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TITLE 37
HISTORICAL AND MUSEUMS

Chapter

1. General Provisions
3. Powers and Duties of Pennsylvania Historical and Museum Commission
5. Historic Preservation
7. Historic Properties
9. Concurrent Jurisdiction

Enactment. Unless otherwise noted, the provisions of Title 37 were added May 26, 1988, P.L.414, No.72, effective immediately.

CHAPTER 1
GENERAL PROVISIONS

Sec.

101. Short title of title.
102. Declaration of policy.
103. Definitions.
104. Pennsylvania Historical and Museum Commission.

Enactment. Chapter 1 was added May 26, 1988, P.L.414, No.72, effective immediately.

§ 101. Short title of title.

This title shall be known and may be cited as the History Code.

§ 102. Declaration of policy.

It is hereby determined and declared as a matter of legislative finding and policy that:

(1) Section 27 of Article I of the Constitution of Pennsylvania makes the Commonwealth trustee for the preservation of the historic values of the environment.

(2) The conservation of Pennsylvania's historic and natural heritage and the preservation of public records, historic documents and objects of historic interest, and the identification, restoration and preservation of architecturally and historically significant sites and structures are duties vested primarily in the Pennsylvania Historical and Museum Commission.

(3) The irreplaceable historical, architectural, archaeological and cultural heritage of this Commonwealth should be preserved and protected for the benefit of all the people, including future generations.

(4) The preservation and protection of historic resources in this Commonwealth promotes the public health, prosperity and general welfare.

(5) The rapid social and economic development of our contemporary society threatens to destroy the remaining vestiges of our historic heritage.

(6) It is in the public interest for the Commonwealth, its citizens and its political subdivisions to engage in comprehensive programs of historic preservation for the enjoyment, education and inspiration of all the people, including future generations.

§ 103. Definitions.

Subject to additional definitions contained in subsequent provisions of this title which are applicable to specific provisions of this title, the following words and phrases when used in this title shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Archaeological field investigation." Extensive controlled excavation of an archaeological site to study the cultural history using professionally accepted means of sampling, removing and excavating archaeological specimens, also known as phase three archaeological research or data recovery.

"Archaeological specimens." All artifacts, remains, objects or any other evidence of historic, prehistoric or anthropological value, whether found above or below the surface of the earth.

"Archaeological survey." A visual inspection and limited sampling and excavation of an archaeological site to determine the characteristics and physical extent of a site, also known as phase one or phase two archaeological research.

"Commission." The Pennsylvania Historical and Museum Commission of the Commonwealth.

"Executive director." The executive director of the commission.

"Historic preservation." The research, restoration, rehabilitation and other activities furthering the protection, enhancement, preservation or enjoyment of historic resources.

"Historic property." Any historical building, ground, monument or cultural remain committed by statute to the custody of the commission.

"Historic resource." A building, structure, object, district, place, site or area significant in the history, architecture, maritime heritage, archaeology or culture of this Commonwealth, its communities or the nation.

"Pennsylvania Register of Historic Places." A selected inventory of historic resources determined by the commission to be significant in the history, architecture, archaeology or culture of this Commonwealth, its communities or the nation.

"Private historical organization." An organization constituted to engage in professional or nonprofessional activities within the disciplines of history, archaeology, museum management, natural history, the arts or historic preservation on an academic, scholarly or popular basis.

"Public officials." Officers, agents and employees of the Federal Government, Commonwealth of Pennsylvania, or any of its political subdivisions.

"Qualified historical or archaeological society." A private historical or archaeological organization or other historical society which satisfies the requirements provided in section 307 (relating to qualified historical and archaeological societies).

"Significant archaeological site." An area of land which contains extensive evidence of previous prehistoric or historic human habitation or stratified deposits of animal or plant remains or manmade artifacts or human burials.

(Nov. 28, 1995, P.L.647, No.70, eff. 60 days)

1995 Amendment. Act 70 amended the def. of "archaeological field investigation" and added the defs. of "archaeological survey" and "significant archaeological site."

§ 104. Pennsylvania Historical and Museum Commission.

(a) Membership.--The Pennsylvania Historical and Museum Commission shall consist of the Secretary of Education, or his designee; nine residents of this Commonwealth appointed by the Governor with the advice and consent of a majority of the members elected to the Senate; and four members of the General Assembly, or their designees, two from the Senate, one of whom shall be appointed by the President pro tempore and one by the Minority Leader, and two from the House of Representatives, one of whom shall be appointed by the Speaker and one by the Minority Leader.

(b) Term of office.--A member appointed from the General Assembly shall serve for a term to expire with his concurrent term as a legislator and shall serve until a successor is appointed and qualified, unless he is not elected for the next succeeding term as a member of the General Assembly, in which case a vacancy shall occur. Members other than the members of the General Assembly shall serve for a term of four years and shall serve until a successor is appointed and qualified.

(c) Chairman.--One of the members shall be designated by the Governor to serve as chairman of the commission.

(d) Quorum.--Eight members shall constitute a quorum.

(e) Attendance at meetings.--A member who fails to attend three consecutive meetings shall forfeit his seat unless the chairman of the commission, upon written request from the member, finds that the member should be excused from a meeting because of illness or the death of an immediate family member.

(f) Public hearings.--The commission shall hold public hearings in various locations throughout this Commonwealth at such places and times as it may deem appropriate.

(g) Executive director.--The commission shall appoint an executive director who shall attend to the administrative work of the commission. The executive director shall serve at the pleasure of the commission, which shall fix his compensation, subject to the approval of the Governor. No member of the commission or person who has served as a member of the commission within one year shall be eligible for appointment as executive director.

(h) Historical Preservation Fund.--The money collected by the commission from all fees, sales and other activities shall be paid into the State Treasury through the Department of Revenue and credited to the Historical Preservation Fund. Collections shall include the proceeds from the sale of historic properties. The money in the fund may be used by the commission and is hereby appropriated to it in exercising its powers and performing its duties as set forth in this title.

(Nov. 28, 1995, P.L.647, No.70, eff. imd.; Dec. 9, 2002, P.L.1395, No.173, eff. imd.)

2002 Amendment. Act 173 amended subsec. (h).

1995 Amendment. Act 70 amended subsec. (a).

Termination of Commission. The Pennsylvania Historical and Museum Commission is subject to periodic review under the act of December 22, 1981 (P.L.508, No.142), known as the Sunset Act, and will terminate on the date specified in that act unless reestablished or continued by the General Assembly. The Pennsylvania Historical and Museum Commission was reestablished by the act of May 26, 1988 (P.L.414, No.72), until December 31, 1997. The termination date of December 31, 1997, is probably not effective since the Sunset Act expired December 22, 1991.

CHAPTER 3 POWERS AND DUTIES OF PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION

Sec.

- 301. General powers and duties.
- 302. Specific powers and duties.
- 303. Sites.
- 304. Personal property.
- 305. Documents.
- 306. Publications and reproductions.
- 307. Qualified historical and archaeological societies.

Enactment. Chapter 3 was added May 26, 1988, P.L.414, No.72, effective immediately.

Cross References. Chapter 3 is referred to in section 502 of this title.

§ 301. General powers and duties.

The commission shall have the power and duty to:

- (1) Serve as the official agency of the Commonwealth for the conservation of Pennsylvania's cultural heritage.
- (2) Preserve public records, historical documents and objects of historical interest, possession and control of which have been transferred to the commission.
- (3) Initiate, encourage, support and coordinate and carry out historic preservation efforts in this Commonwealth.
- (4) Provide for historical research and interpretation and public access to this heritage.
- (5) Sell to the public any publications that are published by any department, board, commission or officer of the Commonwealth.

(Dec. 9, 2002, P.L.1395, No.173, eff. imd.)

§ 302. Specific powers and duties.

The commission shall have the power and duty to:

- (1) Pecuniary gifts.--Accept, on behalf of the Commonwealth, gifts and bequests, including securities, for the endowment of its work in accordance with the instructions of the donors and in conjunction with the Governor and State Treasurer, who shall, together with the members of the commission, constitute a body of trustees for the care of these funds. These trustees shall invest the funds in bonds of the Commonwealth or any of its political subdivisions and employ the interest and income from these investments for the purposes of the commission or apply these funds to the uses specified by the respective donors of the funds. Any donor of money or other property may specify that the donation shall be held in the form acquired, or shall be invested in or converted into some other specific property or class of investment, in which case the trustees shall be relieved of all liability which may result from the imprudent investment of the money so long as they comply with the instructions of the donor.
- (2) Independent and cooperative services or programs.--Upon its own initiative or in cooperation with historical societies or organizations, conduct investigations upon historical or archaeological matters relative to this Commonwealth and report the findings for public information; with the approval of the Governor, enter into agreements with responsible historical associations, foundations and similar private organizations or with Federal agencies or public agencies of other states in order to carry on services or programs.
- (3) Archaeological and anthropological investigations.--Examine, or cause to be examined, research or excavate the occupation or activity sites or areas and the cultural material remains of Native

American, Colonial American and more recent American cultures in this Commonwealth, under the professional direction of the commission through the techniques of archaeology, anthropology and history; acquire, by purchase, gift or fieldwork, archaeological or anthropological collections of objects and data relative to the cultural history of this Commonwealth; conduct, or cause to be conducted, archaeological site surveys to locate, catalog, assess and permanently record these historic resources throughout this Commonwealth; maintain a central repository for map locations and written descriptions of such sites and historic resources; conduct, or cause to be conducted, research upon the cultural objects and data related to the cultural history of this Commonwealth and interpret the results of the research in scientific and popular publications, exhibits and special educational programs for the public; and undertake appropriate conservation, research, restoration and storage of all material items and data relative to the cultural heritage of this Commonwealth, which accrue to the archaeological and anthropological collections of the commission.

(4) Cooperation with qualified historical or archaeological societies.--Cooperate with any qualified historical or archaeological society in investigations of historical or archaeological matters relating to this Commonwealth and in arranging, cataloging, displaying and microfilming collections of historical papers and documents, and objects or materials relative to the natural or cultural history of this Commonwealth, and otherwise encourage their activities.

(5) Historical commemorations.--Develop, coordinate and carry out plans for celebrations commemorating important historical events, which shall be selected by the commission or the General Assembly upon passage of a concurrent resolution, in cooperation with qualified historical or archaeological societies and other responsible organizations.

(6) Geographic names.--Determine all unsettled questions concerning geographic names which arise in any department and determine the names of mountains, rivers, creeks and other topographic features in this Commonwealth. In the exercise of its powers and the performance of its duties under this paragraph, the commission shall cooperate with the United States Board on Geographic Names.

(7) Procurement of expert advice.--Consult with or procure the advice of experts in archaeology, anthropology, history, historical restoration, archival management, museum work or other fields related to its activities, compensate them for their services and establish committees of experts as needed to procure the advice.

(8) Museum assistance and local history grant program.--Establish and administer the museum assistance and local history grant program. The commission shall be required to approve all individual grants. All such grants shall be subject to audit review by the commission.

(9) Advisory boards.--Create such advisory boards as the commission may deem appropriate to perform duties designated by the commission. The names of proposed members of such advisory boards shall be submitted to the Governor for approval.

(10) Police powers.--Exercise the police powers necessary to enforce the law, including the rules and regulations of the commission. Authorized employees shall have full power to make arrests, with or without warrant, for all violations of law which they may witness upon the premises of any historic property to which they are assigned and may serve and execute warrants issued by proper authorities for any violation of law committed thereon.

(11) Rules and regulations.--Promulgate rules and regulations necessary for the implementation of its powers and duties.

(12) Annual reports.--Annually transmit to the State Government Committees of the House of Representatives and the Senate a report which includes the following:

- (i) A summary of the overall condition of museums and historic sites and holdings, including staffing levels and site visits by senior management personnel.
- (ii) A report on the operation of the Conservation Center.
- (iii) A summary of all publications completed by the commission during the prior year.
- (iv) A summary of collection deaccessioning activities.
- (v) A summary of the progress in computerization of collections and inventories.

(13) Hold harmless authority.--Hold the Federal Government harmless from damages due to construction, operation and maintenance of the Erie Harbor East Canal Basin dredging project under the Water Resources Development Act of 1986 (Public Law 99-662, 33 U.S.C. § 2213(j)), except for damages due to the fault or negligence of the Federal Government or its contractors.

(14) Publications.--To sell to the public, at a store or by other methods, any publications selected by the commission for sale and published by any department, board, commission or officer of the

Commonwealth, except documents published for the Governor and the General Assembly which shall be distributed by the Governor and the General Assembly without charge. To administer this paragraph, the commission may publish, for free distribution, a price list showing the publications which the commission is prepared to sell to the public and the charges for each publication. The commission shall transfer at least annually, to the fund from which the cost of the publication was paid, the actual cost of production of any publications sold during that period. Any remaining proceeds from the sale of a publication by the commission shall be deposited in the Historical Preservation Fund.

(Nov. 23, 1994, P.L.639, No.97, eff. imd.; Dec. 9, 2002, P.L.1395, No.173, eff. imd.)

2002 Amendment. Act 173 added par. (14).

1994 Amendment. Act 97 added par. (13).

§ 303. Sites.

The commission shall have the power and duty to:

(1) Museums and historic sites.--Control, direct, supervise, manage and annually inspect the State Museum and those field or regional museums and historic sites authorized or created by statute; conduct continuing studies for the improvement of museum activity; and operate, control, direct, supervise and manage a public outreach program, including a mobile museum program or a program of traveling exhibits.

(2) Marking historical and archaeological sites.--Upon its own initiative or upon petition of a municipality or historical society, mark by proper monuments, tablets or markers, bearing the Commonwealth crest, places or buildings in this Commonwealth where historical or cultural events have transpired or, with the consent of the state or county having jurisdiction, places or buildings outside of this Commonwealth having to do with its history; and arrange for the care or maintenance of these markers or monuments.

(3) Management of historic properties.--Based upon accepted professional museum practices, assume the preservation, care and maintenance of historic property, including those historic properties listed in section 702 (relating to powers over certain historic property); promulgate and enforce rules and regulations for the visitation of historic property by the public; and charge admission fees to historic property at its discretion, which fees shall be paid into the State Treasury through the Department of Revenue and credited to the Historical Preservation Fund.

(4) Preservation and restoration of historical and archaeological sites.--Undertake the preservation or restoration of public buildings, military sites or monuments connected with the history of this Commonwealth; contract with political subdivisions, historical societies or other associations, with proper bond or security, for the maintenance of these building sites or monuments as a consideration for assistance in their erection, restoration, preservation or marking by the commission; and take title to sites of historical markers in the name of the Commonwealth.

(5) Approval of memorials.--Approve the design, content and proposed location of all official historical monuments, memorials, buildings, tablets and inscriptions proposed for erection or placement on any real property of the Commonwealth.

(6) Monuments and markers.--Approve the inscription and proposed location of any historical monument or marker to be erected or placed by any public or private corporation, association, society, organization or person at any place in this Commonwealth.

(7) Geographical signs and markers.--Approve the inscription to be placed on official signs or markers to be erected or renewed on or along any highway at the entrance to a municipality or village, or at or near any river, stream, historical place or other place of interest in this Commonwealth, by the Department of Transportation or by any municipality, for the purpose of identification or for the purpose of giving historical facts concerning the location.

§ 304. Personal property.

The commission shall have the power and duty to:

(1) Historical artifacts.--Acquire or accept on behalf of the Commonwealth through gifts or bequests, objects or other articles of historical, archaeological, maritime, natural or geological interest which shall be deposited in the State Museum or, at the discretion of the commission, at historic sites and museums committed to its custody or in any other storage facilities as are available to and approved by the commission. The commission may inspect surplus property in the possession of other Commonwealth agencies and receive this property as an historic resource.

(2) Exhibition of objects.--Conduct under accepted professional practices the management and exhibition of objects; acquire by purchase, gift, loan, bequest or other lawful transfer objects relating to the culture of this Commonwealth and examine, research, catalog and preserve them; manage, care and exhibit

these objects in the areas of natural history, geology, military history, decorative arts, history, maritime history, fine arts, science, industry and technology; select and designate the objects to be exhibited in museums and historic sites in this Commonwealth, including the State Museum; interpret the results of such management and exhibition of objects in museum and academic publications, exhibits and special educational programs for the public; and undertake appropriate professional conservation, restoration and storage of all objects and material items relative to the history of this Commonwealth.

(3) Lending historic resources.--Lend to any other museum, archival repository, historical society or other reliable organized group of an educational nature any objects, articles of historical interest, manuscripts, documents or other material committed to its custody. The commission shall adopt rules and regulations to provide adequate security for the safe return of the material, which shall include provision for full insurance protection of the loaned material.

(4) Sale or other disposition.--Exchange or otherwise dispose of material with other museums, archival repositories, historical societies or other reliable organized groups of an educational nature; and sell at public auction historical artifacts, pursuant to its rules and regulations, provided that an historical artifact shall not be sold at public auction unless the commission has determined that the exchange or disposal of that artifact by the other means authorized by this paragraph is not feasible and that the property would not be beneficial to the commission if it were used other than as an artifact. If the original donor was an individual, the original donor shall be notified, if he can be located, and, if the original donor is deceased, his children shall be notified, if they can be located, and be given an opportunity to reacquire the object, prior to its being offered at auction. If the original donor was not an individual, the original donor shall be notified, if it or its successor can be located, and be given an opportunity to reacquire the object, prior to its being offered at auction. The opportunity of an original donor to reacquire an object shall not be construed to diminish the commission's control over an historical artifact subsequent to its acquisition by the commission and prior to its disposition. These sales shall be conducted by the Department of General Services. Income produced through these sales shall be paid into the State Treasury through the Department of Revenue and credited to the Historical Preservation Fund and allocated solely for collection acquisition or conservation purposes. No unique object, article, manuscript, document or other material, which is of special significance to the history of this Commonwealth, shall be sold.

(5) Notice requirements.--Give written notice of the proposed sale, including a description of the artifact and its condition, and the name and last known address of the donor shall be transmitted to the chairmen of the State Government Committees of the House of Representatives and of the Senate, respectively, before any historic artifact shall be sold pursuant to paragraph (4).

Effective Date. Section 6(1) of Act 72 of 1988 provided that section 304(5) shall take effect in three years.

§ 305. Documents.

The commission shall have the power and duty to:

(1) Research on Commonwealth documents.--Examine and copy or microfilm any public records within the control of a Commonwealth agency for the purposes of historical research.

(2) Preservation of public records.--Preserve all public records throughout this Commonwealth and give special attention to the preservation of all records of the Commonwealth not in current use and of historical value; negotiate for the transfer and receipt of public records from any Commonwealth agency or political subdivision; and provide for the disposition of records not needed or useful in the transaction of current or anticipated future work of the Commonwealth under section 524 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929. The commission shall be the legal custodian of any public records transferred to it by any Commonwealth agency or political subdivision. The head of any Commonwealth agency or political subdivision may transfer to the commission public records legally in his custody not needed for the transaction of the business of the office whenever the commission is willing to receive and care for them.

(3) Management of historical documents.--Collect, classify, preserve and make available for reference all records which may come into its possession with the exceptions indicated by the commission; and examine the condition of the public records, books, pamphlets, documents, manuscripts, archives, maps and papers filed or recorded in any Commonwealth agency or political subdivision. The executive director or any employees authorized by him shall have reasonable access to all public records in this Commonwealth for the purpose of examining them and shall report to the commission on their condition.

(4) Regulation of Commonwealth records.--Recommend such action be taken by the persons having the care and custody of public records as may be necessary to secure their safety and preservation; cause all laws relating to public records to be enforced; and recommend and enforce uniform standards governing the use of paper, ink and filing procedure for all records and papers of Commonwealth agencies

and political subdivisions that are considered of permanent historical importance.

(5) Certificates relating to public records.--Furnish certificates relating to public records, or copies thereof, upon the payment of fees established by the commission or otherwise fixed by law.

(6) Land records.--Maintain and preserve:

(i) Records of the first titles acquired by the proprietaries and the Commonwealth to all the lands within its boundaries.

(ii) Records of all lands and conveyances from the proprietaries and the Commonwealth to the purchasers of the land.

(iii) Papers relating to the surveys of this Commonwealth and county lines and the reports of commissioners relating to the boundary lines of this Commonwealth.

(iv) Maps and other papers pertaining to the colonial history of this Commonwealth.

(v) Contracts, section profile maps and other records relating to public works.

(vi) All other relevant records relating to titles of real estate acquired by the Commonwealth.

§ 306. Publications and reproductions.

The commission shall have the power and duty to:

(1) General.--Publish or republish, either through the Department of General Services or cooperatively by and with private historical organizations, materials of historical or archaeological interest; compile, edit and print these publications; enter into agreements with publishers to subsidize the publication of books on Pennsylvania history, archaeology, anthropology, art, cartography, folklore and other cultural elements of Pennsylvania's heritage by agreeing to purchase a sufficient number to make publication possible, but these agreements shall be subject to the approval of the Governor and the State Treasurer; produce or reproduce facsimiles of historical material and enter into agreements to subsidize the manufacture of facsimiles of historical material by agreeing to purchase a sufficient number to make manufacture possible, but these agreements shall be subject to the approval of the Governor and the State Treasurer; sell publications, reprints of publications, reproductions or replicas, postcards and souvenirs of an historical nature at the State Museum and at the other historic properties and museums administered by the commission; and sell to the public any publications selected by the commission for sale and published by any department, board, commission or officer of the Commonwealth.

(2) Official repositories.--Establish one official repository for its publications from among the qualified historical or archaeological societies within each of the geographic areas established and defined by the Department of Community Affairs as "Standard Regions." The Pennsylvania State Library and the Library of Congress shall also be official repositories for commission publications.

(3) Disposition of commission publications.--Make one copy of each commission publication available at cost to all qualified historical or archaeological societies; and deliver one copy of each commission publication without charge to each official repository. The commission is excluded from the provisions of section 2406 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929.

(4) Proprietary rights to subscription lists.--Maintain proprietary rights over subscriber, membership or address lists that it creates which are excluded from provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law.

(Dec. 9, 2002, P.L.1395, No.173, eff. imd.)

References in Text. The Department of Community Affairs, referred to in par. (2), was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

§ 307. Qualified historical and archaeological societies.

Any historical or archaeological society in this Commonwealth shall be deemed to be a qualified historical or archaeological society if it:

(1) Has at least 100 paid members, has been organized at least two years and has been incorporated as a corporation not-for-profit.

(2) Holds at least one public meeting annually at which papers are read or discussions held on historical or archaeological subjects.

(3) Has adopted a constitution and bylaws and has elected proper officers to conduct its business.

(4) Has either established a museum or library in which books, documents, papers and other objects of historical and cultural interest are deposited or has made periodic publications totaling at least 25 pages each year relating to the history of this Commonwealth or of the area in which the society is located.

CHAPTER 5
HISTORIC PRESERVATION

Sec.

- 501. Short title of chapter.
- 502. Powers and duties of commission.
- 503. Inclusion of property on register.
- 504. Historic Preservation Board.
- 505. Powers and duties of board.
- 506. Archaeological field investigations on Commonwealth land.
- 507. Cooperation by public officials with the commission.
- 508. Interagency cooperation.
- 509. Transfer of Commonwealth land involving historic resources.
- 510. Approval of construction affecting historic resources.
- 511. Criminal penalties.
- 512. Enforcement of historic preservation laws and policies.

Enactment. Chapter 5 was added May 26, 1988, P.L.414, No.72, effective immediately.

§ 501. Short title of chapter.

This chapter shall be known and may be cited as the Historic Preservation Act.

§ 502. Powers and duties of commission.

In addition to the powers and duties provided in Chapter 3 (relating to powers and duties of Pennsylvania Historical and Museum Commission), the commission shall have the power and duty to:

- (1) Initiate and coordinate a Statewide survey to identify and document the historic resources in this Commonwealth, whether publicly or privately owned.
- (2) Compile, maintain, revise and publish a selected inventory of significant historic resources in this Commonwealth, to be known as the Pennsylvania Register of Historic Places, pursuant to criteria of significance approved by the commission.
- (3) Conduct research and compile documentation regarding historic resources.
- (4) Prepare a comprehensive plan for the preservation of the historic resources in this Commonwealth, including suggested priorities for the allocation of public and private financial resources.
- (5) Undertake the activities necessary to qualify the Commonwealth for participation in programs and sources of Federal assistance for purposes of historic preservation.
- (6) Provide information and advice on historic resources and appropriate preservation procedures to public officials, private individuals and organizations.
- (7) Advise public officials regarding the planning and implementation of undertakings affecting historic resources.
- (8) Provide technical and financial assistance to public officials, private individuals and organizations engaged in historic preservation activities.
- (9) Undertake activities to stimulate public interest in historic preservation, including publications, newsletters and conferences.
- (10) Coordinate and comment upon activities of public officials affecting historic resources and preservation activities.
- (11) Solicit, receive and utilize funds from any public or private source for purposes of historic preservation.
- (12) Acquire easements in properties of historic, architectural and archaeological significance by gift, purchase, devise or any other lawful transfer when acquisition is necessary for the preservation thereof.
- (13) Rent or lease historic resources and associated properties for purposes of historic preservation.
- (14) Contract with other states, public officials in this Commonwealth or private individuals and organizations for purposes of historic preservation.

§ 503. Inclusion of property on register.

The owner of private property of historic, architectural or archaeological significance, or a majority of the owners of private properties within a proposed historic district, shall be given the opportunity to concur in, or object to, the nomination of the property or proposed district for inclusion on the Pennsylvania Register of Historic Places. If the owner of the property, or a majority of the owners of the properties within the proposed historic district, object to the inclusion, the property shall not be included on the register.

§ 504. Historic Preservation Board.

(a) Membership.--The board shall be composed of no less than nine residents designated by the commission, pursuant to recommendations by the executive director with the approval of the Governor. The board shall include at least one member with demonstrated competence in each of the following disciplines: architecture, archaeology, architectural history, history and historic preservation.

(b) Term of office.--Members shall serve for a term of two years without compensation, other than reimbursement for actual and necessary expenses incurred in the performance of their duties in accordance with Commonwealth regulations, and shall serve until a successor is appointed and qualified.

§ 505. Powers and duties of board.

The Historic Preservation Board shall have the power and duty to:

(1) Advise the commission on criteria of significance for inclusion of historic resources on the Pennsylvania Register of Historic Places.

(2) Review and recommend nominations of historic resources to the National Register of Historic Places.

(3) Review and comment upon the commission's comprehensive preservation plan for historic resources within this Commonwealth.

(4) Undertake any other activity determined by the commission to be necessary or desirable for the preservation of historic resources.

§ 506. Archaeological field investigations on Commonwealth land.

(a) Right to conduct field investigations.--The Commonwealth reserves the exclusive right to conduct archaeological field investigations on archaeological resources owned or controlled by it, in order to protect and preserve archaeological specimens and information. The specimens and information shall remain the property of the Commonwealth and shall be utilized for scientific and public educational purposes.

(b) Responsibility of commission.--The commission shall be responsible for the preservation, protection and proper investigation of archaeological resources located on land owned or controlled by the Commonwealth, including any submerged land owned or controlled by the Commonwealth.

(c) Survey of archaeological resources.--The commission shall conduct surveys and prepare maps of archaeological resources located on lands in this Commonwealth and may make available the results of these surveys to the Federal Government, Commonwealth agencies and political subdivisions conducting activities which would affect these archaeological resources. The commission shall have and maintain proprietary rights over the maps and surveys indicating the location of archaeological resources or archaeological field investigations that have been inventoried or surveyed. These maps and surveys are excluded from the provisions of the act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law. The commission shall make available in writing, within 30 days of a request, site location information based on recorded material evidence of the commission to Commonwealth agencies, political subdivisions, owners of the site, potential buyers of the site and agents of the site owner with a demonstrated need to know. The failure of the commission to provide this written response shall release the requestor from any further duties under this act.

(d) Permits for field investigations.--The commission may issue permits for archaeological field investigations, subject to any restraints and conditions it prescribes, if the investigation is undertaken with the purpose of disseminating the knowledge gained and if the applicant agrees to submit to the commission a summary written report of the investigation, containing relevant maps, documents, drawings and photographs. All archaeological specimens collected pursuant to a permit issued under this subsection shall be the exclusive property of the Commonwealth, and the commission shall make appropriate arrangements for their disposition and study.

(Nov. 28, 1995, P.L.647, No.70, eff. 60 days)

1995 Amendment. Act 70 amended subsec. (c).

§ 507. Cooperation by public officials with the commission.

(a) General rule.--Commonwealth agencies, political subdivisions and municipal authorities shall cooperate fully with the commission in the preservation, protection and investigation of archaeological resources and to that end shall:

(1) Notify the commission before undertaking any Commonwealth or Commonwealth-assisted permitted or contracted projects that may affect archaeological sites.

(2) Notify the commission when they become aware of any undertaking in connection with any Commonwealth or Commonwealth-assisted permitted or contracted project, activity or program which affects or may affect an archaeological site, and provide the commission with information concerning the project, program or activity.

(b) Survey or investigation by commission.--

(1) Upon a determination by the commission that any Commonwealth or Commonwealth-assisted permitted or contracted project may adversely affect an archaeological site, the commission may conduct or cause to be conducted through an agent, subcontractor or other person an archaeological survey only when the commission, based on recorded material evidence, determines that the site is a significant archaeological site. A written determination shall be made by the commission within 15 days of receipt of a notification by a Commonwealth agency under subsection (a), provided that until January 1, 1997, such written determination shall be made by the commission within 30 days of receipt of such notification.

(2) If an archaeological survey is determined necessary by the commission, it shall be completed within 60 days of the determination, except that the commission may notify the project applicant that an additional 30 days may be required when the determination is made during the months of December, January and February.

(3) No later than 15 days after completion of an archaeological survey and only in exceptional circumstances, the commission may determine in writing that an archaeological field investigation, also known as phase three archaeological research or data recovery, is necessary to recover archaeological data. The archaeological field investigation shall be completed within 90 days of the determination required under this paragraph, except that an additional 30 days may be required when the determination is made during the months of December, January and February.

(4) Failure of the commission to render a determination within the period allowed in either paragraph (1) or (3) shall be deemed to be a determination that a survey or investigation is not necessary. The failure of the commission to complete an archaeological survey or field investigation within the time limits specified in paragraphs (2) and (3) shall release the project applicant from any further duties under this title, unless the applicant agrees in writing to a specific time extension.

(5) The commission shall conduct or cause to be conducted through an agent, subcontractor or other person and pay any costs associated with an archaeological survey or field investigation determined necessary by the commission under this section, except for the following:

- (i) Projects of other State agencies and instrumentalities.
- (ii) Projects on Commonwealth lands.
- (iii) Projects of publicly regulated utilities.
- (iv) Archaeological surveys and field investigations required under Federal law.

(6) The commission shall pay the political subdivision's and municipal authority's share of any costs associated with any archaeological survey or field investigation conducted or required by the commission on locally owned highways and bridge projects if the project is being undertaken solely with State or local funds.

(7) The commission under no circumstances shall require, conduct or cause to be conducted through an agent, subcontractor or other person an archaeological survey or field investigation on private property without the consent of the property owner and only under the notice and deadline procedures established under this section.

(8) All determinations by the commission under this section shall be subject to the provisions of Title 2 (relating to administrative law and procedure).

(Nov. 28, 1995, P.L.647, No.70, eff. 60 days)

Cross References. Section 507 is referred to in section 508 of this title.

§ 508. Interagency cooperation.

(a) Responsibilities of Commonwealth agencies.--Commonwealth agencies shall:

(1) Consult the commission before demolishing, altering or transferring any property under their ownership or control that is or may be of historical, architectural or archaeological significance.

(2) Seek the advice of the commission on possible alternatives to the demolition, alteration or transfer of property under their ownership or control that is on or may be eligible for the Pennsylvania Register of Historic Places.

(3) Initiate measures and procedures to provide for the maintenance by means of preservation, rehabilitation or restoration of historic resources under their ownership or control that are listed on or are eligible for the Pennsylvania Register of Historic Places.

(4) Institute procedures and policies to assure that their plans, programs, codes, regulations

and activities contribute to the preservation and enhancement of all historic resources in this Commonwealth. However, nothing in this title shall be construed as conferring on the commission the authority to delay, deny, condition or limit or cause to be delayed, denied, conditioned or limited any permits which would otherwise be issued by a Commonwealth agency beyond those time frames specified in section 507 (relating to cooperation by public officials with the commission), unless the applicant agrees in writing to such condition, limit or time extension. An applicant is prohibited from utilizing a permit or license in any manner that would impair or interfere with the performance of an archaeological survey or field investigation until the expiration of the time frames in section 507 or until receiving written notification from the commission that its archaeological survey or investigation is completed, whichever is sooner. Commonwealth agencies likewise are, in the absence of specific statutory language in their enabling or regulatory statutes, prohibited from stopping the processing or denying a permit solely because of the possible or actual presence of archaeological resources.

(5) Submit the procedures and policies described in paragraphs (3) and (4) to the commission for review and comment.

(b) Limitation.--Nothing under this act shall confer power upon a political subdivision or municipal authority to delay, deny, condition or limit or cause to be delayed, denied, conditioned or limited any permit or approval because of failure to comply with this act.

(Nov. 28, 1995, P.L.647, No.70, eff. 60 days)

§ 509. Transfer of Commonwealth land involving historic resources.

Commonwealth agencies shall give the commission timely notice of proposed transfers of real property owned or controlled by the Commonwealth. Upon recommendation of the commission, Commonwealth agencies may condition the transfer and may execute covenants, deed restrictions or other contractual arrangements which will most likely result in the preservation of any historic resources located on or under the property to be transferred.

§ 510. Approval of construction affecting historic resources.

The commission shall be consulted on the design and proposed location of any project, building or other undertaking financed in whole or in part by Commonwealth funds which may affect the preservation and development of a district, site or building listed on or eligible for the Pennsylvania Register of Historic Places.

§ 511. Criminal penalties.

A person who conducts a field investigation on any land or submerged land owned or controlled by the Commonwealth, without first obtaining a permit from the commission, or a person who appropriates, defaces, destroys or otherwise alters any archaeological site or specimen located upon lands owned or controlled by the Commonwealth, except in the course of activities pursued under the authority of a permit granted by the commission, commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$2,500 or to imprisonment for not more than one year, or both. In addition, such person shall forfeit to the Commonwealth all archaeological specimens collected or excavated together with any photographs and records relating to such specimens.

§ 512. Enforcement of historic preservation laws and policies.

The Attorney General, the commission, any political subdivision, person or other legal entity may maintain an action in an administrative tribunal or court for the protection or preservation of any historic resource in this Commonwealth.

CHAPTER 7 HISTORIC PROPERTIES

Sec.

- 701. Title to historic property.
- 702. Powers over certain historic property.
- 703. Brandywine Battlefield (Repealed).
- 704. Washington Crossing (Repealed).
- 705. United States Brig *Niagara*.

Enactment. Chapter 7 was added May 26, 1988, P.L.414, No.72, effective immediately.

§ 701. Title to historic property.

(a) General rule.--Unless otherwise provided by statute with respect to particular historic property, the title to historic property shall be taken in the name of this Commonwealth and shall, before its acquisition, be certified by counsel for the commission.

(b) Leases.--

(1) For purposes of historic preservation, or for educational, recreational or agricultural purposes, or for parking areas or concessions for the convenience and comfort of the public, the commission may lease historic property for a period not to exceed five years to any person or organization of the Commonwealth. The commission shall lease the property in the following manner:

(i) Those sites and museums which have nonprofit allied groups whose purpose is related to the educational mission of a particular property shall receive special contract preference. In those instances where the above criteria is met, the commission shall be permitted to enter into a lease without competitive bidding.

(ii) When the criteria enumerated in subparagraph (i) are not met, sites and museums are to be leased in accordance with competitive bidding procedures, i.e. open to all profit and nonprofit organizations. All requests for bid proposals, as well as the leases, shall contain restrictions protecting the historical integrity of the site, insuring that appropriate historical preservation standards are maintained and require appropriate insurance coverage by the lessee.

(2) If a substantial capital investment is involved, the commission may, with the approval of the Governor, enter into such leases for that period required under sections 48(g)(2)(B)(vi) and 168(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 48, 168) relating to investment tax credit for historic preservation.

(3) The commission shall monitor those leased properties to insure they are being managed in accordance with State law.

(4) The commission may lease historic property to a political subdivision willing to assume total fiscal and management responsibility for a period of time up to 99 years, provided that such leases contain restrictions protecting the historical integrity of the site, insuring that appropriate historical preservation standards are maintained and require appropriate insurance coverage by the lessee.

§ 702. Powers over certain historic property.

In addition to all other powers vested in the commission by this title or other statute, the commission shall exercise all powers conferred on it by law with respect to the historic properties known as:

- (1) (Deleted by amendment).
- (2) (Deleted by amendment).
- (3) Brandywine Battlefield.
- (4) Brightbill Property.
- (5) Bushy Run Battlefield.
- (6) Captain Phillips' Rangers Memorial.
- (7) Cashiers House.
- (8) Conrad Weiser Homestead.
- (9) Cornwall Iron Furnace.
- (10) Curtin Village.
- (11) Daniel Boone Homestead.
- (12) David Bradford House.
- (13) Drake Well Museum.
- (14) Eckley Miners' Village.
- (15) Ephrata Cloister.
- (16) Fort Augusta.
- (17) Fort Le Boeuf Museum.
- (18) Fort Loudon.
- (19) Fort Pitt Museum.
- (20) French Azilum.
- (21) Governor Printz Park.
- (22) Graeme Park.
- (23) Harmony Society Graveyard.
- (24) Historic Peace Church.
- (25) Hope Lodge.
- (26) John Brown House.
- (27) (Deleted by amendment).
- (28) Joseph Priestley House.
- (29) Judson House.
- (30) Landis Valley Museum.
- (31) Mather Mill.

- (32) McCoy House.
- (34) Morton Homestead.
- (35) Museum of Anthracite Mining.
- (36) Nathan Denison House.
- (37) Old Brown's Mill School.
- (38) Old Chester Court House.
- (39) Old Custom House.
- (40) Old Economy Village.
- (41) Old Mill Village.
- (42) (Deleted by amendment).
- (43) Pennsbury Manor.
- (44) Pennsylvania Anthracite Heritage Museum.
- (45) Pennsylvania Lumber Museum.
- (46) Pennsylvania Military Museum.
- (47) Pithole City.
- (48) Pottsgrove Mansion.
- (49) Railroad Museum of Pennsylvania.
- (50) Robert Fulton Birthplace.
- (51) Searights Tollhouse.
- (52) Sodom School House.
- (53) Somerset Historical Center.
- (54) The Highlands.
- (55) The Pennsylvania State Archives.
- (56) The Scranton Iron Furnace.
- (57) The State Museum of Pennsylvania.
- (58) Thomas Hughes House.
- (59) Tuscarora Academy.
- (60) United States Brig *Niagara*.
- (61) Warrior Run Church and Cemetery.
- (62) Washington Crossing.

(Dec. 9, 2002, P.L.1395, No.173, eff. imd.)

Cross References. Section 702 is referred to in section 303 of this title.

§ 703. Brandywine Battlefield (Repealed).

1998 Repeal Note. Section 703 was repealed December 21, 1998, P.L.1270, No.163, effective in 90 days. Section 2 of Act 163 provided that the Brandywine Battlefield Park Commission is abolished, and section 3 of Act 163 provided that all of the powers, duties, functions, funds, assets, books, records and any other documents and real and personal property of the Brandywine Battlefield Park Commission are transferred to the Pennsylvania Historical and Museum Commission.

§ 704. Washington Crossing (Repealed).

1998 Repeal Note. Section 704 was repealed December 21, 1998, P.L.1270, No.163, effective in 90 days. Section 2 of Act 163 provided that the Washington Crossing Park Commission is abolished, and section 3 of Act 163 provided that all of the powers, duties, functions, funds, assets, books, records and any other documents and real and personal property of the Washington Crossing Park Commission are transferred to the Pennsylvania Historical and Museum Commission.

§ 705. United States Brig *Niagara*.

(a) Official flagship of Pennsylvania.--The restored United States Brig *Niagara* shall be the official flagship of Pennsylvania. It shall be known as the "Flagship of Pennsylvania" and its home port shall be Erie, Pennsylvania.

(b) Powers and duties of the commission.--The commission shall have the power and duty to:

- (1) Cooperate with the Department of Military Affairs, the United States Navy and other appropriate organizations in commemorating significant events of our naval and maritime heritage.
- (2) Sail the United States Brig *Niagara*, within the means at its command, to various ports of call and commemorative events as the official sailing ambassador for Pennsylvania.
- (3) Charge whatever fees are necessary to maintain the vessel and to encourage private financial support as appropriate in order to support the United States Brig *Niagara* and its sailing program.

(c) Cooperation by public officials with the commission.--Commonwealth agencies and political subdivisions shall cooperate fully with the commission in support of its naval and maritime history program and, to that end, shall:

(1) Include the commission in any planning efforts for the commemoration of significant events of our naval and maritime history.

(2) Develop plans with the commission which will utilize the United States Brig *Niagara* as the official flagship of Pennsylvania.

CHAPTER 9 CONCURRENT JURISDICTION

Sec.

901. Cession of concurrent jurisdiction.

902. Sites affected.

903. Transfer of personal property.

904. Acceptance by United States.

905. Acceptance by Governor.

906. Police service agreements.

Enactment. Chapter 9 was added May 26, 1988, P.L.414, No.72, effective immediately.

§ 901. Cession of concurrent jurisdiction.

The Commonwealth of Pennsylvania hereby cedes to the United States concurrent jurisdiction over lands, waters and buildings within the boundaries of units of the National Park System administered by the United States Department of the Interior National Park Service, including those owned, leased or administratively controlled by the National Park Service, as well as all lands and buildings hereafter acquired, leased or administratively controlled by the National Park Service.

§ 902. Sites affected.

The existing National Park Service lands, waters and buildings affected by the provisions of this chapter are as follows:

- (1) Allegheny Portage National Historic Site.
- (2) Delaware Water Gap National Recreation Area.
- (3) Edgar Allen Poe National Historic Site.
- (4) Eisenhower National Historic Site.
- (5) Fort Necessity National Battlefield.
- (6) Friendship Hill National Historic Site.
- (7) Gettysburg National Military Park.
- (8) Gloria Dei (Old Swede's) Church National Historic Site.
- (9) Hopewell Furnace National Historic Site.
- (10) Independence National Historical Park.
- (11) Johnstown Flood National Memorial.
- (12) Thaddeus Kosciuszko National Memorial.
- (13) Valley Forge National Historical Park.

§ 903. Transfer of personal property.

In any case where the Commonwealth has heretofore transferred land to the United States for use as a national park, the transfer shall also include the transfer to the United States of such personal property as may be included in a written agreement between the Pennsylvania Historical and Museum Commission and the National Park Service.

§ 904. Acceptance by United States.

Cession of jurisdiction shall become effective when it is accepted on behalf of the United States. Acceptance shall be indicated, in writing upon the instrument of cession, by an authorized official of the United States and filed with the Secretary of the Commonwealth.

§ 905. Acceptance by Governor.

(a) Relinquishment by United States.--Whenever the United States tenders to the Commonwealth of Pennsylvania a relinquishment of all or part of the legislative jurisdiction theretofore acquired by it over lands within this Commonwealth, the Governor is authorized to accept, on behalf of the Commonwealth, the legislative jurisdiction so relinquished.

(b) Publication.--The Governor shall indicate his acceptance of relinquished legislative jurisdiction by a

writing addressed to the head of the appropriate department or agency of the United States. This acceptance shall be effective upon the publication of the writing in the Pennsylvania Bulletin.

§ 906. Police service agreements.

A municipality or the Pennsylvania State Police may enter into cooperative police service agreements with the National Park Service for the purpose of providing employees of the National Park Service who hold a valid law enforcement commission, issued by that agency, the authority to enforce Title 75 (relating to vehicles) on roads, other than Federal roads, which lie within units of the National Park System which are within the jurisdiction of the municipality's police department or the Pennsylvania State Police.