

§ 12-3-55. General provisions; preservation of state owned historic properties

(a) As used in this Code section, the term:

(1) "Director" means the director of the Division of Historic Preservation of the department.

(2) "Division" means the Division of Historic Preservation of the department.

(b) The heads of all state agencies shall assume responsibility for the preservation of historic properties which are owned by such agency. Prior to acquiring, constructing, or leasing buildings for purposes of carrying out agency responsibilities, each state agency shall use, to the maximum extent, and as operationally appropriate and economically feasible, historic properties available to the agency.

(c) The provisions of this Code section shall be implemented as follows:

(1) Each agency shall commence by not later than December 31, 1998, consistent with the preservation of such properties and the mission of the agency and professional preservation standards established by the division and in consultation with the division and with the 1998 Joint Study Committee on Historic Preservation, a study of planning processes which may be required for any preservation as may be necessary to effectuate this Code section;

(2) Not later than February 15, 1999, each state agency to which this Code section will become applicable shall prepare cost estimates for the implementation of this Code section which shall include, but not be limited to, agency implementation costs and personnel utilizations. An annually updated report of such cost estimates shall be presented to the Appropriations Committee of the House of Representatives and the Appropriations Committee of the Senate during the 1999 and 2000 regular sessions of the General Assembly;

(3) Not later than May 1, 1999, each state agency shall formally adopt a process for developing a preservation program;

(4) Not later than July 1, 1999, each state agency shall commence formulation of a preservation program; and

(5) Not later than July 1, 2000, each state agency shall establish and implement, in consultation with the division, a preservation program for the identification, evaluation, and nomination of historic properties to the Georgia Register of Historic Places to further the protection of such historic properties.

(d) Each agency preservation program shall ensure that:

(1) Historic properties under the jurisdiction of the agency are identified, evaluated, and nominated to the Georgia Register of Historic Places;

(2) Historic properties under the jurisdiction of the agency, as they are listed in or may be eligible for the Georgia Register of Historic Places, are managed and maintained in a way that considers the preservation of their historic, archeological, architectural, and cultural values in compliance with historic preservation provisions

of this part and gives special consideration to the preservation of such values in the case of properties designated as having historic significance to this state;

(3) The agency's preservation related activities are carried out in consultation with other federal, state, and local agencies, Native American tribes, and the private sector; and

(4) The agency's procedures for compliance with historic preservation provisions of this part:

(A) Are consistent with procedures issued by the Environmental Protection Division of the department pursuant to Chapter 16 of this title, the "Environmental Policy Act," as amended;

(B) Provide a process for the identification and evaluation of historic properties for listing in the Georgia Register of Historic Places and the development and implementation of agreements in consultation with the director, local governments, Native American tribes, and the interested public, as appropriate, regarding the means by which adverse effects on such properties will be considered; and

(C) Provide for the disposition of Native American cultural items from state or tribal land in a manner consistent with Section 3(c) of the Native American Graves Protection and Repatriation Act, 25 U.S.C. Section 3002(c), as amended.

(e) Each state agency shall initiate measures to assure that where, as a result of state action or assistance carried out by a state agency, a historic property is to be substantially altered or demolished, timely steps are taken to make or have made appropriate records, and that such records are then deposited with the division for future use and reference.

(f) The head of each state agency shall designate a qualified official to be known as the agency's "preservation officer" who shall be responsible for coordinating that agency's activities under this Code section. Each preservation officer may, in order to be considered qualified, satisfactorily complete training programs established by the division.

(g) Consistent with the agency's mission and mandates, all state agencies shall carry out agency programs and projects in accordance with the purposes of this Code section and give consideration to programs and projects which will further the purposes of this Code section.

(h) The director shall review and comment on plans of transferees of surplus state owned historic properties not later than 90 days after such director's receipt of such plans to ensure that the prehistorical, historical, architectural, or culturally significant values will be preserved or enhanced.

(i) Prior to the approval of any state undertaking which may directly and adversely affect any national historic landmark, the head of the responsible state agency shall, to the maximum extent possible, undertake such planning and actions as may be necessary to minimize harm to such landmark and shall afford the director an opportunity to comment on the undertaking.

(j) The director shall establish an annual preservation awards program and provide

citations for special achievement to officers and employees of state agencies in recognition of their outstanding contributions to the preservation of historic resources. Such program may include the issuance of annual awards by the Governor to any citizen of the state recommended for such an award by the director.

(k) The director shall promulgate regulations under which the requirements of this Code section may be waived in whole or in part in the event of a major natural disaster or an imminent threat to the national security.

(l) Each state agency shall ensure that the agency will not grant a loan, loan guarantee, permit, license, or other assistance to an applicant who, with intent to avoid the requirements of this part, has intentionally and significantly adversely affected a historic property to which the grant would relate or, having legal power to prevent it, allowed such significant adverse effect to occur unless the agency determines that circumstances justify granting such assistance despite the adverse effect created or permitted by the applicant. Each agency shall consult with the director and shall allow comment on the proposed action.

(m) With respect to any undertaking subject to review under this part which adversely affects any property included or eligible for inclusion in the Georgia Register of Historic Places, the head of such agency shall document any decision made pursuant to this part. The head of such agency may not delegate his or her responsibilities pursuant to this part. Where a memorandum of agreement under this part has been executed with respect to an undertaking, such memorandum shall govern the undertaking and all of its parts.

(n) In actions where the Georgia Department of Transportation is complying with and working under the provisions of Chapter 16 of this title, the "Environmental Policy Act," as amended, for state-aid actions and the National Environmental Policy Act of 1969, 16 U.S.C. Sections 4321-4347, as amended, and Section 106 of the National Historic Preservation Act of 1966, 16 U.S.C. Section 470, as amended, for federal-aid actions, the Georgia Department of Transportation shall be exempt from the requirements of this Code section.

HISTORY: Code 1981, § 12-3-55, enacted by Ga. L. 1998, p. 1037, § 1; Ga. L. 1999, p. 81, § 12.