

# Act 480 of 1977

AN ACT TO ESTABLISH THE PUBLIC INTEREST AND VALUE TO THE STATE IN PRESENTING ITS UNIQUE HERITAGE; TO DEVELOP A COORDINATED STATEWIDE PROGRAM OF HISTORIC PRESERVATION AMONG EXISTING AGENCIES; AND FOR OTHER PURPOSES.

WHEREAS, the historical and cultural heritage of Arkansas should be preserved as a living part of our community life, economic development, and social well-being in order to give a sense of orientation to all the citizens of Arkansas;

WHEREAS, the spirit and direction of the future of Arkansas are founded upon and reflected in its unique and historic past;

NOW THEREFORE,

*Be it Enacted by the General Assembly of the State of Arkansas:*

SECTION 1. The General Assembly hereby determines that the historical, archeological, architectural, and cultural heritage of Arkansas is among the most important economic and environmental assets of this State and that rapid development threatens to remove the remaining vestiges of Arkansas' proud and unique heritage. Therefore, it is hereby declared to be public policy and in the best interests of the general economic, social, and educational welfare of all the citizens of Arkansas for this State to engage in a comprehensive program of historic preservation, undertaken at all levels of the government of Arkansas and its political subdivisions, to promote the use and preservation of such property for the public interest and the education, inspiration, pleasure, and enrichment of the citizens of this State.

SECTION 2. Definitions: As used in this Legislation:

(a) "Historic property" shall mean any building, structure, object, district, area or site that is significant in the history, architecture, archeology or culture of the State, its communities or the Nation.

(b) "Historic Preservation" shall mean the research, interpretation, presentation, protection, restoration and rehabilitation of buildings, structures, objects, districts, areas, and sites significant in the history, architecture, archeology or culture of this State, its communities or the Nation.

SECTION 3. The Department of Arkansas Natural and Cultural Heritage is hereby designated as the agency of the State to develop and implement a statewide program of historic preservation.

SECTION 4. The Governor shall designate the State Historic Preservation Officer who shall be an employee of the Department of Arkansas Natural and Cultural Heritage and who shall be responsible for conducting relations with the representatives of the Federal Government, the respective states, governmental units within Arkansas, State Agencies, organizations and

individuals with regard to matters of historic preservation. The State Historic Preservation Officer is charged with the responsibility for the professional and fiscal conduct "of the Arkansas Historic Preservation Program, a Division of the Department of Arkansas Natural and Cultural Heritage, including the program carried out under" Public Law 89-665.

SECTION 5. All archaeological functions of the program of historic preservation including that under Public Law 89-665 and as provided for under this Act shall be performed by the Arkansas Archeological Survey which was established by Act 82 of 1959 and Act 39 of 1967 for the purpose of statewide archaeological investigation and preservation. In furtherance of the development and implementation of a statewide program of historic preservation, the Arkansas Archeological Survey and the Arkansas Historic Preservation Program of the Department of Arkansas Natural and Cultural Heritage shall cooperate in the fullest manner possible.

SECTION 6. There is hereby recognized the existence of a State Review Committee for Historic Preservation established in accordance with Federal guidelines promulgated under Public Law 89-665. The Committee shall be appointed by the Governor with a minimum of five members.

SECTION 7. The State Review Committee for Historic Preservation shall have the power and duty to:

- (a) Review districts, sites, buildings, structures, and objects which may be recommended for inclusion in a State and/or the National Register of Historic Places, and advise the State Historic Preservation Officer concerning their nomination;
- (b) Review and advise the State Historic Preservation Officer on the State Historic Preservation Plan;
- (c) Elect a chairman and spell out such rules and procedures as necessary;
- (d) Otherwise act in an advisory capacity to the State Historic Preservation Officer.

SECTION 8. The Arkansas Historic Preservation Program, a Division of the Department of Arkansas Natural and Cultural Heritage, under the State Historic Preservation Officer shall have the following powers and duties:

- (a) Implement the development of a State Historic Preservation Plan as contemplated by Public Law 89-665, but not necessarily restricted thereto, and be responsible for the historical, architectural, and cultural portions of the Plan;
- (b) Conduct surveys and otherwise develop the data necessary for the historical, architectural and cultural portions of the State Historic Preservation Plan;
- (c) Cooperate with the Arkansas Archeological Survey which will be responsible for the archaeological portion of the statewide program for historic preservation and the State Historic Preservation Plan as provided for in Section 5;

(d) Coordinate the survey and other programs of activities of all State and private agencies in connection with projects supported by federal funds provided to the Department of Arkansas Natural and Cultural Heritage to implement Public Law 89-665 and all cash funds or appropriated State funds made available to the Department of Arkansas Natural and Cultural Heritage for the Arkansas Historic Preservation Program;

(e) Allocate such federal funds as are provided to implement Public Law 89-665 to those State agencies or private or other organizations which are professionally staffed and capable of carrying out the programs provided for by Public Law 89-665;

(f) Employ necessary personnel, consultants, planners, or other employees or professional services within the limits of funds available therefor, as may be required in the performance of services contemplated by this Act; contract with any and all public firms or agencies for the purpose of making State surveys and plans necessary for the implementation of this Act;

(g) Accept and administer funds received from the State and or Federal government or any other governmental agencies or from any private source in furtherance of the provisions of this Act; provided, that such administration and acceptance does not include cash or appropriated funds made available to the Arkansas Archaeological Survey from whatever source;

(h) Pay such per diem, travel expense, and monetary compensation to members of committees appointed by the Governor as shall be determined by the Department of Arkansas Natural and Cultural Heritage, within the limits of funds available therefor, and at rates not to exceed the allowable limits of applicable State and Federal Laws;

(i) Enlist the cooperation and assistance of the Arkansas Commemorative Commission, the Arkansas History Commission, the Arkansas Parks and Tourism Commission, and all other agencies for historical, architectural, and cultural purposes, to the end that all such activities shall be developed in accordance with the State Historic Preservation Plan as contemplated by this Act and/or Public Law 89-665, and in accordance with existing State laws pertaining to the duties and responsibilities of each of the agencies indicated above;

(j) Cooperate with Federal, State and local government agencies in surveying the State for historic properties to be included in the State and/or National Register of Historic Places, in the planning and conduct of specific undertakings affecting historic properties and preservation objectives, and, generally, in overall planning for the use of land;

(k) Perform all other functions as may be necessary in the furtherance of the purpose of this Act and in coordinating and implementing the participation by this State in the purposes contemplated by the Public Law 89-665.

SECTION 9. The Activities of the Arkansas Historic Preservation Program listed in Section 8 shall be performed in coordination with the Arkansas Commemorative Commission. Since the duties, powers, and interests as written in Act 256 of 1947 and specifically stated in Section 4, correspond on the State level with Public Law 89-665, the Arkansas Commemorative Commission shall review the Arkansas Historic Preservation Program, a Division of the Arkansas

Department of Natural and Cultural Heritage, and advise the State Historic Preservation Officer with respect to their activities as contemplated by Public Law 89-665 and this Act, but excluding those duties assigned to the State Review Committee for Historic Preservation.

SECTION 10. Nothing in this Act shall be construed to repeal or diminish any of the powers, functions, or responsibilities of the Arkansas History Commission, the Parks and Tourism Commission, the Arkansas Commemorative Commission, and the Arkansas Archeological Survey, as prescribed by law.

SECTION 11. That subsection (a) of Section 3 of Act 484 of 1963, as amended by Section 1 of Act 170 of 1965, is hereby amended to read as follows:

"A. An Historic District Commission, established as provided in Section 4, shall make an investigation and report on the historic significance of the buildings, structures, features, sites or surroundings, included in any such proposed historic district and shall transmit copies of its report to the Arkansas Historic Preservation Program a Division of the Arkansas Department of Natural and Cultural Heritage, the Planning Commission of the municipality, if any, and in the absence of such Planning Commission, to the governing body of the municipality, for their consideration and recommendation, and each such body or individual shall give its recommendation to the Historic District Commission within sixty (60) days from the date of receipt of such report. Such recommendations shall be read in full at the public hearing to be held by the Historic District Commission as hereinafter specified. Failure to make recommendations within sixty (60) days after date of receipt shall be taken as approval of the report of the Historic District Commission."

SECTION 12. Act 564 of 1975 and all other laws and parts of law in conflict with the Act are hereby repealed.

SECTION 13. If any provision of this or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are declared to be severable.

SECTION 14. It is hereby found and determined by the General Assembly that it is desirable that the historical and cultural heritage of the State of Arkansas be preserved; that it is essential that an agency be created to coordinate and supervise authority in preserving the historical and cultural heritage of the State; that this Act is designed to accomplish this purpose and should be given effect immediately. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after its passage and approval.