

§ 470b-1. Grants to National Trust for Historic Preservation

(a) Authority of Secretary of Housing and Urban Development; renovation or restoration costs; terms and conditions; amounts

The Secretary of Housing and Urban Development is authorized to make grants to the National Trust for Historic Preservation, on such terms and conditions and in such amounts (not exceeding \$90,000 with respect to any one structure) as he deems appropriate, to cover the costs incurred by such Trust in renovating or restoring structures which it considers to be of historic or architectural value and which it has accepted and will maintain (after such renovation or restoration) for historic purposes.

(b) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for the grants to be made under subsection (a) of this section.

(Pub. L. 89-754, title VI, §603, Nov. 3, 1966, 80 Stat. 1278.)

CODIFICATION

Section was enacted as part of the Demonstration Cities and Metropolitan Development Act of 1966, and not as part of the National Historic Preservation Act, Pub. L. 89-665, which is classified generally to this subchapter.

§ 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.

(Pub. L. 89-665, title I, §103, Oct. 15, 1966, 80 Stat. 916; Pub. L. 94-422, title II, §201(2), Sept. 28, 1976, 90 Stat. 1319; Pub. L. 96-515, title II, §203, Dec. 12, 1980, 94 Stat. 2993; Pub. L. 102-575, title XL, §4010, Oct. 30, 1992, 106 Stat. 4759; Pub. L. 106-208, §5(a)(6), May 26, 2000, 114 Stat. 318.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-208 substituted “purposes of this subchapter” for “purposes this subchapter” and “determined by him.” for “determined by him.”.

1992—Subsec. (a). Pub. L. 102-575, §4010(1), substituted “for the purposes this subchapter” for “for comprehensive statewide historic surveys and plans under this subchapter”.

Subsec. (b). Pub. L. 102-575, §4010(2), (3), substituted “as the Secretary determines to be appropriate” for “by the Secretary in accordance with needs as disclosed in approved statewide historic preservation plans” and inserted at end “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.”

1980—Subsec. (b). Pub. L. 96-515, §203(a), inserted “and programs” after “projects” and substituted provision directing the Secretary to notify each State of its apportionment under this subsection within thirty days following enactment of legislation appropriating funds for provision directing the Secretary to notify each State of its apportionment, with the amounts available thereafter for payment to such State.

Subsecs. (c), (d). Pub. L. 96-515, §203(b), added subsecs. (c) and (d).

1976—Subsec. (a). Pub. L. 94-422, which directed amendment of subsec. (a) by deleting “Provided, however, That the amount granted to any one State shall not exceed 50 per centum of the total cost of the comprehensive statewide historic survey and plan for that State, as determined by the Secretary,” after “determined by him:”, was executed by deleting the quoted language, which did not contain a comma after “Secretary”, to reflect the probable intent of Congress.

§ 470d. Loan insurance program for preservation of property included on National Register

(a) Establishment

The Secretary shall establish and maintain a program by which he may, upon application of a private lender, insure loans (including loans made in accordance with a mortgage) made by such lender to finance any project for the preservation of a property included on the National Register.

(b) Loan qualifications

A loan may be insured under this section only if—

- (1) the loan is made by a private lender approved by the Secretary as financially sound and able to service the loan properly;
- (2) the amount of the loan, and interest rate charged with respect to the loan, do not exceed such amount, and such a rate, as is established by the Secretary, by rule;
- (3) the Secretary has consulted the appropriate State Historic Preservation Officer concerning the preservation of the historic property;
- (4) the Secretary has determined that the loan is adequately secured and there is reasonable assurance of repayment;
- (5) the repayment period of the loan does not exceed the lesser of forty years or the expected life of the asset financed;
- (6) the amount insured with respect to such loan does not exceed 90 per centum of the loss sustained by the lender with respect to the loan; and
- (7) the loan, the borrower, and the historic property to be preserved meet other terms and conditions as may be prescribed by the Secretary, by rule, especially terms and conditions relating to the nature and quality of the preservation work.

The Secretary shall consult with the Secretary of the Treasury regarding the interest rate of loans insured under this section.

(c) Limitation on amount of unpaid principal balance of loans

The aggregate unpaid principal balance of loans insured under this section and outstanding at any one time may not exceed the amount which has been covered into the Historic Preservation Fund pursuant to section 470h of this title and subsections (g) and (i)¹ of this section, as in effect on December 12, 1980, but which has not been appropriated for any purpose.

(d) Assignability of insurance contracts; contract as obligation of United States; contestability

Any contract of insurance executed by the Secretary under this section may be assignable, shall be an obligation supported by the full faith and credit of the United States, and shall be incontestable except for fraud or misrepresentation of which the holder had actual knowledge at the time it became a holder.

(e) Conditions and methods of payment as result of loss

The Secretary shall specify, by rule and in each contract entered into under this section, the conditions and method of payment to a private lender as a result of losses incurred by the lender on any loan insured under this section.

(f) Protection of financial interests of Federal Government

In entering into any contract to insure a loan under this section, the Secretary shall take steps to assure adequate protection of the financial interests of the Federal Government. The Secretary may—

(1) in connection with any foreclosure proceeding, obtain, on behalf of the Federal Government, the property securing a loan insured under this part; and

(2) operate or lease such property for such period as may be necessary to protect the interest of the Federal Government and to carry out subsection (g) of this section.

(g) Conveyance to governmental or nongovernmental entity of property acquired by foreclosure

(1) In any case in which a historic property is obtained pursuant to subsection (f) of this section, the Secretary shall attempt to convey such property to any governmental or nongovernmental entity under such conditions as will ensure the property's continued preservation and use; except that if, after a reasonable time, the Secretary, in consultation with the Advisory Council on Historic Preservation, determines that there is no feasible and prudent means to convey such property and to ensure its continued preservation and use, then the Secretary may convey the property at the fair market value of its interest in such property to any entity without restriction.

(2) Any funds obtained by the Secretary in connection with the conveyance of any property pursuant to paragraph (1) shall be covered into the historic preservation fund, in addition to the amounts covered into such fund pursuant to section 470h of this title and subsection (i)² of this section, and shall remain available in such fund until appropriated by the Congress to carry out the purposes of this subchapter.

(h) Assessment of fees in connection with loans

The Secretary may assess appropriate and reasonable fees in connection with insuring loans under this section. Any such fees shall be covered into the Historic Preservation Fund, in addition to the amounts covered into such fund pursuant to section 470h of this title and subsection (g) of this section, and shall remain available in such fund until appropriated by the Congress to carry out purposes of this subchapter.

(i) Treatment of loans as non-Federal funds

Notwithstanding any other provision of law, any loan insured under this section shall be treated as non-Federal funds for the purposes of satisfying any requirement of any other provision of law under which Federal funds to be used for any project or activity are conditioned upon the use of non-Federal funds by the recipient for payment of any portion of the costs of such project or activity.

(j) Authorization of appropriations for payment of losses

Effective after the fiscal year 1981 there are authorized to be appropriated, such sums as may be necessary to cover payments incurred pursuant to subsection (e) of this section.

(k) Eligibility of debt obligation for purchase, etc., by Federal Financing Bank

No debt obligation which is made or committed to be made, or which is insured or committed

¹ So in original. Probably should be "subsections (g) and (h)".

² So in original. Probably should be "subsection (h)".

ted to be insured, by the Secretary under this section shall be eligible for purchase by, or commitment to purchase by, or sale or issuance to, the Federal Financing Bank.

(Pub. L. 89-665, title I, §104, Oct. 15, 1966, 80 Stat. 917; Pub. L. 96-515, title II, §204, Dec. 12, 1980, 94 Stat. 2994.)

CODIFICATION

In subsec. (c), “December 12, 1980” substituted for “the date of enactment of this Act”. “This Act” probably meant the National Historic Preservation Act Amendments of 1980 (Pub. L. 96-515) rather than the National Historic Preservation Act of 1966 (Pub. L. 89-665).

AMENDMENTS

1980—Subsec. (a). Pub. L. 96-515 substituted provision authorizing the Secretary to establish and maintain a program by which he, upon application of a private lender, insure loans made by such lender to finance any project for the preservation of a property included on the National Register for provision prohibiting grants to surveys or projects receiving assistance from any other Federal program or activity.

Subsec. (b). Pub. L. 96-515 substituted provision prescribing loan qualifications for provision authorizing the President, in order to assure consistency in policies and actions and coordination of planning, acquisition, and development assistance to States with other related Federal programs, to issue regulations as deemed desirable.

Subsecs. (c) to (k). Pub. L. 96-515 added subsecs. (c) to (k).

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with historic preservation under sections 470 to 470a, 470b, and 470c to 470w-6 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

§ 470e. Recordkeeping; recipients of assistance; audit

The beneficiary of assistance under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project or undertaking in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project or undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(Pub. L. 89-665, title I, §105, Oct. 15, 1966, 80 Stat. 917.)

§ 470f. Effect of Federal undertakings upon property listed in National Register; comment by Advisory Council on Historic Preservation

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

(Pub. L. 89-665, title I, §106, Oct. 15, 1966, 80 Stat. 917; Pub. L. 94-422, title II, §201(3), Sept. 28, 1976, 90 Stat. 1320.)

AMENDMENTS

1976—Pub. L. 94-422 inserted “or eligible for inclusion in” after “included in”.

TRANSFER OF FUNCTIONS

Enforcement functions of Secretary or other official in Department of the Interior and such functions of Secretary or other official in Department of Agriculture, insofar as they involve lands and programs under jurisdiction of that Department, related to compliance with historic preservation under sections 470 to 470a, 470b, and 470c to 470w-6 of this title with respect to pre-construction, construction, and initial operation of transportation system for Canadian and Alaskan natural gas transferred to Federal Inspector, Office of Federal Inspector for Alaska Natural Gas Transportation System, until first anniversary of date of initial operation of Alaska Natural Gas Transportation System, see Reorg. Plan No. 1 of 1979, §§102(e), (f), 203(a), 44 F.R. 33663, 33666, 93 Stat. 1373, 1376, effective July 1, 1979, set out in the Appendix to Title 5, Government Organization and Employees. Office of Federal Inspector for the Alaska Natural Gas Transportation System abolished and functions and authority vested in Inspector transferred to Secretary of Energy by section 3012(b) of Pub. L. 102-486, set out as an Abolition of Office of Federal Inspector note under section 719e of Title 15, Commerce and Trade. Functions and authority vested in Secretary of Energy subsequently transferred to Federal Coordinator for Alaska Natural Gas Transportation Projects by section 720d(f) of Title 15.

REPORTING REQUIREMENTS OF ADVISORY COUNCIL ON HISTORIC PRESERVATION

Pub. L. 104-333, div. I, title V, §509(b), Nov. 12, 1996, 110 Stat. 4157, provided that: “Within 18 months after the date of enactment of this Act [Nov. 12, 1996], the Advisory Council on Historic Preservation shall submit a report to the appropriate congressional committees containing an analysis of alternatives for modifying the regulatory process for addressing impacts of Federal actions on nationally significant historic properties, as well as alternatives for future promulgation and oversight of regulations for implementation of section 106 of the National Historic Preservation Act [16 U.S.C. 470f].”