

(b) Where consistent with agency missions and governing law, and where appropriate, agencies shall use historic properties in their ownership in conjunction with State, tribal, and local tourism programs to foster viable economic partnerships, including, but not limited to, cooperation and coordination with tourism officials and others with interests in the properties.

**SEC. 6. *National and Homeland Security Considerations.***

Nothing in this order shall be construed to require any agency to take any action or disclose any information that would conflict with or compromise national and homeland security goals, policies, programs, or activities.

**SEC. 7. *Definitions.*** For the purposes of this order, the term “historic property” means any prehistoric or historic district, site, building, structure, and object included on or eligible for inclusion on the National Register of Historic Places in accordance with section 301(5) of the NHPA (16 U.S.C. 470w(5)). The term “heritage tourism” means the business and practice of attracting and accommodating visitors to a place or area based especially on the unique or special aspects of that locale’s history, landscape (including trail systems), and culture. The terms “Federally owned” and “in Federal ownership,” and similar terms, as used in this order, do not include properties acquired by agencies as a result of foreclosure or similar actions and that are held for a period of less than 5 years.

**SEC. 8. *Judicial Review.*** This order is intended only to improve the internal management of the Federal Government and it is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

GEORGE W. BUSH.

**§ 470h-3. Lease or exchange of historic property**

**(a) Authorization; consultation with Council**

Notwithstanding any other provision of law, any Federal agency after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may lease an historic property owned by the agency to any person or organization, or exchange any property owned by the agency with comparable historic property, if the agency head determines that the lease or exchange will adequately insure the preservation of the historic property.

**(b) Proceeds of lease for administration, etc., of property; deposit of surplus proceeds into Treasury**

The proceeds of any lease under subsection (a) of this section may, notwithstanding any other provision of law, be retained by the agency entering into such lease and used to defray the costs of administration, maintenance, repair, and related expenses incurred by the agency with respect to such property or other properties which are on the National Register which are owned by, or are under the jurisdiction or control of, such agency. Any surplus proceeds from such leases shall be deposited into the Treasury of the United States at the end of the second fiscal year following the fiscal year in which such proceeds were received.

**(c) Contracts for management of historic property**

The head of any Federal agency having responsibility for the management of any historic

property may, after consultation with the Advisory Council on Historic Preservation, enter into contracts for the management of such property. Any such contract shall contain such terms and conditions as the head of such agency deems necessary or appropriate to protect the interests of the United States and insure adequate preservation of the historic property.

(Pub. L. 89-665, title I, §111, as added Pub. L. 96-515, title II, §207, Dec. 12, 1980, 94 Stat. 2997; amended Pub. L. 102-575, title XL, §4013, Oct. 30, 1992, 106 Stat. 4761.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-575 substituted “after consultation with the Council, shall, to the extent practicable, establish and implement alternatives for historic properties, including adaptive use, that are not needed for current or projected agency purposes, and may” for “may, after consultation with the Advisory Council on Historic Preservation.”.

HISTORIC LEASE PROCESS SIMPLIFICATION

Pub. L. 105-391, title VIII, §802(b), Nov. 13, 1998, 112 Stat. 3523, provided that: “The Secretary is directed to simplify, to the maximum extent possible, the leasing process for historic properties with the goal of leasing available structures in a timely manner.”

**§ 470h-4. Professional standards**

**(a) In general**

Each Federal agency that is responsible for the protection of historic resources, including archaeological resources pursuant to this subchapter or any other law shall ensure each of the following—

(1)(A) All actions taken by employees or contractors of such agency shall meet professional standards under regulations developed by the Secretary in consultation with the Council, other affected agencies, and the appropriate professional societies of the disciplines involved, specifically archaeology, architecture, conservation, history, landscape architecture, and planning.

(B) Agency personnel or contractors responsible for historic resources shall meet qualification standards established by the Office of Personnel Management in consultation with the Secretary and appropriate professional societies of the disciplines involved. The Office of Personnel Management shall revise qualification standards within 2 years after October 30, 1992, for the disciplines involved, specifically archaeology, architecture, conservation, curation, history, landscape architecture, and planning. Such standards shall consider the particular skills and expertise needed for the preservation of historic resources and shall be equivalent requirements for the disciplines involved.

(2) Records and other data, including data produced by historical research and archaeological surveys and excavations are permanently maintained in appropriate data bases and made available to potential users pursuant to such regulations as the Secretary shall promulgate.

**(b) Guidelines**

In order to promote the preservation of historic resources on properties eligible for listing

in the National Register, the Secretary shall, in consultation with the Council, promulgate guidelines to ensure that Federal, State, and tribal historic preservation programs subject to this subchapter include plans to—

(1) provide information to the owners of properties containing historic (including architectural, curatorial, and archaeological) resources with demonstrated or likely research significance, about the need for protection of such resources, and the available means of protection;

(2) encourage owners to preserve such resources intact and in place and offer the owners of such resources information on the tax and grant assistance available for the donation of the resources or of a preservation easement of the resources;

(3) encourage the protection of Native American cultural items (within the meaning of section 3001(3) and (9) of title 25) and of properties of religious or cultural importance to Indian tribes, Native Hawaiians, or other Native American groups; and

(4) encourage owners who are undertaking archaeological excavations to—

(A) conduct excavations and analyses that meet standards for federally-sponsored excavations established by the Secretary;

(B) donate or lend artifacts of research significance to an appropriate research institution;

(C) allow access to artifacts for research purposes; and

(D) prior to excavating or disposing of a Native American cultural item in which an Indian tribe or Native Hawaiian organization may have an interest under section 3002(a)(2)(B) or (C) of title 25, given<sup>1</sup> notice to and consult with such Indian tribe or Native Hawaiian organization.

(Pub. L. 89-665, title I, §112, as added Pub. L. 102-575, title XL, §4014, Oct. 30, 1992, 106 Stat. 4761; amended Pub. L. 106-208, §5(a)(9), May 26, 2000, 114 Stat. 319.)

#### CODIFICATION

October 30, 1992, referred to in subsec. (a)(1)(B), was in the original “the date of enactment of this Act” which was translated as meaning the date of enactment of Pub. L. 102-575 which enacted this section, to reflect the probable intent of Congress.

#### AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106-208 inserted closing parenthesis after “title 25”.

### § 470h-5. Interstate and international traffic in antiquities

#### (a) Study

In order to help control illegal interstate and international traffic in antiquities, including archaeological, curatorial, and architectural objects, and historical documents of all kinds, the Secretary shall study and report on the suitability and feasibility of alternatives for controlling illegal interstate and international traffic in antiquities.

<sup>1</sup> So in original. Probably should be “give”.

#### (b) Consultation

In conducting the study described in subsection (a) of this section the Secretary shall consult with the Council and other Federal agencies that conduct, cause to be conducted, or permit archaeological surveys or excavations or that have responsibilities for other kinds of antiquities and with State Historic Preservation Officers, archaeological, architectural, historical, conservation, and curatorial organizations, Indian tribes, Native Hawaiian organizations, and other Native American organizations, international organizations and other interested persons.

#### (c) Report

Not later than 18 months after October 30, 1992, the Secretary shall submit to Congress a report detailing the Secretary’s findings and recommendations from the study described in subsection (a) of this section.

#### (d) Authorization

There are authorized to be appropriated not more than \$500,000 for the study described in subsection (a) of this section, such sums to remain available until expended.

(Pub. L. 89-665, title I, §113, as added Pub. L. 102-575, title XL, §4015, Oct. 30, 1992, 106 Stat. 4762.)

#### PART B—ADVISORY COUNCIL ON HISTORIC PRESERVATION

### § 470i. Advisory Council on Historic Preservation

#### (a) Establishment; membership; Chairman

There is established as an independent agency of the United States Government an Advisory Council on Historic Preservation which shall be composed of the following members:

(1) a Chairman appointed by the President selected from the general public;

(2) the Secretary of the Interior;

(3) the Architect of the Capitol;

(4) the Secretary of Agriculture and the heads of seven other agencies of the United States (other than the Department of the Interior) the activities of which affect historic preservation, designated by the President;

(5) one Governor appointed by the President;

(6) one mayor appointed by the President;

(7) the President of the National Conference of State Historic Preservation Officers;

(8) the Chairman of the National Trust for Historic Preservation;

(9) four experts in the field of historic preservation appointed by the President from the disciplines of architecture, history, archeology, and other appropriate disciplines;

(10) three at-large members from the general public, appointed by the President; and

(11) one member of an Indian tribe or Native Hawaiian organization who represents the interests of the tribe or organization of which he or she is a member, appointed by the President.

#### (b) Designation of substitutes

Each member of the Council specified in paragraphs (2) through (8) other than (6) of subsection (a) of this section may designate another