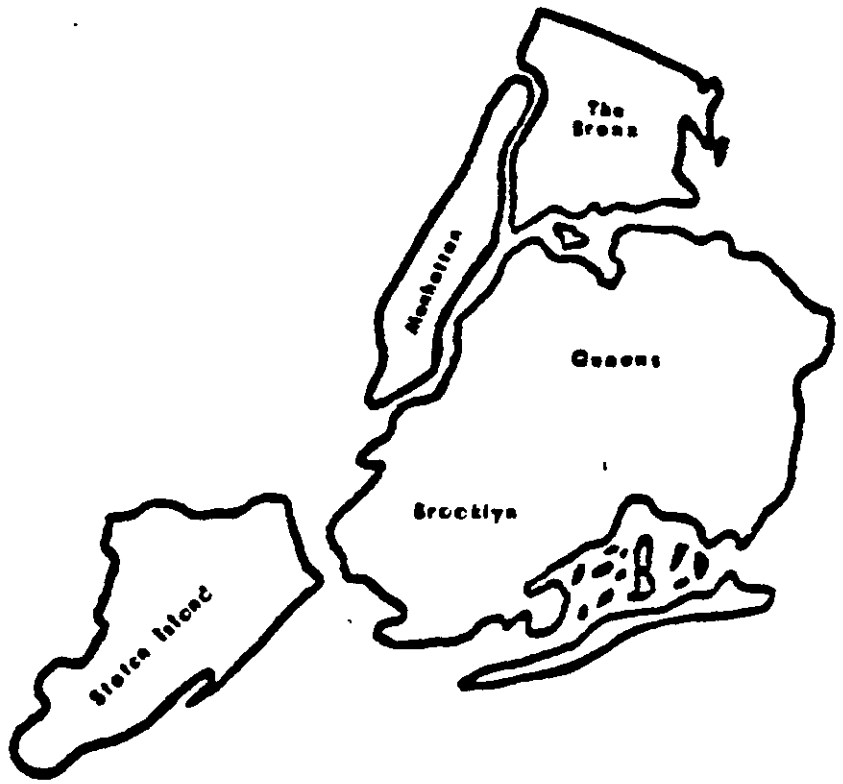


PROFESSIONAL
ARCHAEOLOGISTS OF
NEW
YORK
CITY



**NEWSLETTER
SUPPLEMENT NO. 2
DECEMBER 1982**

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Material for inclusion in the PANYC Newsletter should be sent to Sydne B. Marshall,
Enviropshere Company, 2 World Trade Center, New York, New York 10048

Preservation of Historic and Cultural Places

Memorandum relating to this chapter, see page 1871

CHAPTER 354

An Act to amend the parks and recreation law, the public buildings law and the general municipal law, in relation to historic preservation and repealing subdivision thirteen of section 1.03 of the parks and recreation law relating thereto.

Approved June 23, 1980, effective as provided in section 11.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Legislative findings and declaration of purpose. The legislature finds that the spirit and direction of the state are founded upon and reflected in its historic and cultural heritage. This heritage is represented in the existence of irreplaceable historic and cultural places which should be preserved as a living part of our communities. Historic and cultural places give character and distinction to our communities and to the state, offer educational and inspirational benefits for present and future generations and produce many economic benefits to the state and localities.

The legislature further finds that preservation programs to ensure future generations a real opportunity to appreciate and enjoy the rich heritage of our state require the dedicated and cooperative efforts of all levels of government with private agencies and individuals. Within a cooperative context, the state government should exert leadership, accelerate its historic preservation programs and activities, give maximum encouragement and assistance to agencies and individuals undertaking preservation by private means, encourage and assist local government in local preservation programs and cooperate with the federal government in such programs.

It is the purpose of this act to continue and advance the state's historic preservation programs and activities, to continue the responsi-

bility for the coordination of such programs and activities with the commissioner of parks and recreation, to foster consistency of state activities with historic preservation policy, to encourage and assist local governments in local preservation programs and activities and to encourage and assist private agencies and individuals undertaking preservation by private means.

§ 2. Short title. This act shall be known as the "New York state historic preservation act of 1980".

§ 3. Subdivision thirteen of section 1.03 of the parks and recreation law is repealed.

§ 4. Such law is amended by adding a new article fourteen to read as follows:

ARTICLE 14—HISTORIC PRESERVATION

Sec.

14.01 Declaration of policy.

14.03 Definitions.

14.05 Statewide historic preservation program.

14.07 State register of historic places; inventory of historic property; statewide comprehensive historic preservation plan.

14.09 State agency activities affecting historic or cultural property; notice and comment.

§ 14.01 Declaration of policy

The legislature determines that the historical, archeological, architectural and cultural heritage of the state is among the most important environmental assets of the state and that it should be preserved. It offers residents of the state a sense of orientation and civic identity, is fundamental to our concern for the quality of life, and produces numerous economic benefits to the state. The existence of irreplaceable properties of historical, archeological, architectural and cultural significance is threatened by the forces of change. It is hereby declared to be the public policy and in the public interest of this state to engage in a comprehensive program of historic preservation to accomplish the following purposes:

1. To promote the use, reuse and conservation of such properties for the education, inspiration, welfare, recreation, prosperity and enrichment of the public;

2. To promote and encourage the protection, enhancement and perpetuation of such properties, including any improvements, landmarks, historic districts, objects and sites which have or represent elements of historical, archeological, architectural or cultural significance;

3. To encourage and assist municipalities to undertake preservation programs and activities;

4. To foster civic pride in the beauty and accomplishments of the past through cooperation with municipalities and local organizations;

5. To preserve and enhance the state's attractions to tourists and visitors.

§ 14.03 Definitions

When used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Agency preservation officer" means the commissioner, director or chairperson of any state department, agency, board, commission, public benefit corporation or public authority, or his representative identified in accordance with the provisions of subdivision two of section 14.05 of this article.

2. "Board" means the state board for historic preservation.

3. "Chairman" means the chairman of the state board for historic preservation.

4. "Historic preservation" means for the purposes of this article and notwithstanding any other provision of law, the study, designation, protection, restoration, rehabilitation and use of buildings, structures, historic districts, areas, and sites significant in the history, architecture, archeology or culture of this state, its communities or the nation.

5. "Historic and/or cultural place or property" means any building, structure, district, area, site or object including underground and underwater sites, that is of significance in the history, architecture, archeology or culture of the state, its communities or the nation.

6. "Historic district" means any area which: (a) has a special character or special historical, archeological, architectural, or cultural value; or (b) represents one or more periods or styles of architecture typical of one or more eras; and (c) causes such area, by reason of such factors, to constitute a distinct section.

7. "Municipality" for the purpose of this article only means any county, city, town or village.

8. "Municipal official" means the chief executive officer of any municipality or his or her designated representative.

9. "National register" means the national register of historic places authorized by the National Historic Preservation Act of 1966.¹

10. "Registered property" means any historic place or property within the boundaries of the state nominated by the commissioner for listing on the national register of historic places or listed on the New York state register of historic places established pursuant to section 14.07 of this article.

11. "State agency" means any state department, agency, board or commission of the state, or a public benefit corporation or public authority at least one of whose members is appointed by the governor.

12. "State register" means the state register of historic places established pursuant to section 14.07 of this article.

¹ 16 U.S.C.A. § 470 et seq

§ 14.05 Statewide historic preservation program

1. The commissioner shall continue and advance a statewide historic preservation program which shall include:

(a) Surveying and inventorying historic places and properties for nomination to the national register and state register of historic places.

and

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(b) Continuing planning activities to foster the preservation and management of historic properties as living parts of our communities and the effective representation of historic preservation in state environmental planning activities; and

(c) Administering a program of grants with funds available from the federal government and funds appropriated by the state for the purpose of assisting local and regional preservation programs or projects preserving historic properties for public benefit; and

(d) Assisting and encouraging local governments and private agencies and individuals to expand and advance their historic preservation programs and activities; and

(e) Educating the public by increasing awareness and pride in historic and cultural resources and the opportunities for continuing use and adaptive reuse of historic properties.

2. For the purpose of implementing and coordinating the statewide historic preservation program established pursuant to the provisions of this article and such other provisions of law which may be applicable, every state agency shall have a preservation officer who as defined in this article shall serve as liaison to the commissioner on matters affecting historic preservation in relation to properties within their respective jurisdictions. For the purposes of this article, the responsibility of an agency preservation officer shall extend to all property owned by or held on behalf of the people of the state by the agency of which he is an officer. Each agency preservation officer may delegate the liaison role created pursuant to this article by submitting the name of the designee or designees, in writing, to the commissioner. For the purpose of implementing and coordinating the statewide historic preservation program pursuant to the provisions of this article and such other provisions of law which may be applicable to local government programs for the preservation, restoration and maintenance of the historical, architectural, archeological and cultural environment, the chief executive officer or the designee of such officer or each municipality in the state shall serve as liaison to the commissioner on matters affecting historic preservation in relation to properties within such officer's respective jurisdiction.

3. The commissioner may prepare and distribute informational material and conduct informational meetings and other sessions for agency preservation officers and municipal officials appropriate to the promotion of state and local preservation activities and the proper fulfillment of their liaison role.

4. Each agency preservation officer shall and municipal officials may: cooperate with the commissioner concerning the conduct of a comprehensive survey of historic resources which shall be used in the compilation of a comprehensive inventory of historic property; advise the commissioner concerning state and local historic preservation policy and programs, and assist the commissioner in the preparation of reports.

§ 14.07 State register of historic places; inventory of historic property; statewide comprehensive historic preservation plan

1. State register of historic places.

(a) The commissioner, in consultation with the board, shall establish a listing of sites, districts, structures, buildings, areas or objects above or below the surface of the earth whether on land or in the waters of the state, together with any designated improvements thereon, significant in the history, architecture, archeology or culture of the state, its communities or the nation. Such listing shall constitute the New York state register of historic places. All historic places within the state listed on or nominated by the commissioner for inclusion on the national register of historic places before or after this article becomes law shall be deemed to be listed on the state register.

(b) The commissioner, with the advice of the board, shall establish the procedures and the criteria for listing on the state register consistent with the criteria established for listing on the national register and for classifying whether such places are primarily of national, state or local significance. The criteria for listing on the national register which shall be used as a guide for listing on the state register are as follows:

The quality of significance in American history, architecture, archeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

A. that are associated with events that have made a significant contribution to the broad patterns of our history; or

B. that are associated with the lives of persons significant in our past; or

C. that embody the distinctive characteristics of a type, period, or method of construction, or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or

D. that have yielded, or may be likely to yield, information important in prehistory or history. Such procedures shall include opportunity for the public to make proposals for listing on the state register, the notification in advance of the listing to the agency preservation officers and/or municipal official having jurisdiction over the property and for the mailing of notification of pending action to the owner or owners of record of the property, if privately owned, at their last known address; provided however, that if one listing affects more than one property owner or where the owner or owners cannot be ascertained, the publishing of notice of pending listing in a newspaper of general circulation in the area where the property is located shall constitute adequate notice. Such procedures shall also provide for timely review and consideration of listing places on the state register which the United States Secretary of the Interior has designated as eligible for the national register. When a proposal for listing with sufficient supporting documentation is made by a municipal official, local historic preser-

vation board or commission or a member of the public, a decision on listing the proposed property with an appropriate finding supporting the decision shall be issued in writing by the commissioner not more than one hundred eighty days after such proposal is received by the commissioner.

(c) If the municipal official of any municipality with jurisdiction over any property or the owner or owners of such property, other than that included upon or nominated for inclusion upon the national register of historic places prior to the effective date of this article, advises the commissioner in writing within fifteen days of mailing or publishing of notification that the municipality or owner questions the eligibility of the proposed property, the commissioner shall postpone the listing until the municipality or owner has the reasonable opportunity to present a written statement to the commissioner and the board.

(d) The benefits and protections of this article upon any listing on the state register shall accrue in full force and effect from the date of its listing. Within forty-five days after the listing of any property on the state register, the commissioner shall notify the appropriate agency preservation officer and/or municipal official and the owner of the property affected, if privately owned, at his last known address. With respect to all properties deemed to be listed on the state register because they were listed on or nominated to the national register before this article became law, within a reasonable time after this article becomes law, the commissioner shall notify the appropriate agency preservation officer and/or municipal official and the owner of the property affected, if privately owned, at his last known address. Such notice shall include the registered properties' classification as primarily of national, state or local significance. The commissioner shall also cause notice of the listing to be published in a newspaper of general circulation in the area where the property is located. Such publication of notice shall be in lieu of the personal notice hereinabove required in instances where one listing affects more than one property owner and in instances where the owner or owners of the listed property cannot be ascertained.

(e) No place may be removed from the state register unless it is determined by the commissioner, after consultation with the board, that the qualities that gave it significance and for which it was initially listed no longer exist.

(f) The commissioner shall, upon request, provide information on the places listed on the state register and on sites included in the state-wide inventory maintained by the office pursuant to the provisions of subdivision two of this section to any person making a written request for such information, with the exception of sites that may be damaged by unauthorized investigators if their location be generally publicized. Notwithstanding the provisions of any other law, information on such archeological sites may be withheld from the public at the discretion of the commissioner in consultation with the commissioner of education and will be released, where appropriate, in a format approved by such commissioners. The commissioner may establish a reasonable

fee for the preparation, duplication and mailing of requested information.

(g) The commissioner shall include in the state register all places he determines to be of significance after consultation with the board. In making the listing the commissioner shall indicate whether the place is primarily of national, state or local significance.

2. Statewide inventory of historic property. (a) The commissioner, with the assistance of the agency preservation officers of all state departments, agencies, boards, commissions, public benefit corporations and public authorities shall prepare and maintain an inventory of all property owned by the state, public benefit corporations or public authorities, which may qualify for nomination to the national register of historic places and/or listing on the state register of historic places. In addition, the commissioner in cooperation with municipal officials, shall prepare and maintain an inventory of all other property publicly and privately owned which may qualify for nomination to the national register and listing on the state register.

(b) The commissioner shall consult with the commissioner of education and consider information from surveys of archeological sites prepared by such department. The commissioner of education shall cooperate with the commissioner by continuing to expand, maintain and review the department of education's inventory of archeological sites and provide information thereon to the commissioner.

(c) The commissioner shall assist and encourage private organizations and groups in undertaking surveys, studies and inventories of historic places and cultural resources.

(d) These inventories shall constitute the statewide inventory of historic places and shall be represented on appropriate maps of the entire inventory. Inclusion of a historic place on the inventory shall not by itself be deemed to be a determination by the state of such place's significance for purposes of section 15(a) of Public Law 89-574 as subsequently amended. The commissioner shall regularly review this inventory and, with the advice of the board, select sites for listing on the state register and for nomination to the national register and make recommendations to the commissioner of the office of general services of buildings on the inventory which have available space deemed suitable for state use.

3. Statewide comprehensive historic preservation plan The commissioner, in consultation with the board, shall prepare a statewide comprehensive historic preservation plan. This plan may include proposals for the preservation and use of registered property. The annual state plan submitted to the Heritage Conservation and Recreation Service in the United States Department of Interior may substantially be used in preparing this plan. The agency preservation officers shall cooperate and municipal officials may cooperate with the commissioner in the promulgation of plans and proposals in relation to historic places within their respective jurisdictions. The commissioner shall update the plan annually. The commissioner shall annually notify every agency preservation officer and municipal official of the availability of the state

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plan or the annual update and a copy of the annual plan or update shall be sent to every agency preservation officer and municipal official requesting such a plan or update.

4. From funds available from the federal government for historic preservation purposes which may be used for reimbursement as herein-after provided, and funds appropriated by the state for the purpose of assisting local and regional preservation programs including funds for survey and planning, the commissioner may provide reimbursement to municipalities and private organizations which undertake surveys and studies of historic places and cultural resources, prepare local historic preservation reports or otherwise assist the commissioner in carrying out his historic preservation responsibilities.

§ 14.09 State agency activities affecting historic or cultural property; notice and comment

1. As early in the planning process as may be practicable and prior to the preparation or approval of the final design or plan of any project undertaken by a state agency, or prior to the funding of any project by a state agency or prior to an action of approval or entitlement of any private project by a state agency, the agency's preservation officer shall give notice, with sufficient documentation, to and consult with the commissioner concerning the impact of the project if it appears that any aspect of the project may or will cause any change, beneficial or adverse, in the quality of any historic, architectural, archeological, or cultural property that is listed on the national register of historic places or property listed on the state register or is determined to be eligible for listing on the state register by the commissioner. Generally, adverse impacts occur under conditions which include but are not limited to (a) destruction or alteration of all or part of a property; (b) isolation or alteration of its surrounding environment; (c) introduction of visual, audible, or atmospheric elements that are out of character with the property or alter its setting; or (d) neglect of property resulting in its deterioration or destruction. Every agency shall fully explore all feasible and prudent alternatives and give due consideration to feasible and prudent plans which avoid or mitigate adverse impacts on such property. In the event that the agency has filed or will file with the department of environmental conservation, with respect to that contemplated project, a draft environmental impact statement pursuant to the provisions of article eight of the environmental conservation law,¹ it shall provide a copy thereof to the commissioner and the chairman of the board and shall also supply such further information as the commissioner may request. This section shall not apply to a state project that is necessary to prevent an immediate and imminent threat to life or property.

2. The commissioner shall undertake a review and make comment within thirty days of receipt of notice, with sufficient documentation, of a proposed project as to whether or not such proposed project may have an adverse impact on any property that is listed on the national register of historic places or on the state register or is determined to

be eligible for the state register by the commissioner. The comment shall be put on file and shall be available to the public on request. If it is determined that a project may have an adverse impact on such property, the commissioner shall so notify the agency in writing. Upon receipt of such notification from the commissioner, the agency shall immediately contact the commissioner for the purpose of exploring alternatives which would avoid or mitigate adverse impacts to such property consistent with the policy and provisions of this article and other provisions of law relating to historic preservation. To the fullest extent practicable, it is the responsibility of every state agency, consistent with other provisions of law, to avoid or mitigate adverse impacts to registered property or property determined eligible for listing on the state register by the commissioner. In order to avoid inconsistency or duplication in review functions, the commissioner shall establish procedures in accordance with other provisions of this section whereby reviews conducted under this section are coordinated with the reviews of project or plan proposals under other provisions of law and regulation. When a project is being reviewed pursuant to section one hundred six of the national historic preservation act of 1966,² the procedures of this section shall not apply and any review or comment by the commissioner and the board on such project shall be within the framework or procedures of the section one hundred six review. The commissioner shall issue an annual report outlining state agency actions on which comment had been requested or issued under this section. Proposed alternatives and results of the review process shall be included in said annual report.

¹ ECL § 8 0101 et seq.

² 16 U.S.C.A. § 470f.

§ 5. The article heading of article eleven and section 11.03 of such law are amended to read as follows:

STATE BOARD OF FOR HISTORIC PRESERVATION

§ 11.03 State board on for historic preservation

There is hereby established within the office a state board ~~on~~ for historic preservation to consist of the commissioner of education, the commissioner of environmental conservation, the secretary of state, the chairman of the state council on the arts, the chairman of the council and eight members appointed by the governor, with the advice and consent of the senate, for terms of four years. ~~The terms of the members first appointed by the governor shall expire as follows: two on December thirty-first, nineteen hundred seventy-four and two on each December thirty first thereafter.~~ A majority of the members shall be qualified, by education and experience, in the fields of history, architecture, archeology and other related professional disciplines. No member shall receive any compensation, but shall be entitled to his actual and necessary expenses in performing the duties of his office.

§ 6. Section 11.05 of such law is amended to read as follows:

§ 11.05 ~~Chairman; office~~ Organization

1. The governor shall designate a chairman from among the members of the board appointed by him, to hold such office at his pleasure.

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The board may provide for its organization and appoint such other officers from among its members as it deems appropriate.

2. The commissioner, upon the approval of the board, shall appoint staff within amounts made available by appropriation to serve the board. The staff shall assist with the organization and implementation of the board's duties; serve as a liaison between the commissioner and board; inform the board of all developments germane to its duties and perform other duties required of the board through provisions of article fourteen of this chapter and any other laws affecting the board.

§ 7. Section 11.09 of such law is amended by adding three new subdivisions four-a, four-b and nine-a to read as follows:

4-a. Review and make recommendations to the commissioner on grant applications and use of federal and state grants-in-aid in the state.

4-b. Consult with the commissioner and review and comment in writing upon projects that they select, reviewed pursuant to section one hundred six of the national historic preservation act of 1966¹ and section 14.09 of this chapter, upon environmental impact assessments or statements or as otherwise provided by law on actions where it appears that any aspect of the action may or will cause any change, beneficial or adverse, in the quality of the historic, architectural, archeological or cultural character that qualifies an historic or cultural place for listing on the state register.

9-a. To effectuate the purposes of this section, the board may request from any department, board, bureau, commission or other agency of the state, and the same are authorized and directed to provide, such cooperation and assistance, services and data as will enable the board properly to carry out its powers and duties thereunder.

¹ 16 U.S.C.A. § 470f.

§ 8. The public buildings law is amended by adding a new article four-B to read as follows:

ARTICLE 4-B—HISTORIC AND CULTURAL PROPERTIES

Sec.

60. Public policy.

61. Definitions.

62. Survey of historic and cultural properties under state control.

63. Protection and management of state historic and cultural properties.

64. State use of suitable buildings of historic, architectural or cultural significance.

§ 60. Public policy

It is hereby declared to be the public policy of this state to provide leadership in preserving, restoring and maintaining the historic, architectural, archeological and cultural environment of this state and that therefore it is the purpose of this article to provide that the instrumentalities of the state administer the historic and cultural properties under their control in a spirit of stewardship and trusteeship for the future generations and conduct their activities, plans and programs in a man-

ner consistent with the preservation and enhancement of historic and cultural properties.

§ 61. Definitions

When used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Commissioner" means the commissioner of general services.
2. "Historic and/or cultural place or property" means any building, structure, district, area or site including underground and underwater sites, that is of significance in the history, architecture, archeology or culture of the state, its communities, or the nation.
3. "National Register" means the national register of historic places authorized by the National Historic Preservation Act of 1966.¹
4. "Registered property" means any historic place or property within the boundaries of the state nominated by the commissioner of parks and recreation for listing on the national register of historic places and/or listed on the state register of historic places.
5. "State agency" means any state department, officer, board, commission, agency, or a public authority or public benefit corporation at least one of whose members is appointed by the governor.
6. "State register" means the state register of historic places established pursuant to section 14.07 of article fourteen of the parks and recreation law.

¹ 16 U.S.C.A. § 470 et seq

§ 62. Survey of historic and cultural properties under state control

The commissioner of general services with the advice and assistance of the commissioner of parks and recreation shall prepare, maintain and publish a listing of all historic and cultural properties under its jurisdiction or control or otherwise owned or used by any state agency including those listed on the state or national register of historic places or determined by the commissioner of parks and recreation to be eligible for the state register. The commissioner may utilize the statewide inventory of historic property prepared by the commissioner of parks and recreation for purposes of this section.

§ 63. Protection and management of state historic and cultural properties

The commissioner of the office of general services or the chief executive officer of any state agency shall:

1. Consult with the commissioner of parks and recreation as early in the planning process as may be practicable when planning to demolish, alter or transfer any property under their jurisdiction listed on the state or national register or that has been determined by the commissioner of parks and recreation to be eligible for the state register, for the purpose of exploring alternatives to demolition, alteration or transfer. The commissioner of parks and recreation shall inform the state board of such proposed actions.
2. Initiate measures and procedures to provide for the maintenance, through preservation, rehabilitation or restoration of properties under

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their jurisdiction that are listed on the state or national register or are determined by the commissioner of parks and recreation to be eligible for listing on the state register.

3. Initiate measures to assure that where as a result of state action, a property listed in the state register of historic places is to be substantially altered or demolished, timely steps be taken to make or have made records, including measured drawings, photographs and maps of the property according to the standards of the Historic-American Building Survey, and that a copy of such records then be deposited in the state archives and with the Library of Congress for future reference and use.

4. To the fullest extent practicable, secure by preservation, restriction, historic or cultural properties sold or transferred by the state, which properties are listed on the state or national register or determined by the commissioner of parks and recreation to be eligible for listing on the state register.

5. Cooperate with purchasers and transferees of state owned properties listed on the state or national register or determined by the commissioner of parks and recreation to be eligible for listing on the state register in the development of viable plans to use such property in a manner compatible with preservation objectives.

§ 64. State use of suitable buildings of historic, architectural or cultural significance

1. The commissioner shall prepare and maintain long range projections for the public building needs of state government. In consultation with the state commissioner of parks and recreation, the chairman of the state board for historic preservation and municipal preservation boards and commissions, the commissioner shall identify existing buildings within the state that (a) are of historic, architectural or cultural significance and (b) would be suitable, whether or not in need of repair, alteration or addition, for purchase or lease to meet the public building needs of state government.

2. The commissioner of parks and recreation shall keep on file a list of all properties which are on the state register and which the owners of such properties have indicated are available for the purchase and/or lease by state agencies, or properties which have been brought to the attention of the commissioner of parks and recreation by their owners as being available for such purposes and have been determined by the commissioner of parks and recreation to be eligible for listing on the state register.

3. As early as may be practicable in the decision making process, in addition to any other requirements of law prior to the approval of contracts or actions necessary to construct or acquire by purchase or lease for a period of one year or more building space for use by state agencies, the commissioner or chief executive officer of any state agency responsible for acquisition of space shall so notify and consult with the commissioner of parks and recreation as to the existence and availability of historic properties listed on the state or national register or

determined by the commissioner of parks and recreation to be eligible for listing on the state register and the suitability of these buildings, whether or not in need of repair, alteration or addition, to meet the public building needs of state government. The commissioner of the office of parks and recreation shall report such notifications and consultations to the state board for historic preservation. The commissioner of general services and the chief executive officer of any other state agency shall give first priority to utilization of suitable buildings of historic, architectural or cultural significance unless such space would not prove feasible, compatible with the intended operation of state business and prudent compared with available alternatives. The commissioner shall review and evaluate all timely and documented recommendations for using existing buildings of historic, architectural or cultural significance within the geographically relevant area. For purposes of this subdivision, "a geographically relevant area" means those municipalities located in the area where the particular public building need can be met.

4. The commissioner, in consultation with the commissioner of parks and recreation, may by rule and regulation identify minor acquisition or lease actions or classes of such actions which because of the small amount of space involved or other characteristics are not likely to have a significant impact upon the public policy set forth in this article and such action or actions shall be exempt from the provisions of this subdivision. The provisions of this subdivision shall not apply to the acquisition or lease of building space when the commissioner makes an explicit finding that an immediate acquisition or lease of building space is required by public necessity.

5. The commissioner in consultation with the commissioner of parks and recreation shall adopt such procedures and rules and regulations as are necessary to carry out the requirements of this section.

§ 9. The general municipal law is amended by adding a new article five-K to read as follows:

ARTICLE 5-K—HISTORIC PRESERVATION

Sec.

119-aa. Purpose.

119-bb. Definitions.

119-cc. Local historic preservation report

119-dd. Local historic preservation programs.

§ 119-aa. Purpose

It is hereby declared to be the purpose of this article to encourage local governmental programs for the preservation, restoration and maintenance of the historical, architectural, archeological and cultural environment by clarifying and amplifying existing authority and providing necessary tools for such purpose. The framework provided by this article is intended to maintain and encourage the opportunity and flexibility for the counties, cities, towns and villages of the state to manage the historic and cultural properties under their jurisdiction in a spirit

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of stewardship and trusteeship for future generations and to authorize local governments to conduct their activities, plans and programs in a manner consistent with the preservation and enhancement of historic and cultural properties.

§ 119-bb. Definitions

When used in this article, unless a different meaning clearly appears from the context, the terms listed below shall have the following meanings:

1. "Development rights" means the rights granted to a lot or parcel of land under a zoning ordinance or local law respecting permissible use, area, bulk or height of improvements executed thereon. Development rights may be calculated and allocated in accordance with such factors as area, floor area, floor area ratios, height limitations or any other criteria including assessed valuation that will effectively quantify a value for the development right in a manner that will carry out the objectives of this article.
2. "Historic and/or cultural place or property" means any building, structure, district, area, site or object, including the underground and underwater sites, with significance in the history, architecture, archeology or culture of the state, its communities, or the nation.
3. "Historic district" means any area which: (a) has a special character or special historic, architectural, archeological or cultural value; or (b) represents one or more periods or styles of architecture typical of one or more eras; and (c) causes such area, by reason of such factors, to constitute a distinct section.
4. "Historic preservation" means, for the purposes of this article and notwithstanding any other provision of law, the study, designation, protection, restoration, rehabilitation and use of buildings, structures, districts, areas, sites or objects significant in the history, architecture, archeology or culture of this state, its communities, or the nation.
5. "Registered property" means any historic place or property within the boundaries of the state nominated by the commissioner of parks and recreation for listing on the national register of historic places or listed on the New York state register of historic places established pursuant to section 14.07 of the parks and recreation law.
6. "Transfer of development rights" means the process by which development rights are passed from one lot or parcel to another.

§ 119-cc. Local historic preservation report

1. In order to facilitate the coordination between state and local preservation policies and activities and to provide necessary information for the effective financial and technical assistance to local government and for : state clearinghouse of public preservation programs, the chief executive officer of every county, city, town and village or designee of such officer may within twenty-four months after the effective date of this section, prepare or cause to be prepared a local historic preservation report. This report may include, but need not be limited to:

(a) A statement of the present status of historic preservation activities and land use or other regulations relating thereto as they are being administered within the reporting jurisdiction by the local governing body and its appointed agents including a landmarks commission, planning board, environmental management council or other agency;

(b) Proposals, if any, for the preservation and use of registered property and other historic and cultural properties within the reporting jurisdiction;

(c) An identification and analysis of any problems or issues relating to the effectiveness of local development or administration of historic preservation plans and programs, including problems of funding and personnel requirements, procedural problems, enforcement problems, or any other issue. After a public hearing has been held on a draft report such report in final form shall be submitted to the commissioner of parks and recreation and a copy shall be available for public inspection in the municipal office of the reporting jurisdiction. It may be reviewed and updated as necessary.

2. The commissioner of the office of parks and recreation shall prepare and distribute a format which may be used or completed by reporting jurisdictions to satisfy the provisions of this section. The purposes of such report are informational and compliance by a reporting jurisdiction shall not be used by the commissioner or any other state official as a condition for the performance of any state service, assistance or other action.

§ 119-dd. Local historic preservation programs

In addition to existing powers and authorities for local historic preservation programs including existing powers and authorities to regulate by planning or zoning laws and regulations or by local laws and regulations for preservation of historic landmarks and districts and use of techniques including transfer of development rights, the legislative body of any county, city, town or village is hereby empowered to:

1. Provide by regulations, special conditions and restrictions for the protection, enhancement, perpetuation and use of places, districts, sites, buildings, structures, works of art and other objects having a special character or special historical, cultural or aesthetic interest or value. Such regulations, special conditions and restrictions may include appropriate and reasonable control of the use or appearance of neighboring private property within the public view, or both.

2. Establish a landmark or historical preservation board or commission with such powers as are necessary to carry out all or any of the authority possessed by the municipality for a historic preservation program, as the local legislative body deems appropriate.

3. After due notice and public hearing, by purchase, gift, grant, bequest, devise, lease or otherwise, acquire the fee or any lesser interest, development right, easement, covenant or other contractual right necessary to achieve the purposes of this article, to historical or cultural property within its jurisdiction. After acquisition of any such interest pursuant to this subdivision, the effect of the acquisition on the valua-

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tion placed on any remaining private interest in such property for purposes of real estate taxation shall be taken into account.

4. Designate, purchase, restore, operate, lease and sell historic buildings or structures. Sales of such buildings and structures shall be upon such terms and conditions as the local legislative body deems appropriate to insure the maintenance of the historic quality of the buildings and structures, after public notice is appropriately given at least thirty days prior to the anticipated date of availability and shall be for fair and adequate consideration of such buildings and structures which in no event shall be less than the expenses incurred by the municipality with respect to such buildings and structures for acquisition, restoration, improvement and interest charges.

5. Provide for transfer of development rights for purposes consistent with the purposes of this article.

§ 10. For purposes of determining state agency projects which are deemed not to be subject to the notice and comment provisions of section 14.09 of the parks and recreation law, not later than the first day of May, nineteen hundred eighty-one, each state agency shall submit to the director of the budget a list of projects described under section 14.09 of the parks and recreation law which such agency deems to have been undertaken, approved or funded before the effective date of such section including all projects which have been reviewed pursuant to section one hundred six of the national historic preservation act of 1966.¹ The director of the budget shall review such lists to certify that substantial time, work and money have been expended upon such projects and shall submit to the commissioner of parks and recreation and the chairman of the state board for historic preservation an official list of projects which are deemed not to be subject to the provisions of such section 14.09 of the parks and recreation law.

¹ 16 U.S.C.A § 470f.

§ 11. This act shall take effect on the sixtieth day after it shall have become a law.

PRESERVATION OF HISTORIC AND CULTURAL PLACES

On approving L.1980, c. 354, the Governor stated:

June 23, 1980

This bill—which is known as the “New York State Historic Preservation Act of 1980”—is intended to promote the use and preservation of properties having historic or cultural significance.

Among the major provisions of this legislation are those which establish historic preservation as a State policy; create a State Register of Historic Places and a Statewide Inventory of Historic Properties; institute procedures for review of State projects which have a potential impact on historic properties; encourage State agencies to preserve and use significant historic properties under their control and, where practical, acquire other such properties for State purposes; and require each State agency and encourage each municipality to appoint a preservation officer to act as liaison with the Commissioner of Parks and Recreation on historical preservation matters.

Last year I disapproved similar legislation (1979 Disapproval Memorandum No. 80) because of my concern with respect to a number of provisions contained therein—particularly those mandating local expenditures, those enabling further erosion of the local tax base and those instituting a new review process which would largely duplicate the existing environmental quality review process and which could delay the completion of projects essential to the health and well-being of the citizens of this State.

The instant bill responds to the concerns which I expressed last year. The procedures for review of State agency projects have been simplified and the provisions which would adversely affect the economic base of local governments have been removed. Moreover, I am informed that the sponsors have agreed to the passage of a chapter amendment which will insure proper implementation of the legislation by clarifying the meaning of ‘state projects’ and by explicitly mandating the coordination of reviews under the legislation with the provisions of the State Environmental Quality Review Act.

This Administration has actively supported historic preservation efforts through, for example, the Urban Cultural Parks Program, the historical preservation program in the Office of Parks and Recreation and my Executive Order directing State agencies to locate, whenever possible, in downtown areas.

Approval of the bill is recommended by the Department of State, the Department of Environmental Conservation and the Office of Parks and Recreation, among others.

The bill is approved.

Hugh L. Carey

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