(C) the tribal preservation official provides the Secretary with a plan describing how the functions the tribal preservation official proposes to assume will be carried out;

(D) the Secretary determines, after consultation with the tribe, the appropriate State Historic Preservation Officer, the Council (if the tribe proposes to assume the functions of the State Historic Preservation Officer with respect to review of undertakings under section 106 of this Act), and other tribes, if any, whose tribal or aboriginal lands may be affected by conduct of the tribal preservation program —

(i) that the tribal preservation program is fully capable of carrying out the functions specified in the plan provided under subparagraph (C);

(ii) that the plan defines the remaining responsibilities of the Secretary and the State Historic Preservation Officer; and

(iii) that the plan provides, with respect to properties neither owned by a member of the tribe nor held in trust by the Secretary for the benefit of the tribe, at the request of the owner thereof, the State Historic Preservation Officer, in addition to the tribal preservation official, may exercise the historic preservation responsibilities in accordance with subsections (b)(2) and (b)(3) of this section; and

(E) based on satisfaction of the conditions stated in subparagraphs (A), (B), (C), and (D), the Secretary approves the plan.

(3) In consultation with interested Indian tribes, other Native American organizations and affected State Historic Preservation Officers, the Secretary shall establish and implement procedures for carrying out section 103(a) of this Act with respect to tribal programs that assume responsibilities under paragraph (2).

(4) At the request of a tribe whose preservation program has been approved to assume functions and responsibilities pursuant to paragraph (2), the Secretary shall enter into contracts or cooperative agreements with such tribe permitting the assumption by the tribe of any part of the responsibilities referred to in subsection (b)(6) of this section on tribal land, if —

(A) the Secretary and the tribe agree on additional financial assistance, if any, to the tribe for the costs of carrying out such authorities;



- (B) the Secretary finds that the tribal historic preservation program has been demonstrated to be sufficient to carry out the contract or cooperative agreement and this Act; and
- (C) the contract or cooperative agreement specifies the continuing responsibilities of the Secretary or of the appropriate State Historic Preservation Officers and provides for appropriate participation by —
 - (i) the tribe's traditional cultural authorities;
 - (ii) representatives of other tribes whose traditional lands are under the jurisdiction of the tribe assuming responsibilities; and
 - (iii) the interested public.
- (5) The Council may enter into an agreement with an Indian tribe to permit undertakings on tribal land to be reviewed under tribal historic preservation regulations in place of review under regulations promulgated by the Council to govern compliance with section 106 of this Act, if the Council, after consultation with the tribe and appropriate State Historic Preservation Officers, determines that the tribal preservation regulations will afford historic properties consideration equivalent to those afforded by the Council's regulations.

[Traditional religious and cultural properties may be eligible for listing in the National Register]

- (6) (A) Properties of traditional religious and cultural importance to an Indian tribe or Native Hawaiian organization may be determined to be eligible for inclusion on the National Register.
- (B) In carrying out its responsibilities under section 106 of this Act, a Federal agency shall consult with any Indian tribe or Native Hawaiian organization that attaches religious and cultural significance to properties described in subparagraph (A).
- (C) In carrying out his or her responsibilities under subsection (b)(3) of this section, the State Historic Preservation Officer for the State of Hawaii shall—
 - (i) consult with Native Hawaiian organizations in assessing the cultural significance of any property in determining whether to nominate such property to the National Register;
 - (ii) consult with Native Hawaiian organizations in developing the cultural component of a preservation program or plan for such property; and
 - (iii) enter into a memorandum of understanding or agreement with Native Hawaiian organizations for the assessment of the cultural significance of a property in determining whether to nominate such property to the National Register and to carry out the cultural component of such preservation program or plan.

[16 U.S.C. 470a(e) — Grants to States]

- (e) (1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this Act.

[Grants to the National Trust]

- (2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by Act of Congress approved October 26, 1949 (63 Stat. 927) [16 U.S.C. 468], consistent with the purposes of its charter and this Act.