

The National Historic Preservation Act of 1966 (as amended)

A Brief and Selective Summary by Section

Section 1: Describes the purpose of the Act in terms of preservation principles and Congressional findings. *"The Congress finds and declares that 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."*

The Congress also declared that:

- Historic properties significant to the Nation's heritage were being lost or altered with increasing frequency in the face of urban expansion, highway construction, and residential, commercial, and industrial development.
- *"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."*
- Better means of identifying and administering these properties would encourage their preservation and improve the planning and execution of Federal projects and economic development.
- The Federal government should play a vital role in historic preservation, by accelerating its own historic preservation programs and by assisting the efforts of state and local governments, the National Trust for Historic Preservation, and private agencies and individuals.

Section 2: A declaration of policy:

- To *"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."*
- To provide leadership in historic preservation both nationally and internationally.
- To *"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."*
- To encourage and assist non-Federal governments, tribes, private organizations, and individuals in historic preservation efforts including *"the utilization of all usable elements of the Nation's historic built environment."*

Title I, Historic Preservation Programs

Section 101

- Authorizes the Secretary of the Interior 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.

- Authorizes the Secretary, in consultation with national historical and archaeological organizations, to establish criteria for properties to be included on the National Register as well as criteria for National Historic Landmarks and to promulgate regulations to implement the criteria.
- Directs the Secretary to ensure that significant prehistoric and historic artifacts, and associated records, are deposited in institutions with adequate long-term curatorial capabilities.
- Directs the Secretary to promulgate or revise regulations for State Historic Preservation Programs, administered by State Historic Preservation Officers who are appointed by state Governors.
- Details the responsibilities of State Historic Preservation Officers (SHPOs).
- States that the Secretary may enter into contracts or cooperative agreements with a SHPO for assistance in identification of historic properties; determinations of National Register eligibility; preparation of nominations for inclusion on the National Register; and maintenance of historical and archaeological data bases.
- Provides for certification of local governments to carry out the purposes of the Act.
- Addresses programs and regulations to assist Indian tribes in preserving "*their particular historic properties*" and establishes the conditions under which tribes may assume SHPO functions.
- States that 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.
- Requires the Secretary to establish guidelines and standards for federal agency responsibilities under the Act.
- Directs the Federal government to develop and implement comprehensive training programs for Federal agencies, state and local governments, and tribes. These are to include "*new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions.*"

Section 102

- Addresses grant requirements for states and the National Trust.

Section 103

- Addresses grant requirements for certified local governments.

Sections 104-105

- Address insured loans for preserving historic properties listed on the National Register.

Section 106

- *"The head of any Federal agency having direct or indirect jurisdiction over a proposed Federal or federally assisted undertaking in any State and the head of any Federal department or independent agency having authority to license any undertaking shall, prior to the approval of the expenditure of any Federal funds on the undertaking or prior to the issuance of any license, as the case may be, take into account the effect of the undertaking on any district, site, building, structure, or object that is included in or eligible for inclusion in the National Register. The head of any such Federal agency shall afford the Advisory Council on Historic Preservation established under Title II of this Act a reasonable opportunity to comment with regard to such undertaking."*

Section 107

- The Act is not applicable to the White House, the United States Capitol, the Supreme Court Building and their grounds.

Section 108

- Establishes the Historic Preservation Fund in the U.S. Treasury to carry out the purposes of the Act, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act. The funds shall be available for expenditure only when appropriated by the Congress.

Section 109

- Authorizes the Secretary to accept donations of funds for projects to acquire, restore, preserve, or recover data from a district or property listed on the National Register, so long as the project is owned by a State, local government, or nonprofit entity.

Section 110

- Section 110 (a) (2) directs each Federal agency to establish a preservation program to identify, evaluate, nominate, and protect historic properties that are eligible for the National Register. The agency shall ensure that such properties *"as are listed in or may be eligible for the National Register are managed and maintained in a way that considers the preservation of their historic, archaeological, architectural, and cultural values in compliance with section 106 of this Act."*
- This section also directs that *"the preservation of properties not under the jurisdiction or control of the agency, but subject to be potentially affected by agency actions are given full consideration in planning."*
- Preservation-related activities are to be carried out in consultation with other Federal, state, and local agencies, Indian tribes, and the private sector.
- Requires the head of each Federal agency to designate a qualified Preservation Officer who is responsible for coordinating the agency's activities under the Act.

- Section 110 (k) relates to anticipatory demolition: *"the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of section 106 of this Act, has intentionally significantly adversely affected a historic property to which the grant would relate, or having legal power to prevent it, allowed such significant adverse effect to occur."* After consultation with the Advisory Council, the agency may determine that circumstances justify granting such assistance despite the adverse effect.

Section 111

- Allows for adaptive use, leasing, or exchange of historic properties by Federal agencies, after consultation with the Advisory Council, if the agency head determines that the action will adequately insure the preservation of the property.
- After consultation with the Advisory Council, a Federal agency may enter into a contract for the management of a historic property. Any such contracts shall contain terms and conditions necessary to ensure adequate preservation.

Section 112

- Actions taken by Federal employees or contractors shall meet professional standards under regulations developed by the Secretary in consultation with the Advisory Council, other affected agencies, and professional societies.
- Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved.
- Records and data shall be permanently maintained in appropriate data bases.

Section 113

- Relates to controlling illegal interstate and international traffic in antiquities. Mandated a study to be completed by early 1994.

Title II, Advisory Council on Historic Preservation

Section 201

- Establishes the Advisory Council on Historic Preservation and describes its members and their terms of office.

Section 202

- Describes the duties of the Advisory Council. The relevant verbs include *"advise," "encourage," "recommend," "review,"* and *"inform."*
- Among its duties, the Council *"shall submit annually a comprehensive report of its activities and the results of its studies to the President and the Congress"*

and shall from time to time submit such additional and special reports as it deems advisable."

Section 203

- Authorizes the Council to obtain information and statistics from Federal agencies.

Sections 204-210

- Additional details about the composition and operation of the Council.

Section 211

- *"The Council is authorized to promulgate such rules and regulations as it deems necessary to govern the implementation of section 106 of this Act in its entirety."*

Sections 212-215

- Additional details relating to the Council.

Title III, General and Miscellaneous

Section 301

- Definitions of terms used in the Act.

Section 302

- Authorizes Federal agencies to expend funds for activities carried out pursuant to the Act.

Section 303

- Authorizes the Secretary to accept donations and bequests of money and personal property for the purposes of the Act.

Section 304

- Allows Federal agencies to *"withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if...disclosure may--(1) cause a significant invasion of privacy; (2) risk harm to the historic resources; or (3) impede the use of a traditional religious site by practitioners."*

Section 305

- In a civil action brought in any United States district court by an interested person to enforce the provisions of the Act, the court may award attorney's fees and other costs if the person substantially prevails in such action.

Section 306

- Cooperative agreement for a National Museum of the Building Arts.

Section 307

- Deals with the promulgation of regulations.

Sections 308-309

- Deal with the preservation of historic light stations, including historic lighthouses and related structures.

Title IV, National Center for Preservation Technology and Training

Sections 401-407

- *"The Congress finds and declares that, given the complexity of technical problems encountered in preserving historic properties and the lack of adequate distribution of technical information to preserve such properties, a national initiative to coordinate and promote research, distribute information, and provide training about preservation skills and technologies would be beneficial."*
- Establishes the National Center located at Northwestern State University of Louisiana in Natchitoches, Louisiana and addresses the purposes and operation of the Center.