

96-244, §2, May 19, 1980, 94 Stat. 346; Pub. L. 96-515, title III, §302(b), Dec. 12, 1980, 94 Stat. 3000; Pub. L. 98-483, Oct. 17, 1984, 98 Stat. 2258; Pub. L. 101-70, Aug. 3, 1989, 103 Stat. 180; Pub. L. 102-575, title XL, §4017, Oct. 30, 1992, 106 Stat. 4763; Pub. L. 103-437, §6(d)(29), Nov. 2, 1994, 108 Stat. 4584; Pub. L. 104-333, div. I, title V, §509(a), Nov. 12, 1996, 110 Stat. 4157; Pub. L. 106-208, §3, May 26, 2000, 114 Stat. 318; Pub. L. 109-453, §1(f), Dec. 22, 2006, 120 Stat. 3368.)

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-453, which directed amendment of subsec. (a) by substituting “such amounts as may be necessary to carry out this part” for “for purposes of this part not to exceed \$4,000,000 for each fiscal year 1997 through 2005”, was executed by making the substitution for “for the purposes of this part not to exceed \$4,000,000 in each fiscal year 1997 through 2005” to reflect the probable intent of Congress.

2000—Subsec. (a). Pub. L. 106-208 substituted “2005” for “2000”.

1996—Subsec. (a). Pub. L. 104-333 amended last sentence generally. Prior to amendment, last sentence read as follows: “There are authorized to be appropriated for purposes of this part not to exceed \$5,000,000 for each of the fiscal years 1993 through 1996.”

1994—Subsec. (b). Pub. L. 103-437 substituted “Natural Resources” for “Interior and Insular Affairs” after “Committee on”.

1992—Subsec. (a). Pub. L. 102-575 substituted provision authorizing appropriations for purposes of this part of not to exceed \$5,000,000 for each of fiscal years 1993 through 1996 for provision authorizing appropriations of not to exceed \$2,500,000 in each fiscal year 1990 through 1994.

1989—Subsec. (a). Pub. L. 101-70 substituted provision authorizing appropriations of not to exceed \$2,500,000 in each fiscal year 1990 through 1994 for provision authorizing appropriations, to carry out provisions of this part, of not more than \$2,500,000 for each of the fiscal years 1985 through 1989.

1984—Subsec. (a). Pub. L. 98-483 substituted provision authorizing appropriations of not more than \$2,500,000 for each of the fiscal years 1985 through 1989 for provision authorizing appropriations of not more than \$1,500,000 to \$2,250,000 in increments of \$250,000 for fiscal years 1977 through 1980, and not more than \$2,500,000 for each of the fiscal years 1981 through 1983.

1980—Subsec. (a). Pub. L. 96-244 inserted “\$2,500,000 in the fiscal year 1981, \$2,500,000 in fiscal year 1982, and \$2,500,000 in fiscal year 1983” after “in fiscal year 1980”.

Subsec. (b). Pub. L. 96-515 substituted “Senate Committee on Energy and Natural Resources” for “Senate Committee on Interior and Insular Affairs”, which amendment is identical to the amendment by section 608(a)(3) of Pub. L. 96-205, thereby requiring no change in text.

Pub. L. 96-205 substituted “Energy and Natural Resources” for “Interior and Insular Affairs”.

1978—Subsec. (a). Pub. L. 95-625 authorized appropriation of \$2,250,000 in fiscal year 1980.

§ 470u. Report by Secretary to Council

To assist the Council in discharging its responsibilities under this subchapter, the Secretary at the request of the Chairman, shall provide a report to the Council detailing the significance of any historic property, describing the effects of any proposed undertaking on the affected property, and recommending measures to avoid, minimize, or mitigate adverse effects.

(Pub. L. 89-665, title II, §213, as added Pub. L. 96-515, title III, §302(a), Dec. 12, 1980, 94 Stat. 3000.)

§ 470v. Exemption for Federal programs or undertakings; regulations

The Council, with the concurrence of the Secretary, shall promulgate regulations or guidelines, as appropriate, under which Federal programs or undertakings may be exempted from any or all of the requirements of this subchapter when such exemption is determined to be consistent with the purposes of this subchapter, taking into consideration the magnitude of the exempted undertaking or program and the likelihood of impairment of historic properties.

(Pub. L. 89-665, title II, §214, as added Pub. L. 96-515, title III, §302(a), Dec. 12, 1980, 94 Stat. 3000.)

§ 470v-1. Reimbursements from State and local agencies

Subject to applicable conflict of interest laws, the Council may receive reimbursements from State and local agencies and others pursuant to agreements executed in furtherance of the purposes of this subchapter.

(Pub. L. 89-665, title II, §215, as added Pub. L. 104-333, div. I, title V, §509(c)(3), Nov. 12, 1996, 110 Stat. 4157.)

§ 470v-2. Effectiveness of Federal grant and assistance programs

(a) Cooperative agreements

The Council may enter into a cooperative agreement with any Federal agency that administers a grant or assistance program for the purpose of improving the effectiveness of the administration of such program in meeting the purposes and policies of this subchapter. Such cooperative agreements may include provisions that modify the selection criteria for a grant or assistance program to further the purposes of this subchapter or that allow the Council to participate in the selection of recipients, if such provisions are not inconsistent with the grant or assistance program’s statutory authorization and purpose.

(b) Review of grant and assistance programs

The Council may—

(1) review the operation of any Federal grant or assistance program to evaluate the effectiveness of such program in meeting the purposes and policies of this subchapter;

(2) make recommendations to the head of any Federal agency that administers such program to further the consistency of the program with the purposes and policies of the subchapter and to improve its effectiveness in carrying out those purposes and policies; and

(3) make recommendations to the President and Congress regarding the effectiveness of Federal grant and assistance programs in meeting the purposes and policies of this subchapter, including recommendations with regard to appropriate funding levels.

(Pub. L. 89-665, title II, §216, as added Pub. L. 109-453, §1(g), Dec. 22, 2006, 120 Stat. 3368.)

PART C—GENERAL AND MISCELLANEOUS

§ 470w. Definitions

As used in this subchapter, the term—

(1) “Agency” means agency as such term is defined in section 551 of title 5.

(2) “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau.

(3) “Local government” means a city, county, parish, township, municipality, or borough, or any other general purpose political subdivision of any State.

(4) “Indian tribe” or “tribe” means an Indian tribe, band, nation, or other organized group or community, including a Native village, Regional Corporation or Village Corporation, as those terms are defined in section 1602 of title 43, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(5) “Historic property” or “historic resource” means any prehistoric or historic district, site, building, structure, or object included in, or eligible for inclusion on the National Register, including artifacts, records, and material remains related to such a property or resource.

(6) “National Register” or “Register” means the National Register of Historic Places established under section 470a of this title.

(7) “Undertaking” means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a Federal agency, including—

(A) those carried out by or on behalf of the agency;

(B) those carried out with Federal financial assistance;

(C) those requiring a Federal permit license, or approval; and

(D) those subject to State or local regulation administered pursuant to a delegation or approval by a Federal agency.

(8) “Preservation” or “historic preservation” includes identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities, or any combination of the foregoing activities.

(9) “Cultural park” means a definable area which is distinguished by historic resources and land related to such resources and which constitutes an interpretive, educational, and recreational resource for the public at large.

(10) “Historic conservation district” means an area which contains (A) historic properties, (B) buildings having similar or related architectural characteristics, (C) cultural cohesiveness, or (D) any combination of the foregoing.

(11) “Secretary” means the Secretary of the Interior acting through the Director of the National Park Service except where otherwise specified.

(12) “State historic preservation review board” means a board, council, commission, or other similar collegial body established as provided in section 470a(b)(1)(B) of this title—

(A) the members of which are appointed by the State Historic Preservation Officer (unless otherwise provided for by State law),

(B) a majority of the members of which are professionals qualified in the following and related disciplines: history, prehistoric and historic archaeology, architectural history, architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture, and

(C) which has the authority to—

(i) review National Register nominations and appeals from nominations;

(ii) review appropriate documentation submitted in conjunction with the Historic Preservation Fund;

(iii) provide general advice and guidance to the State Historic Preservation Officer; and

(iv) perform such other duties as may be appropriate.

(13) “Historic preservation review commission” means a board, council, commission, or other similar collegial body which is established by State or local legislation as provided in section 470a(c)(1)(B) of this title, and the members of which are appointed, unless otherwise provided by State or local legislation, by the chief elected official of the jurisdiction concerned from among—

(A) professionals in the disciplines of architecture, history, architectural history, planning, prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture, or related disciplines, to the extent such professionals are available in the community concerned, and

(B) such other persons as have demonstrated special interest, experience, or knowledge in history, architecture, or related disciplines and as will provide for an adequate and qualified commission.

(14) “Tribal lands” means—

(A) all lands within the exterior boundaries of any Indian reservation; and

(B) all dependent Indian communities.

(15) “Certified local government” means a local government whose local historic preservation program has been certified pursuant to section 470a(c) of this title.

(16) “Council” means the Advisory Council on Historic Preservation established by section 470i of this title.

(17) “Native Hawaiian” means any individual who is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(18) “Native Hawaiian organization” means any organization which—

(A) serves and represents the interests of Native Hawaiians;

(B) has as a primary and stated purpose the provision of services to Native Hawaiians; and

(C) has demonstrated expertise in aspects of historic preservation that are culturally significant to Native Hawaiians.

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

(Pub. L. 89-665, title III, §301, as added Pub. L. 96-515, title V, §501, Dec. 12, 1980, 94 Stat. 3001; amended Pub. L. 102-575, title XL, §4019(a), Oct. 30, 1992, 106 Stat. 4763; Pub. L. 106-208, §5(a)(10), May 26, 2000, 114 Stat. 319.)

AMENDMENTS

2000—Par. (12)(C)(iii). Pub. L. 106-208 substituted semicolon for comma after “Officer”.

1992—Par. (1). Pub. L. 102-575, §4019(a)(1), struck out “, except that in the case of any Federal program exempted under section 470v of this title, the agency administering such program shall not be treated as an agency with respect to such program” after “title 5”.

Par. (2). Pub. L. 102-575, §4019(a)(2), substituted “the Trust Territory of the Pacific Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and, upon termination of the Trusteeship Agreement for the Trust Territory of the Pacific Islands, the Republic of Palau” for “the Trust Territories of the Pacific Islands”.

Par. (4). Pub. L. 102-575, §4019(a)(3), amended par. (4) generally. Prior to amendment, par. (4) read as follows: “‘Indian tribe’ means the governing body of any Indian tribe, band, nation, or other group which is recognized as an Indian tribe by the Secretary of the Interior and for which the United States holds land in trust or restricted status for that entity or its members. Such term also includes any Native village corporation, regional corporation, and Native Group established pursuant to the Alaska Native Claims Settlement Act.”

Par. (5). Pub. L. 102-575, §4019(a)(4), substituted “Register, including artifacts, records, and material remains related to such a property or resource.” for “Register; such term includes artifacts, records, and remains which are related to such a district, site, building, structure, or object.”

Par. (7). Pub. L. 102-575, §4019(a)(5), amended par. (7) generally. Prior to amendment, par. (7) read as follows: “‘Undertaking’ means any action as described in section 470f of this title.”

Par. (8). Pub. L. 102-575, §4019(a)(6), substituted “maintenance, research, interpretation, conservation, and education and training regarding the foregoing activities,” for “maintenance and reconstruction.”

Par. (9). Pub. L. 102-575, §4019(a)(7), substituted “definable area” for “definable urban area”.

Par. (10). Pub. L. 102-575, §4019(a)(8), substituted “an area” for “an urban area of one or more neighborhoods and”.

Par. (11). Pub. L. 102-575, §4019(a)(9), inserted “acting through the Director of the National Park Service” after “of the Interior”.

Par. (12)(B). Pub. L. 102-575, §4019(a)(10), substituted “architecture, folklore, cultural anthropology, curation, conservation, and landscape architecture” for “and architecture”.

Par. (13)(A). Pub. L. 102-575, §4019(a)(11), substituted “prehistoric and historic archaeology, folklore, cultural anthropology, curation, conservation, and landscape architecture” for “archaeology”.

Pars. (14) to (18). Pub. L. 102-575, §4019(a)(12), added pars. (14) to (18).

HISTORIC PRESERVATION FUND MATCHING GRANT ASSISTANCE

Pub. L. 102-381, title I, Oct. 5, 1992, 106 Stat. 1382, provided in part: “That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation

Fund matching grant assistance, in fiscal year 1993 and thereafter, as authorized under 16 U.S.C. 470w(2)”.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands and the Trusteeship Agreement, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 470w-1. Authorization for expenditure of appropriated funds

Where appropriate, each Federal agency is authorized to expend funds appropriated for its authorized programs for the purposes of activities carried out pursuant to this subchapter, except to the extent appropriations legislation expressly provides otherwise.

(Pub. L. 89-665, title III, §302, as added Pub. L. 96-515, title V, §501, Dec. 12, 1980, 94 Stat. 3002.)

§ 470w-2. Donations and bequests of money, personal property and less than fee interests in historic property

(a) The Secretary is authorized to accept donations and bequests of money and personal property for the purposes of this subchapter and shall hold, use, expend, and administer the same for such purposes.

(b) The Secretary is authorized to accept gifts or donations of less than fee interests in any historic property where the acceptance of such interests will facilitate the conservation or preservation of such properties. Nothing in this section or in any provision of this subchapter shall be construed to affect or impair any other authority of the Secretary under other provision of law to accept or acquire any property for conservation or preservation or for any other purpose.

(Pub. L. 89-665, title III, §303, as added Pub. L. 96-515, title V, §501, Dec. 12, 1980, 94 Stat. 3002.)

§ 470w-3. Access to information

(a) Authority to withhold from disclosure

The head of a Federal agency or other public official receiving grant assistance pursuant to this subchapter, after consultation with the Secretary, shall withhold from disclosure to the public, information about the location, character, or ownership of a historic resource if the Secretary and the agency determine that disclosure may—

- (1) cause a significant invasion of privacy;
- (2) risk harm to the historic resources; or
- (3) impede the use of a traditional religious site by practitioners.

(b) Access determination

When the head of a Federal agency or other public official has determined that information should be withheld from the public pursuant to subsection (a) of this section, the Secretary, in consultation with such Federal agency head or official, shall determine who may have access to the information for the purpose of carrying out this subchapter.

(c) Consultation with Council

When the information in question has been developed in the course of an agency's compliance