

Selected Sections of the National Historic Preservation Act, as amended  
November 2007

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[CITE: 16USC470]

[Section references to the Act are in brackets]

TITLE 16--CONSERVATION

CHAPTER 1A--HISTORIC SITES, BUILDINGS, OBJECTS, AND ANTIQUITIES

SUBCHAPTER II--NATIONAL HISTORIC PRESERVATION

[Section 1 of the National Historic Preservation Act, as amended]

Sec. 470. Short title; Congressional finding and declaration of policy

- (a) This subchapter may be cited as the ``National Historic Preservation 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 of the National Historic Preservation Act, as amended]

Sec. 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.

[Section 101(a) of the National Historic Preservation Act, as amended]

Sec. 470a. Historic preservation program

- (a) National Register of Historic Places; designation of properties as historic landmarks; properties deemed included; criteria; nomination of properties by States, local governments or individuals; regulations; review of threats to properties
  - (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, archeology, engineering, and culture. Notwithstanding section 1125(c) of title 15, 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.

- (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, shall be deemed to be included on the National Register as of their initial listing for purposes of this subchapter. 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 subchapter and sections 461 to 467 of this title; 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.
- (2) The Secretary in consultation with national historical 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, nominations, 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.
- (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), and any property nominated under this paragraph or under section 470h-2(a)(2) of this title 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).
- (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

determination shall be made within ninety days from the date of the nomination unless the nomination is appealed under paragraph (5).

- (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.
- (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.
- (7) The Secretary shall promulgate, or revise, regulations--
  - (A) ensuring that significant prehistoric and historic artifacts, and associated records, subject to section 470h-2 of this title, the Act of June 27, 1960 (16 U.S.C. 469c) [16 U.S.C. 469 et seq.], 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 historical 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 470c(c) of this title.
- (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.

[Section 101(b) of the National Historic Preservation Act, as amended]

(b) Regulations for State Historic Preservation Programs; periodic evaluations and fiscal audits of State programs; administration of State programs; contracts and cooperative agreements with nonprofit or educational institutions and State Historic Preservation Officers; treatment of State programs as approved programs

(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--

(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;

(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.

(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 subchapter, and in cooperation with the State Historic Preservation Officer, shall evaluate the program to determine whether it is consistent with this subchapter.

(B) If, at any time, the Secretary determines that a major aspect of a State program is not consistent with this subchapter, 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 subchapter, until the program is consistent with this subchapter, unless the Secretary determines that the program will be made consistent with this subchapter 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.

(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 appropriate Federal agencies in accordance with this subchapter on--
    - (i) Federal undertakings that may affect historic properties; and
    - (ii) the content and sufficiency of any plans developed to protect, manage, or 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.
- (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.
- (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 December 12, 1992.
- (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.

[Section 101(c) of the National Historic Preservation Act, as amended]

- (c) Certification of local governments by State Historic Preservation Officer; transfer of portion of grants; certification by Secretary; nomination of properties by local governments for inclusion on National Register
- (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 subchapter and provide for the transfer, in accordance with section 470c(c) of this title, of a portion of the grants received by the States under this subchapter, 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 subchapter.
- 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.
- (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 section. 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 provisions of section 470c(c) of this title, and shall carry out any responsibilities delegated to it in accordance with such terms and conditions as the Secretary deems necessary or advisable.
- (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.

[Section 101(d) of the National Historic Preservation Act, as amended]

(d) Historic properties of Indian tribes

- (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.
- (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 consulting 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 470f of this title), 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 470c(a) of this title 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 subchapter; 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 470f of this title, 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.
- (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 470f of this title, 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.

[Section 101(e) of the National Historic Preservation Act, as amended]

- (e) Matching grants to States; grants to National Trust for Historic Preservation in the United States; program of direct grants for preservation of properties included on National Register; grants or loans to Indian tribes and ethnic or minority groups for preservation of cultural heritage; grants for religious properties; direct grants to Indian tribes, Native Hawaiian organizations, and Micronesian States

- (1) The Secretary shall administer a program of matching grants to the States for the purposes of carrying out this subchapter.
- (2) The Secretary may administer grants to the National Trust for Historic Preservation in the United States, chartered by sections 468 to 468d of this title consistent with the purposes of its charter and this subchapter.
- (3)(A) In addition to the programs under paragraphs (1) and (2), the Secretary shall administer a program of direct grants for the preservation of properties included on the National Register. Funds to support such program annually shall not exceed 10 per centum of the amount appropriated annually for the fund established under section 470h of this title. These grants may be made by the Secretary, in consultation with the appropriate State Historic Preservation Officer--
  - (i) for the preservation of National Historic Landmarks which are threatened with demolition or impairment and for the preservation of historic properties of World Heritage significance,
  - (ii) for demonstration projects which will provide information concerning professional methods and techniques having application to historic properties,
  - (iii) for the training and development of skilled labor in trades and crafts, and in analysis and curation, relating to historic preservation, and
  - (iv) to assist persons or small businesses within any historic district included in the National Register to remain within the district.
- (B) The Secretary may also, in consultation with the appropriate State Historic preservation Officer, make grants or loans or both under this section to Indian tribes and to nonprofit organizations representing ethnic or minority groups for the preservation of their cultural heritage.
- (C) Grants may be made under subparagraph (A)(i) and (iv) only to the extent that the project cannot be carried out in as effective a manner through the use of an insured loan under section 470d of this title.
- (4) Grants may be made under this subsection for the preservation, stabilization, restoration, or rehabilitation of religious properties listed in the National Register of Historic Places, provided that the purpose of the grant is secular, does not promote religion, and seeks to protect those qualities that are historically significant. Nothing in this paragraph shall be construed to authorize the use of any funds made available under this section for the acquisition of any property referred to in the preceding sentence.
- (5) The Secretary shall administer a program of direct grants to Indian tribes and Native Hawaiian organizations for the purpose of carrying out this subchapter as it pertains to Indian tribes and Native Hawaiian organizations. Matching fund requirements may be modified. Federal funds available to a tribe or Native Hawaiian organization may be used as matching funds for the purposes of the tribe's or organization's conducting its responsibilities pursuant to this section.
- (6)(A) As part of the program of matching grant assistance from the Historic Preservation Fund to States, the Secretary shall administer a program of direct grants to the Federated States of Micronesia, the Republic of the Marshall Islands, the Trust Territory of the Pacific Islands, and upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau (referred to as the Micronesian States) in furtherance of the Compact of Free Association between the United States and the Federated States of Micronesia and the Marshall Islands,

approved by the Compact of Free Association Act of 1985 [48 U.S.C. 1901 et seq., 2001 et seq.], the Trusteeship Agreement for the Trust Territory of the Pacific Islands, and the Compact of Free Association between the United States and Palau, approved by the Joint Resolution entitled "Joint Resolution to approve the 'Compact of Free Association' between the United States and Government of Palau, and for other purposes" [48 U.S.C. 1931 et seq.]. The goal of the program shall be to establish historic and cultural preservation programs that meet the unique needs of each Micronesian State so that at the termination of the compacts the programs shall be firmly established. The Secretary may waive or modify the requirements of this section to conform to the cultural setting of those nations.

- (B) The amounts to be made available to the Micronesian States shall be allocated by the Secretary on the basis of needs as determined by the Secretary. Matching funds may be waived or modified.

[Section 101(f) of the National Historic Preservation Act, as amended]

- (f) Prohibition of use of funds for compensation of intervenors in preservation program

No part of any grant made under this section may be used to compensate any person intervening in any proceeding under this subchapter.

[Section 101(g) of the National Historic Preservation Act, as amended]

- (g) Guidelines for Federal agency responsibility for agency-owned historic properties

In consultation with the Advisory Council on Historic Preservation, the Secretary shall promulgate guidelines for Federal agency responsibilities under section 470h-2 of this title.

[Section 101(h) of the National Historic Preservation Act, as amended]

- (h) Professional standards for preservation of federally owned or controlled historic properties

Within one year after December 12, 1980, the Secretary shall establish, in consultation with the Secretaries of Agriculture and Defense, the Smithsonian Institution, and the Administrator of the General Services Administration, professional standards for the preservation of historic properties in Federal ownership or control.

[Section 101(i) of the National Historic Preservation Act, as amended]

- (i) Dissemination of information concerning professional methods and techniques for preservation of historic properties

The Secretary shall develop and make available to Federal agencies, State and local governments, private organizations and individuals, and other nations and international organizations pursuant to the World Heritage Convention, training in, and information concerning, professional methods and techniques for the preservation of historic properties

and for the administration of the historic preservation program at the Federal, State, and local level. The Secretary shall also develop mechanisms to provide information concerning historic preservation to the general public including students.

[Section 101(j) of the National Historic Preservation Act, as amended]

(j) Preservation education and training program

- (1) The Secretary shall, in consultation with the Council and other appropriate Federal, tribal, Native Hawaiian, and non-Federal organizations, develop and implement a comprehensive preservation education and training program.
- (2) The education and training program described in paragraph (1) shall include--
  - (A) new standards and increased preservation training opportunities for Federal workers involved in preservation-related functions;
  - (B) increased preservation training opportunities for other Federal, State, tribal and local government workers, and students;
  - (C) technical or financial assistance, or both, to historically black colleges and universities, to tribal colleges, and to colleges with a high enrollment of Native Americans or Native Hawaiians, to establish preservation training and degree programs; and
  - (D) coordination of the following activities, where appropriate, with the National Center for Preservation Technology and Training--
    - (i) distribution of information on preservation technologies;
    - (ii) provision of training and skill development in trades, crafts, and disciplines related to historic preservation in Federal training and development programs; and
    - (iii) support for research, analysis, conservation, curation, interpretation, and display related to preservation.

[Section 102 of the National Historic Preservation Act, as amended]

Sec. 470b. Requirements for awarding of grant funds

(a) Grant applications; amounts; reports; conditions

No grant may be made under this subchapter--

- (1) unless application therefor is submitted to the Secretary in accordance with regulations and procedures prescribed by him;
- (2) unless the application is in accordance with the comprehensive statewide historic preservation plan which has been approved by the Secretary after considering its relationship to the comprehensive statewide outdoor recreation plan prepared pursuant to the Land and Water Conservation Fund Act of 1965 (78 Stat. 897) [16 U.S.C. 460l-4 of this title];
- (3) for more than 60 percent of the aggregate costs of carrying out projects and programs under the administrative control of the State Historic Preservation Officer as specified in section 470a(b)(3) of this title in any one fiscal year;

- (4) unless the grantee has agreed to make such reports, in such form and containing such information as the Secretary may from time to time require;
- (5) unless the grantee has agreed to assume, after completion of the project, the total cost of the continued maintenance, repair, and administration of the property in a manner satisfactory to the Secretary; and
- (6) until the grantee has complied with such further terms and conditions as the Secretary may deem necessary or advisable.

Except as permitted by other law, the State share of the costs referred to in paragraph (3) shall be contributed by non-Federal sources. Notwithstanding any other provision of law, no grant made pursuant to this subchapter shall be treated as taxable income for purposes of title 26.

(b) Waiver

The Secretary may in his discretion waive the requirements of subsection (a), paragraphs (2) and (5) of this section for any grant under this subchapter to the National Trust for Historic Preservation in the United States.

(c) Repealed. Pub. L. 96-515, title II, Sec. 202(c), Dec. 12, 1980, 94 Stat. 2993

(d) \1\ Remaining cost of project

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\1\ So in original. Two subsecs. (d) have been enacted.

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No State shall be permitted to utilize the value of real property obtained before October 15, 1966, in meeting the remaining cost of a project for which a grant is made under this subchapter.

(d) \1\ Availability

The Secretary shall make funding available to individual States and the National Trust for Historic Preservation as soon as practicable after execution of a grant agreement. For purposes of administration, grants to individual States and the National Trust each shall be considered to be one grant and shall be administered by the National Park Service as such.

(e) Administrative costs

The total administrative costs, direct and indirect, charged for carrying out State projects and programs may not exceed 25 percent of the aggregate costs except in the case of grants under section 470a(e)(6) of this title.

[Section 103 of the National Historic Preservation Act, as amended]

Sec. 470c. Apportionment of grant funds

(a) Basis for apportionment

The amounts appropriated and made available for grants to the States for the purposes of this subchapter shall be apportioned among the States by the Secretary on the basis of needs as determined by him.

(b) Basis; notification to State; reapportionment

The amounts appropriated and made available for grants to the States for projects and programs under this subchapter for each fiscal year shall be apportioned among the States as the Secretary determines to be appropriate.

The Secretary shall notify each State of its apportionment under this subsection within thirty days following the date of enactment of legislation appropriating funds under this subchapter. Any amount of any apportionment that has not been paid or obligated by the Secretary during the fiscal year in which such notification is given, and for two fiscal years thereafter, shall be reapportioned by the Secretary in accordance with this subsection. The Secretary shall analyze and revise as necessary the method of apportionment. Such method and any revision thereof shall be published by the Secretary in the Federal Register.

(c) Transfer of funds to local governments

A minimum of 10 per centum of the annual apportionment distributed by the Secretary to each State for the purposes of carrying out this subchapter shall be transferred by the State, pursuant to the requirements of this subchapter, to local governments which are certified under section 470a(c) of this title for historic preservation projects or programs of such local governments. In any year in which the total annual apportionment to the States exceeds \$65,000,000, one half of the excess shall also be transferred by the States to local governments certified pursuant to section 470a(c) of this title.

(d) Guidelines for use and distribution of funds to local governments

The Secretary shall establish guidelines for the use and distribution of funds under subsection (c) of this section to insure that no local government receives a disproportionate share of the funds available, and may include a maximum or minimum limitation on the amount of funds distributed to any single local government. The guidelines shall not limit the ability of any State to distribute more than 10 per centum of its annual apportionment under subsection (c) of this section, nor shall the Secretary require any State to exceed the 10 per centum minimum distribution to local governments.

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Skipped Sections  
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[Section 108 of the National Historic Preservation Act, as amended]

Sec. 470h. Historic Preservation Fund; establishment; appropriations; source of revenue

To carry out the provisions of this subchapter, there is hereby established the Historic Preservation Fund (hereafter referred to as the "fund") in the Treasury of the United States. There shall be covered into such fund \$24,400,000 for fiscal year 1977, \$100,000,000 for fiscal year 1978, \$100,000,000 for fiscal year 1979, \$150,000,000 for fiscal year 1980, and \$150,000,000 for fiscal year 1981, and \$150,000,000 for each of fiscal years 1982 through 2015, from revenues due and payable to the United States under the Outer Continental Shelf Lands Act (67 Stat. 462, 469), as amended (43 U.S.C. 1338), and/or under section 7433(b) of title 10, notwithstanding any provision of law that such proceeds shall be credited to miscellaneous receipts of the Treasury. Such moneys shall be used only to carry out the purposes of this subchapter and shall be available for expenditure only when appropriated by the Congress. Any moneys not appropriated shall remain available in the fund until appropriated for said purposes: Provided, That appropriations made pursuant to this paragraph may be made without fiscal year limitation.

Skipped Sections

[Section 301 of the National Historic Preservation Act, as amended]

Sec. 470w. Definitions

As used in this subchapter, the term--

- (1) "Agency" means agency as such term is defined in section 551 of title 5.
- (2) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau.
- (3) "Local government" means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.
- (4) "Indian tribe" or "tribe" means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 1602 of title 43, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.
- (5) "Historic property" or "historic resource" means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.
- (6) "National Register" or "Register" means the National Register of Historic Places established under section 470a of this title.
- (7) "Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including--



- (A) those carried out by or on behalf of the agency;
  - (B) those carried out with Federal financial assistance;
  - (C) those requiring a Federal permit license, or approval; and
  - (D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.
- (8) "Preservation" or "historic preservation" includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.
- (9) "Cultural park" means a definable area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.
- (10) "Historic conservation district" means an area which contains
- (A) historic properties,
  - (B) buildings having similar or related architectural characteristics,
  - (C) cultural cohesiveness, or
  - (D) any combination of the foregoing.
- (11) "Secretary" means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.
- (12) "State historic preservation review board" means a board, council, commission, or other similar collegial body established as provided in section 470a(b)(1)(B) of this title--
- (A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),
  - (B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, and
  - (C) which has the authority to--
    - (i) review National Register nominations and appeals from nominations;
    - (ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;
    - (iii) provide general advice and guidance to the State Historic Preservation Officer; and
    - (iv) perform such other duties as may be appropriate.
- (13) "Historic preservation review commission" means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 470a(c)(1)(B) of this title, and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among--
- (A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent such professionals are available in the community concerned, and
  - (B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

- (14) "Tribal lands" means--
  - (A) all lands within the exterior boundaries of any Indian reservation; and
  - (B) all dependent Indian communities.
- (15) "Certified local government" means a local government whose local historic preservation program has been certified pursuant to section 470a(c) of this title.
- (16) "Council" means the Advisory Council on Historic Preservation established by section 470i of this title.
- (17) "Native Hawaiian" means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.
- (18) "Native Hawaiian organization" means any organization which--
  - (A) serves and represents the interests of Native Hawaiians;
  - (B) has as a primary and stated purpose the provision of services to Native Hawaiians; and
  - (C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

The term includes, but is not limited to, the Office of Hawaiian Affairs of the State of Hawaii and Hui Malama I Na Kupuna O Hawai'i Nei, an organization incorporated under the laws of the State of Hawaii.

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Skipped Sections

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