

## House Bill No. 1419

An act relating to historic preservation; repealing pt. I of ch. 266, F.S.; eliminating general provisions relating to historic preservation boards of trustees and the responsibilities of the Department of State with respect thereto; repealing ss. 266.0011, 266.0012, 266.0013, 266.0014, 266.0015, 266.00155, 266.0016, and 266.0017, F.S.; eliminating the Historic Pensacola Board of Trustees; amending s. 267.031, F.S.; providing powers and duties of the Division of Historical Resources; providing for the establishment of historic preservation regional offices; providing purpose; requiring the division to establish a citizen support organization for each regional office; requiring the division to establish and maintain a central inventory of historic properties; requiring the employment of a state archaeologist; providing qualifications and responsibilities for the state archaeologist; requiring the employment of a state historic preservation officer and other personnel; providing for designation and responsibilities of the state historic preservation officer; amending s. 267.061, F.S.; correcting a cross reference; requiring rules for historic property renovation to be based on certain national guidelines and standards; repealing provisions relating to division responsibilities, state archaeologist, and state historic preservation officer; amending s. 267.0612, F.S.; deleting provisions relating to the Historic Preservation Advisory Council; creating the Florida Historical Commission; providing powers and duties; providing composition of the commission; providing for initial membership and subsequent appointments; providing terms and organization; providing responsibilities of the commission; providing that specified members of the commission shall sit as Florida's National Register Review Board; amending s. 267.0617, F.S.; requiring review of special category historic preservation grants-in-aid by the Florida Historical Commission; defining such grants; providing for review of other grants by grant review panels; conforming cross references; amending s. 267.062, F.S.; correcting a cross reference; amending s. 267.072, F.S., relating to Museum of Florida History programs; renumbering provisions relating to historical museum grants as s. 267.0619, F.S.; revising provisions with respect to grant application review; renumbering provisions relating to the Great Floridians program as s. 267.073, F.S.; correcting a cross reference; creating s. 267.074, F.S.; requiring the Division of Historical Resources to coordinate and direct the Historical Marker Program; delineating program responsibilities; providing classification of markers; requiring the division to establish a central register of markers and to establish and maintain the Florida Register of Heritage Landmarks; requiring rules; requiring a comprehensive plan; providing for the establishment of fees; specifying funding sources for markers; creating s. 267.0743, F.S.; creating the State Historical Marker Council; providing for membership, meetings, organization, and responsibilities of the council; amending s. 267.081, F.S.; authorizing the division to exercise the right of trademark and service mark over speci-

fied terms; creating s. 267.115, F.S.; providing division authority and responsibilities pertaining to objects of historical or archaeological value; requiring maintenance of records; providing for loan, sale, exchange, or other disposition of objects under certain circumstances; providing for disposition of funds; providing for rules; providing a penalty; providing for contracts; allowing program for administering finds of artifacts in state-owned river bottoms; amending s. 267.13, F.S.; revising provisions with respect to restitution for the commission of practices prohibited under ch. 267, F.S.; defining value elements for purposes of determining restitution; amending s. 267.14, F.S.; providing public policy declarations; creating s. 267.173, F.S.; requiring the Department of State to contract with the University of West Florida for management of certain state-owned properties; providing contract goals; requiring use of proceeds derived from the management of such properties; authorizing transfer and ownership of certain artifacts, documents, and properties to the university; providing for transfer of records, property, personnel, and funds of the Historic Pensacola Board of Trustees to the university; specifying certain powers and duties of the University of West Florida; providing that the university may contract with its direct-support organization to perform all acts necessary to assist the university in carrying out its historic preservation and historic education responsibilities; delineating certain powers; authorizing the Department of State to contract with the University of West Florida to serve as a regional office; providing an exception to the requirement for a separate direct-support organization for regional offices; amending and renumbering s. 266.0018, F.S.; requiring the authorization of a direct-support organization to assist the University of West Florida in historic preservation and historic preservation education purposes and responsibilities; conforming references; providing membership criteria and selection; delineating contract and other governance requirements; providing for preservation of validity of judicial or administrative actions involving the Historic Pensacola Preservation Board of Trustees; amending ss. 607.1901 and 872.05, F.S.; correcting cross references; providing effective dates.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Effective July 1, 2001, part I of chapter 266, Florida Statutes, consisting of section 266.00001, Florida Statutes, is repealed.

Section 2. Effective July 1, 2001, sections 266.0011, 266.0012, 266.0013, 266.0014, 266.0015, 266.00155, 266.0016, and 266.0017, Florida Statutes, are repealed.

Section 3. Subsections (5), (6), and (7) are added to section 267.031, Florida Statutes, to read:

267.031 Division of Historical Resources; powers and duties.—

(5) It is the responsibility of the division to:

(a) Cooperate with federal and state agencies, local governments, and private organizations and individuals to direct and conduct a comprehensive statewide survey of historic resources and to maintain an inventory of such resources.

(b) Develop a comprehensive statewide historic preservation plan.

(c) Identify and nominate through the State Historic Preservation Officer eligible properties to the National Register of Historic Places and otherwise administer applications for listing historic properties in the National Register.

(d) Cooperate with federal and state agencies, local governments, and organizations and individuals to ensure that historic resources are taken into consideration at all levels of planning and development.

(e) Advise and assist, as appropriate, federal and state agencies and local governments in carrying out their historic preservation responsibilities and programs.

(f) Provide public information, education, and technical assistance relating to historic preservation programs.

(g) Cooperate with local governments and organizations and individuals in the development of local historic preservation programs, including the Main Street Program of the National Trust for Historic Preservation, or any similar programs that may be developed by the division.

(h) Carry out on behalf of the state the programs of the National Historic Preservation Act of 1966, as amended, and to establish, maintain, and administer a state historic preservation program meeting the requirements of an approved program and fulfilling the responsibilities of state historic preservation programs as provided in subsection 101(b) of that act.

(i) Take such other actions necessary or appropriate to locate, acquire, protect, preserve, operate, interpret, and promote the location, acquisition, protection, preservation, operation, and interpretation of historic resources to foster an appreciation of Florida history and culture. Prior to the acquisition, preservation, interpretation, or operation of a historic property by a state agency, the division shall be provided a reasonable opportunity to review and comment on the proposed undertaking and shall determine that there exists historical authenticity and a feasible means of providing for the preservation, interpretation, and operation of such property. Expenditures by the division to protect or preserve historic properties leased by the division from the Board of Trustees of the Internal Improvement Trust Fund may be exempt from the competitive bid requirements of chapters 255 and 287.

(j) Cooperate and coordinate with the Division of Recreation and Parks of the Department of Environmental Protection in the operation and management of historic properties or resources subject to review under s. 267.061(2) by the Division of Historical Resources.

(k) Establish professional standards for the preservation, exclusive of acquisition, of historic resources in state ownership or control.

(l) Establish guidelines for state agency responsibilities under s. 267.061(2).

(m) Establish regional offices for the purpose of assisting the division in the delivery of historic preservation services to the counties and municipalities of the state and to the citizens of the State of Florida. Historic preservation regional offices shall be established in St. Augustine, Tampa, Palm Beach County, and in other areas of the state which the division deems appropriate. For each regional office established, the division shall establish a citizen support organization in accordance with s. 267.17. The board of directors of each citizen support organization shall be appointed by the Secretary of State.

(n) Establish and maintain a central inventory of historic properties for the state which shall consist of all such properties as may be reported to the division. This inventory shall be known as the Florida Master Site File.

(6) The division shall employ a State Archaeologist, and such other archaeologists as deemed necessary, who shall possess such qualifications as the division may prescribe. The State Archaeologist shall serve at the pleasure of the division director and shall have his or her duties prescribed by the division director.

(7) The division shall employ a State Historic Preservation Officer, qualified by special training or experience in the field of historic preservation, and such other specialists in the field of historic preservation as deemed necessary, who shall possess such qualifications as the division may prescribe. The State Historic Preservation Officer shall be designated as such by the Governor, upon the recommendation of the Secretary of State, and shall serve at the pleasure of the Secretary of State. The State Historic Preservation Officer shall conduct relations with representatives of the Federal Government and the respective states concerning matters of historic preservation, and shall perform such other duties as prescribed by the Secretary of State.

Section 4. Paragraph (d) of subsection (2) of section 267.061, Florida Statutes, is amended, subsections (3), (4), and (5) are repealed, and present subsection (6) of said section is renumbered as subsection (3) and amended, to read:

267.061 Historic properties; state policy, responsibilities.—

(2) RESPONSIBILITIES OF STATE AGENCIES OF THE EXECUTIVE BRANCH.—

(d) Each state agency of the executive branch shall assume responsibility for the preservation of historic resources which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for the purpose of carrying out agency responsibilities, the agency shall use, to the maximum extent feasible, historic properties available to the agency. Each

agency shall undertake, consistent with the preservation of such properties, the mission of the agency, and the professional standards established pursuant to ~~s. 267.031(5)(k) paragraph (3)(k)~~, any preservation actions necessary to carry out the intent of this paragraph.

~~(3)(6)~~ DEPARTMENT OF MANAGEMENT SERVICES.—The Department of Management Services, in consultation with the division, shall adopt rules for the renovation of historic properties which are owned or leased by the state. Such rules shall be based on national guidelines for historic renovation, including the standards and guidelines for rehabilitation adopted by the United States Secretary of the Interior.

Section 5. Section 267.0612, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 267.0612, F.S., for present text.)

267.0612 Florida Historical Commission; creation; membership; powers and duties.—In order to enhance public participation and involvement in the preservation and protection of the state's historic and archaeological sites and properties, there is created within the Department of State the "Florida Historical Commission." The commission shall serve in an advisory capacity to the director of the Division of Historical Resources to assist the director in carrying out the purposes, duties, and responsibilities of the division, as specified in this chapter.

(1)(a) The commission shall be composed of eleven members. Seven members shall be appointed by the Governor in consultation with the Secretary of State, two members shall be appointed by the President of the Senate, and two members shall be appointed by the Speaker of the House of Representatives. Of the seven members appointed by the Governor, one member must be a licensed architect who has expertise in historic preservation and architectural history; one member must be a professional historian in the field of American history; one member must be a professional architectural historian; one member must be an archaeologist specializing in the field of prehistory; and one member must be an archaeologist specializing in the historic period. The remaining two members appointed by the Governor and the two members appointed by the President of the Senate and the Speaker of the House of Representatives, respectively, must be representatives of the general public with demonstrated interest in the preservation of Florida's historical and archaeological heritage. At least one member of the commission shall be a resident of a county that has a population of 75,000 or less.

(b) Notwithstanding the provisions of paragraph (a), the initial members of the commission shall be the members of the Historic Preservation Advisory Council and the National Register of Historic Places Review Board, serving on January 1, 2002, who may serve the remainder of their respective terms. New appointments to the commission shall not be made until the retirement, resignation, removal, or expiration of the terms of the initial members results in fewer than eleven members remaining. As vacancies occur, the first appointments shall be the five professionally-designated members appointed by the Governor. The President of the Senate, the

Speaker of the House of Representatives, and the Governor, respectively, shall then alternate appointments until the commission is composed as required herein.

(2) Commission members appointed by the President of the Senate and the Speaker of the House of Representatives shall be appointed for 2-year terms. Additionally these commission members shall serve as the legislative historic preservation advisory body to the speaker and the president with respect to the collection and preservation of the historic records of both houses of the Legislature. Commission members appointed by the Governor shall be appointed to 4-year terms. Vacancies shall be filled for the remainder of the term and by the original appointing authority.

(3) The Governor shall designate a member of the commission as the commission's presiding officer to serve in that capacity at the pleasure of the Governor. Each year the commission shall select an assistant presiding officer from its membership.

(4) The commission shall meet upon the call of the presiding officer or Secretary of State, which shall occur at least quarterly. Members shall serve without pay, but shall be entitled to reimbursement for their expenses in carrying out their official duties, as provided in s. 112.061.

(5) All action taken by the commission shall be by majority vote of those members present. The director of the division or the director's designee shall serve without voting rights as secretary to the commission. The division shall provide necessary staff assistance to the commission.

(6) It shall be the responsibility of the commission to provide assistance, advice, and recommendations to the division in:

(a) Establishing priorities for the identification, acquisition, protection, and preservation of historic and archaeological sites and properties.

(b) Establishing criteria for use in assessing the significance of historic and archaeological sites and properties.

(c) Evaluating proposals for awards of special category historic preservation grants-in-aid administered by the division. Pursuant thereto, the commission shall review and evaluate proposals for special category grants and shall make recommendations, including a priority ranking, reflecting such evaluation. In making such evaluation and recommendations, the commission shall, at a minimum, consider the purpose, economic and other public benefit, location, compatibility with statewide historic preservation priorities, and cost of each proposal for special category grant assistance.

(d) Providing an active outreach program to encourage public understanding of and involvement in the preservation of the state's historic and archaeological sites and properties.

(e) Identifying and expressing public goals for historic preservation and gathering public ideas necessary for the formulation of alternative policies.

(f) Recommending rules relating to the historic preservation programs administered by the division pursuant to this chapter.

(7) It shall be the additional responsibility of the commission to provide such other assistance and advice to the division as required by this chapter and as may be required from time to time in matters pertaining to the protection and preservation of the state's historic and archaeological sites and properties.

(8) The five members appointed by the Governor from the professions designated in paragraph (1)(a) shall sit as Florida's National Register Review Board and shall perform the duties of that board established by the National Historic Preservation Act of 1966, as amended. If a vacancy exists in one of the five designated seats, the division director shall assign another member of the Florida Historical Commission to serve until the vacancy is filled.

Section 6. Subsections (3) and (5) of section 267.0617, Florida Statutes, are amended to read:

267.0617 Historic Preservation Grant Program.—

(3) All grants of state funds to assist the preservation of historic properties shall be made from the Historical Resources Operating Trust Fund and may be awarded only pursuant to applications for such assistance made to the Division of Historical Resources. The Florida Historical Commission ~~Historic Preservation Advisory Council~~ shall review each application for a special category historic preservation grant-in-aid. Special category historic preservation grants-in-aid are those reviewed and recommended by the Secretary of State for submission for legislative funding consideration. Grant review panels appointed by the Secretary of State and chaired by a member of the Florida Historical Commission shall review each application for other historic preservation grants-in-aid. The reviewing body and shall submit annually to the Secretary of State for approval lists of all applications that are recommended by the reviewing body council for the award of grants, arranged in order of priority. The division may allocate grants only for projects that are approved or for which funds are appropriated by the Legislature.

(5) The Division of Historical Resources shall adopt rules prescribing the criteria to be applied by the Florida Historical Commission and the grant review panels ~~Historic Preservation Advisory Council~~ in recommending applications for the award of grants and rules providing for the administration of the other provisions of this section.

Section 7. Subsection (2) of section 267.062, Florida Statutes, is amended to read:

267.062 Naming of state buildings and other facilities.—

(2) The division shall, after consulting with the Florida Historical Commission ~~appropriate citizens' committees~~, recommend several persons whose contributions to the state have been of such significance that the division may recommend that state buildings and facilities be named for them.

Section 8. Subsection (2) of section 267.072, Florida Statutes, is renumbered as section 267.0619, Florida Statutes, and amended to read:

267.0619 (2)(a) Historical Museum Grants.—The division may conduct a program to provide:

(1)(a)~~1~~. Grants from the Historical Resources Operating Trust Fund, including matching grants, to a department or agency of the state; a unit of county, municipal, or other local government; or a public or private profit or nonprofit corporation, partnership, or other organization to assist in the development of public educational exhibits relating to the historical resources of Florida; and

(b)~~2~~. Grants from the Historical Resources Operating Trust Fund to Florida history museums that are not state-operated to assist such museums in paying for operating costs.

(2)(b) In order to be eligible to receive a grant from the trust fund to assist in paying operating costs, a Florida history museum must fulfill the following criteria:

(a)~~1~~. The mission of the museum must relate directly and primarily to the history of Florida. If the museum has more than one mission, the museum is eligible to receive a grant for that portion of the operating costs which is reasonably attributable to its mission relating to the history of Florida;

(b)~~2~~. The museum must have been operating and open to the public for at least 180 days each year during the 2-year period immediately preceding the date upon which the museum applies for the grant;

(c)~~3~~. The museum must be open and providing museum services to the public for at least 180 days each year; and

(d)~~4~~. The museum must currently employ, and must have employed during the 2-year period immediately preceding the date upon which the museum applies for the grant, at least one full-time staff member or the equivalent thereof whose primary responsibility is to acquire, maintain, and exhibit to the public objects that are owned by, or are on loan to, the museum.

(3)(~~e~~) An application for a grant must be made to the division on a form provided by the division. The division shall adopt rules prescribing categories of grants, application requirements, criteria and procedures for the review and evaluation of applications, and other procedures necessary for the administration of the program, subject to the requirements of this section. Grant review panels appointed by the Secretary of State and chaired by a member of the Florida Historical Commission shall review each application for a museum grant-in-aid. The review panel shall submit to the Secretary of State for approval lists of all applications that are recommended by the panel for the award of grants, arranged in order of priority. The division shall provide opportunities for persons from different areas of the state who, due to education, experience, or special interest, are knowledgeable about the development and operation of historical museums or historical exhibits



~~for public education to evaluate the applications and shall consider their evaluations and recommendations in selecting the applicants that it will recommend to the Secretary of State to receive grants. The division shall submit a list of such applicants, arranged in order of priority, to the Secretary of State. The division may award a grant to a Florida history museum only if the award has been approved by the Secretary of State.~~

(4)(d) Money received as an appropriation or contribution to the grants program must be deposited into the Historical Resources Operating Trust Fund. Money appropriated from general revenue to the trust fund for the program may not be granted to a private for-profit museum. Money appropriated from any source to the trust fund for the program may not be granted to pay the cost of locating, identifying, evaluating, acquiring, preserving, protecting, restoring, rehabilitating, stabilizing, or excavating an archaeological or historic site or a historic building or the planning of any of those activities.

(5)(e) The division may grant moneys quarterly from the Historical Resources Operating Trust Fund to history museums in advance of an exhibit or program for which the moneys are granted.

Section 9. Subsection (1) of section 267.072, Florida Statutes, is amended to read:

267.072 Museum of Florida History programs.—

(1) The division shall:

(a) establish and administer a museum store in the Museum of Florida History to provide information and materials relating to museum exhibits, collections, and programs to the public. The store may produce, acquire, and sell craft products, replicas and reproductions of artifacts, documents, and other merchandise relating to historical and cultural resources and may make a reasonable charge for such merchandise. All proceeds received from sales must be deposited into the Historical Resources Operating Trust Fund or, funds in excess of the amount required to pay employees involved in the direct management of the museum store, may be deposited into a bank account of the a citizen support organization created pursuant to s. 267.17 and may only be used to support the programs of the Museum of Florida History. The museum store may enter into agreements and accept credit-card payments as compensation for goods and products sold. The division may establish accounts in credit-card banks for the deposit of credit-card sales invoices and to pay discounts and service charges in connection with the use of credit cards.

(2)(b) The division shall support the establishment and operation of a nonprofit organization or association established pursuant to s. 267.17 to promote and encourage knowledge and appreciation of Florida history and the programs of the Museum of Florida History and to cooperate with historical societies and other organizations to provide funding and promotional support for the programs of the museum. Such organization or association may, with the consent of the division, operate the museum store or conduct

special events and programs in the museum. All proceeds must be used to support the programs of the Museum of Florida History.

(3)(e) The division shall deposit gifts and donations for the purpose of assisting the Museum of Florida History and its programs in the Historical Resources Operating Trust Fund to be used exclusively for the benefit of programs of the museum and in a manner consistent with any terms or conditions agreed to by the division in accepting such gifts.

Section 10. Paragraph (d) of subsection (1) of section 267.072, Florida Statutes, is renumbered as section 267.073, Florida Statutes, and amended to read:

267.073 (d) Great Floridians Program.—The division shall establish and administer a program, to be entitled the Great Floridians Program, which shall be designed to recognize and record the achievements of Floridians, living and deceased, who have made major contributions to the progress and welfare of this state.

(1)~~1.~~ The division shall nominate present or former citizens of this state, living or deceased, who during their lives have made major contributions to the progress of the nation or this state and its citizens. Nominations shall be submitted to the Secretary of State who shall select from those nominated not less than two persons each year who shall be honored with the designation “Great Floridian,” provided no person whose contributions have been through elected or appointed public service shall be selected while holding any such office.

(a)~~2.~~ To enhance public participation and involvement in the identification of any person worthy of being nominated as a Great Floridian, the division shall seek advice and assistance from persons qualified through the demonstration of special interest, experience, or education in the dissemination of knowledge about the state’s history.

(b)~~a.~~ In formulating its nominations, the division shall also seek the assistance of the Museum of Florida History Foundation, Inc., or its successor, acting in the capacity as a citizen support organization of the division, pursuant to s. 267.17 and approved to act on behalf of the Museum of Florida History.

(c)~~b.~~ Annually, the division shall convene an ad hoc committee composed of representatives of the Governor, each member of the Florida Cabinet, the President of the Senate, the Speaker of the House of Representatives, and the Museum of Florida History Foundation, Inc. This committee shall meet at least twice. The committee shall nominate not fewer than two persons whose names shall be submitted to the Secretary of State with the recommendation that they be honored with the designation “Great Floridian.”

(2)~~3.~~ Upon designation of a person as a Great Floridian by the Secretary of State, the division shall undertake appropriate activities intended to achieve wide public knowledge of the person designated.

(a)~~a.~~ The division may seek to initiate production of a film or videotape depicting the life and contributions of the designee to this state and to the

nation. If technology surpasses the use of film or videotape, another medium of equal quality may be used.

1.(F) In the production of such films, the division shall seek cooperation from local volunteers throughout the state and, in particular, shall seek fundraising and other assistance of the citizen support organization created pursuant to s. 267.17 to support the programs of the Museum of Florida History.

2.(H) The Museum of Florida History shall be the repository of the original negative, the original master tape, and all cuttings, of any film or videotape produced under the authority of this paragraph. The division also may exercise the right of trademark over the terms "Great Floridian" or "Great Floridians" pursuant to s. 286.031.

3.(H) The division shall arrange for the distribution of copies of all films to the general public, public television stations, educational institutions, and others and may establish a reasonable charge to recover costs associated with production and to provide a source of revenue to assist with reproduction, marketing, and distribution of Great Floridians films. Proceeds from such charges shall be deposited into the Historical Resources Operating Trust Fund.

(b)~~b~~. Deceased persons designated as Great Floridians typically shall be recognized by markers affixed to properties significantly associated with the major contributions of the designee. Such markers shall be erected pursuant to the provisions of s. ~~267.074~~ 267.061(3)(a).

Section 11. Section 267.074, Florida Statutes, is created to read:

267.074 State Historical Marker Program.—The division shall coordinate and direct the State Historical Marker Program, which shall be a program of popular history and heritage designed to inform the general public about persons, events, structures, and other topics relating to the history and culture of the state; encourage interest in preserving the historical resources of the state and its localities; promote a sense of community and place among Florida citizens; and provide for the enjoyment and edification of tourists.

(1) The division shall encourage the initiation of proposals for Official Florida Historical Markers from departments or agencies of the state; units of county, municipal, or other local governments; corporations, partnerships, or other organizations, whether public or private and whether or not for profit; or any individual. Markers may be installed to recognize historic properties, as well as individuals, events, and other topics significant in Florida or American history, architecture, archaeology, or culture.

(2) By means of appropriate variations in marker design, the division shall distinguish the following categories of Official Florida Historical Markers:

(a) Florida Heritage Landmark markers, which shall be used to identify and interpret Heritage Landmark properties.

(b) State Historic Highway markers, which shall be used to identify state historic highways, as provided in general law.

(c) Florida Heritage markers, which shall be used to identify and interpret people, events, and places, including buildings and archaeological sites, which do not meet the criteria for a Florida Heritage Landmark, and other subjects relating to Florida history and culture.

(d) Other special series of markers which the division may establish to facilitate guiding the general public to places of historic interest and to facilitate identification and interpretation of topics of statewide interest, including, but not limited to, historic and scenic trails, byways, and greenways and anniversaries or other occasions of special significance to the history and culture of Florida.

The division may exercise the right of trademark over the terms "Florida Heritage" or "Heritage Florida" pursuant to s. 286.031.

(3) The division shall establish and maintain a central register of all markers installed in each category set out in subsection (2). In addition, the division shall establish and maintain the Florida Register of Heritage Landmarks, a central register of historic properties, which generally shall consist of properties more than 50 years of age deemed worthy of preservation for their exceptional historical significance to the state as a whole or a region of the state and their architectural or archaeological integrity.

(a) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 that prescribe criteria and a process for the identification, evaluation, and designation of Heritage Landmark properties, as well as for withdrawal of designation.

(b) The division may waive the age requirement of 50 years for properties of overwhelming state or national importance; however, it is the intent of the Legislature that exceptions shall rarely be given.

(c) The division shall undertake a program to identify and nominate properties eligible for designation as Heritage Landmarks.

(d) Designation of private property as a Heritage Landmark does not prohibit under Florida law or regulation any actions which may otherwise be taken by the property owner with respect to the property.

(4) The division shall develop a comprehensive plan for the State Historical Marker Program which shall be kept up to date and shall incorporate goals and objectives of the program, as well as policies, plans, and procedures relating to:

(a) Categories of Official Florida Historical Markers, criteria for their use, and specifications for design.

(b) Selection of subjects to be marked.

(c) Published guides to Official Florida Historical Markers, including methods for public distribution.

(d) Maintenance of markers.

(e) Removal or replacement of markers.

(f) Placement of markers at historic sites which shall be, in general, conspicuous and accessible to and easily reached by the public and where something associated with the person, historic property, event, or other subject being marked is still visible.

(g) Physical placement of the markers which shall be, in general, conspicuous and easily reached by the public.

(5)(a) The division is authorized and empowered to erect and maintain appropriate signs or markers indicating sites of historic interest and value upon public property as well as upon private property where permission is obtained.

(b) The Department of Transportation or the governing body of each county or municipality is authorized to permit and assist the division in erecting and maintaining said historic signs or markers within the right-of-way of any state highway, county road, or municipal street, or any other property under its jurisdiction and control, under such conditions and limitations as may be appropriate. The division is hereby vested with the exclusive authority and power to erect and maintain said historic signs or markers within the right-of-way of any state highway.

(6) The division shall designate an approved marker as an Official Florida Historical Marker. To ensure a degree of uniformity and quality of historical markers, monuments, plaques, medallions, and similar devices in this state, and to avoid any confusion with or misrepresentation of an Official Florida Historical Marker, no such marker or reasonable facsimile thereof may be fabricated with any emblem, design, or logo signifying another organization. No other emblem, design, or marker size may be used in addition to or instead of those offered by the division for an Official Florida Historical Marker. Emblems, designs, or logos offered by the division are property of the state and may not be used for commercial advertising or copied for the use of any other agency, association, corporation, or individual without the express consent and authorization of the division.

(7) The division may establish a reasonable fee to recover its costs arising from review of a proposal for a historical marker, monument, plaque, medallion, or similar device. Any fee established shall be payable by the applicant for the marker, monument, plaque, medallion, or similar device.

(8) Funds for the creation and placement of an Official Florida Historical Marker shall be provided by the agency, organization, individual, or other entity proposing the marker. The division may erect Official Florida Historical Markers at its own expense and may make competitive grants from the Historical Resources Operating Trust Fund, pursuant to s. 267.0617, to assist in funding the costs of Official Florida Historical Markers. All Official Florida Historical Markers shall be considered property of the state.

(9) The division shall seek cooperation from local volunteers throughout the state and, where appropriate, shall encourage the establishment of citi-

zen support organizations, pursuant to s. 267.17, to assist in maintaining Official Florida Historical Markers and facilitating public access to places marked.

Section 12. Section 267.0743, Florida Statutes, is created to read:

267.0743 State Historical Marker Council.—In order to enhance public participation and involvement in the identification and interpretation of subjects relating to the history and culture of Florida, there is created the “State Historical Marker Council.”

(1) The council shall consist of three members who represent different areas of the state, are appointed by the Secretary of State, and are qualified through the demonstration of special interest, experience, or education in interpretation of the state’s history and historical properties. Each member shall have professional training and experience in one or more of the following fields: history, historic preservation, architecture, architectural history, or archaeology.

(2) Members shall be appointed for 2-year terms, except for an appointment to fill an unexpired term, in which event the appointment shall be for the remainder of the unexpired term only. No person shall serve more than two consecutive terms on the council.

(3) The director of the division or his or her designee shall serve without voting rights as secretary to the council. The division shall provide necessary staff assistance to the council.

(4) The council shall meet at the request of the division or at the request of a majority of its membership to carry out its responsibilities, however, the council need not convene a meeting but may give advice by means of written or telephonic communication. Members shall serve without pay, but shall be entitled to reimbursement for their expenses in carrying out their official duties, as provided in s. 112.061.

(5) It shall be the responsibility of the council to provide assistance, advice, and recommendations to the division in evaluating proposals for Official Florida Historical Markers and identifying goals for the State Historical Marker Program. The process of evaluation shall seek to establish the significance of the subject proposed for a marker, but neither the division nor the council shall make proposal or evaluation requirements so complex or onerous as to preclude private citizens from directly submitting proposals without professional assistance.

Section 13. Section 267.081, Florida Statutes, is amended to read:

267.081 Publications.—

(1) It is the duty of the division to:

~~(a)~~(1) Promote and encourage the writing of Florida history.

~~(b)~~(2) Collect, edit, publish, and print pamphlets, papers, manuscripts, documents, books, monographs, and other materials relating to Florida history. The division may establish a reasonable charge for such publications.

~~(c)(3)~~ Cooperate with and coordinate research and publication activities of other agencies, organizations, historical commissions and societies, corporations, and individuals, which relate to historical matters.

~~(d)(4)~~ Hold any moneys received from the sale of publications by the division in the operating trust fund of the division or in a separate depository account in the name of a citizen-support organization formed pursuant to s. 267.17 and subject to the provision of a letter of agreement with the division.

(2) The division may exercise the right of trademark and service mark over the terms "Florida History & the Arts" or "Florida History and the Arts" pursuant to s. 286.031.

Section 14. Section 267.115, Florida Statutes, is created to read:

267.115 Objects of historical or archaeological value.—The division shall acquire, maintain, preserve, interpret, exhibit, and make available for study objects which have intrinsic historical or archaeological value relating to the history, government, or culture of the state. Such objects may include tangible personal property of historical or archaeological value. Objects acquired under this section belong to the state, and title to such objects is vested in the division.

(1) Notwithstanding s. 273.02, the division shall maintain an adequate record of all objects in its custody which have a historical or archaeological value. Once each year, on July 1 or as soon thereafter as practicable, the division shall take a complete inventory of all such objects in its custody the value or cost of which is \$500 or more and a sample inventory of such objects the value or cost of which is less than \$500. Each inventory shall be compared with the property record, and all discrepancies shall be traced and reconciled. Objects of historical or archaeological value are not required to be identified by marking or other physical alteration of the objects.

(2) The division may arrange for the temporary or permanent loan of any object which has historical or archaeological value in its custody. Such loans shall be for the purpose of assisting historical, archaeological, or other studies; providing objects relating to interpretive exhibits and other educational programs which promote knowledge and appreciation of Florida history and the programs of the division; or assisting the division in carrying out its responsibility to ensure proper curation of the objects.

(3) The division may determine from time to time that an object which is in its custody and which is owned by the state has no further use or value for the research, exhibit, or educational programs of the division, or that such an object will receive more appropriate maintenance and preservation by another agency, institution, or organization, and may loan, exchange, sell, or otherwise transfer ownership and custody of such object to another agency, institution, or organization for the purpose of ensuring the continued maintenance and preservation of such object, or for the purpose of acquiring another object which better serves the interests of the state and is more appropriate for promoting knowledge and appreciation of Florida history and the programs of the division.

(4) For the purpose of the exchange, sale, or other transfer of objects of historical or archaeological value, the division is exempt from chapter 273.

(5) All moneys received from the sale of an object which has historical or archaeological value pursuant to subsection (3) shall be deposited in the Historical Resources Operating Trust Fund and shall be used exclusively for the acquisition of additional historical and archaeological objects or the preservation and maintenance of any such objects in the custody of the division.

(6) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 that prescribe criteria for the inventory and for the loan, exchange, sale, transfer, or other disposal of state-owned objects of historical or archaeological value.

(7) Any custodian as defined in s. 273.01(1) who violates any provision of this section or any rule adopted pursuant to this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Notwithstanding any provision of s. 287.022 or s. 287.025(1)(e), the division may enter into contracts to insure museum collections, artifacts, relics, and fine arts to which it holds title.

(9) The division may implement a program to administer finds of isolated historic artifacts from state-owned river bottoms whereby the division may transfer ownership of such artifacts to the finder in exchange for information about the artifacts and the circumstances and location of their discovery.

Section 15. Subsection (1) of section 267.13, Florida Statutes, is amended, and subsection (4) is added to said section to read:

267.13 Prohibited practices; penalties.—

(1)(a) Any person who by means other than excavation either conducts archaeological field investigations on, or removes or attempts to remove, or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, any land owned or controlled by the state or within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and, in addition, shall forfeit to the state all specimens, objects, and materials collected, together with all photographs and records relating to such material.

(b) Any person who by means of excavation either conducts archaeological field investigations on, or removes or attempts to remove, or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, any land owned or controlled by the state or within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a



felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that the vehicle or equipment was involved in the violation. Such person shall forfeit to the state all specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4) damage and the cost of restoring the affected resource as provided in s. 775.089.

(c) Any person who offers for sale or exchange any object with knowledge that it has previously been collected or excavated in violation of any of the terms of ss. 267.11-267.14, or who procures, counsels, solicits, or employs any other person to violate any prohibition contained in ss. 267.11-267.14 or to sell, purchase, exchange, transport, receive, or offer to sell, purchase, or exchange any archaeological resource excavated or removed from any land owned or controlled by the state or within the boundaries of a designated state archaeological landmark or landmark zone, except with the express consent of the division, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that such vehicle or equipment was involved in the violation. All specimens, objects, and material collected or excavated, together with all photographs and records relating to such material, shall be forfeited to the state. The court may also order the defendant to make restitution to the state for the archaeological or commercial value and cost of restoration and repair as defined in subsection (4) damage and the cost of restoring the affected resource as provided in s. 775.089.

#### (4) DETERMINATION OF ARCHAEOLOGICAL OR COMMERCIAL VALUE AND COST OF RESTORATION AND REPAIR.—

(a) Archaeological value. For purposes of this section, the archaeological value of any archaeological resource involved in a violation of the prohibitions in ss. 267.11-267.14 or conditions of a permit issued pursuant to ss. 267.11-267.14 shall be the value of the data associated with the archaeological resource. This value shall be appraised in terms of the costs of the retrieval of the scientific information which would have been obtainable prior to the violation. These costs may include, but need not be limited to, the cost of preparing a research design, conducting field work, carrying out laboratory analysis, and preparing reports as would be necessary to realize the information potential.

(b) Commercial value. For purposes of this section, the commercial value of any archaeological resource involved in a violation of the prohibitions in ss. 267.11-267.14 or conditions of a permit issued pursuant to ss. 267.11-267.14 shall be its fair market value. Where the violation has resulted in damage to the archaeological resource, the fair market value should be determined using the condition of the archaeological resource prior to the violation, to the extent that its prior condition can be ascertained.

(c) Cost of restoration and repair. For purposes of this section, the cost of restoration and repair of archaeological resources damaged as a result of a violation of prohibitions or conditions pursuant to this section shall be the sum of the costs already incurred for emergency restoration or repair work, plus those costs projected to be necessary to complete restoration and repair, which may include, but need not be limited to, the costs of the following:

1. Reconstruction of the archaeological resource.
2. Stabilization of the archaeological resource.
3. Ground contour reconstruction and surface stabilization.
4. Research necessary to carry out reconstruction or stabilization.
5. Physical barriers or other protective devices, necessitated by the disturbance of the archaeological resource, to protect it from further disturbance.
6. Examination and analysis of the archaeological resource, including recording remaining archaeological information, where necessitated by disturbance, in order to salvage remaining values which cannot be otherwise conserved.
7. Reinterment of human remains in accordance with religious custom and state, local, or tribal law, where appropriate, as determined by the land manager.
8. Preparation of reports relating to any of the activities described in this paragraph.

Section 16. Section 267.14, Florida Statutes, is amended to read:

267.14 Legislative intent.—It is hereby declared to be the public policy of the state to preserve archaeological sites and objects of antiquity for the public benefit and to limit exploration, excavation, and collection of such matters to qualified persons and educational institutions possessing the requisite skills and purpose to add to the general store of knowledge concerning history, archaeology, and anthropology. It is further declared to be the public policy of the state ~~the declared intention of the Legislature~~ that field investigation activities on privately owned lands should be discouraged except in accordance with both the provisions and spirit of ss. 267.11-267.14; and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the division.

Section 17. Effective July 1, 2001, section 267.173, Florida Statutes, is created to read:

267.173 Historic preservation in West Florida; goals; contracts for historic preservation; powers and duties.—

(1) The goal for contracting with the University of West Florida is to ensure long-term preservation and interpretation of state-owned historic properties under the jurisdiction of the Historic Pensacola Preservation

Board of Trustees while facilitating an educational program at the University of West Florida that will be responsive to the state's needs for professionals in historic preservation, archaeology, cultural resource management, and museum administration and will help meet needs of West Florida communities through educational internships and practicums.

(2) The Department of State shall contract with the University of West Florida for the management of the various state-owned properties managed by the Historic Pensacola Preservation Board of Trustees prior to July 1, 2001. The contract shall provide that the University of West Florida shall use all proceeds derived from the management of these state-owned properties for the purpose of advancing historic preservation.

(3) The Department of State may transfer ownership and responsibility to any artifacts, documents, equipment, and other forms of tangible personal property to the University of West Florida to assist the university in the transition of the management of the state-owned properties. All records, personnel, property, other than real property held under lease by the department from the Board of Trustees of the Internal Improvement Trust Fund, and unexpended balances of appropriations, allocations, or other funds of the Historic Pensacola Board of Trustees shall be transferred to the University of West Florida to be used for its historic preservation activities and responsibilities as set forth in the contract with the Department of State. The transfer of segregated funds must be made in such a manner that the relation between program and revenue source as provided by law is retained.

(4)(a) The University of West Florida is the governing body for the management and maintenance of state-owned properties contracted by this section and shall exercise those powers delegated to it by contract as well as performing all lawful acts necessary and convenient and incident to the effectuating of its function and purpose under this section and s. 267.1732. The University of West Florida may contract with its direct-support organization described in s. 267.1732 to perform all acts that are lawful and permitted for not-for-profit corporations under chapter 617 in assisting the university in carrying out its historic preservation and historic preservation education responsibilities.

(b) The university or its direct-support organization, if permitted in its contract with the university, shall have the power to engage in any lawful business or activity to establish, maintain, and operate the state-owned facilities and properties under contract with the Department of State, including, but not limited to:

1. The renting or leasing for revenue of any land, improved or restored real estate, or personal property directly related to carrying out the purposes for historic preservation under terms and conditions of the contract with the Department of State and deemed by the university to be in the best interest of the state.

2. The selling of craft products created through the operation and demonstration of historical museums, craft shops, and other facilities.

3. The limited selling of merchandise relating to the historical and anti-quarian period of Pensacola and its surrounding territory and the historical period of West Florida from the Apalachicola River to the western boundaries of the state.

(c) The university or its direct-support organization, if permitted in its contract with the university, shall have the authority to:

1. Enter into agreements to accept credit card payments as compensation, and establish accounts in credit card banks for the deposit of credit card sales invoices.

2. Fix and collect charges for admission to any of the state-owned facilities under contract with the Department of State.

3. Permit the acceptance of tour vouchers issued by tour organizations or travel agents for payment of admissions.

4. Adopt and enforce reasonable rules to govern the conduct of the visiting public.

(5) The Division of Historical Resources in the Department of State may contract with the University of West Florida to serve as the regional office for the West Florida region of the state from the Apalachicola River to the western boundaries of the state. In lieu of the establishment of a citizen support organization as required by s. 267.031(5)(m), the University of West Florida may use an existing direct-support organization of the university provided that the membership of the direct-support organization is representative of the area of the state to be served and provides the needed expertise in the area of historic preservation.

(6) Notwithstanding the provisions of s. 287.057, the University of West Florida or its direct-support organization may enter into contracts or agreements with or without competitive bidding, in its discretion, for the protection or preservation of historic properties.

(7) Notwithstanding s. 273.055, the University of West Florida may exchange, sell, or otherwise transfer any artifact, document, equipment and other form of tangible personal property if its direct-support organization recommends such exchange, sale, or transfer to the president of the university and if it is determined that the object is no longer appropriate for the purpose of advancing historic preservation.

(8) Notwithstanding any other provision of law, the University of West Florida and its direct-support organization are eligible to match state funds in the Trust Fund for Major Gifts established pursuant to s. 240.2605.

Section 18. Effective July 1, 2001, section 266.0018, Florida Statutes, is renumbered as section 267.1732, Florida Statutes, and amended to read:

267.1732 ~~266.0018~~ Direct-support organization.—

(1) The University of West Florida shall ~~Historic Pensacola Preservation Board of Trustees may~~ authorize a direct-support organization to assist the

university board in carrying out its dual historic preservation and historic preservation education purposes and responsibilities for the City of Pensacola, Escambia County, and West Florida by raising money; submitting requests for and receiving grants from the Federal Government, the state or its political subdivisions, private foundations, and individuals; receiving, holding, investing, and administering property; and making expenditures to or for the benefit of the university board. The sole purpose for the direct-support organization is to support the historic preservation efforts and the historic preservation education programs and initiatives of the university board. Such a direct-support organization is an organization that is:

(a) Incorporated under the provisions of chapter 617 and approved by the Department of State department as a Florida corporation not for profit;

(b) Organized and operated to receive, hold, invest, and administer property and to make expenditures to or for the benefit of the university board; and

(c) Approved by the university board and the department to be operating for the benefit of and in a manner consistent with the goals of the university the board and in the best interest of the state.

(2) The number of the board of directors of the direct-support organization shall be determined by the president of the university. However, the current members of the board of directors of the direct-support organization for the Historic Pensacola Preservation Board of Trustees shall be members of the board of directors of the direct-support organization for the university for the duration of their appointed terms. Additional members or members to fill vacancies shall be appointed by the president of the university in consultation with the board of directors of the direct-support organization. Membership on the board of directors of the direct-support organization shall include the professional expertise to ensure the university meeting its dual purposes of historic preservation and historic preservation education to include, but not be limited to, a licensed architect who has expertise in historic preservation and architectural history, a professional historian in the field of American history, and a professional archaeologist. All board members must have demonstrated interest in the preservation of Florida's historical and archaeological heritage. Membership on the board of directors must be representative of the areas of West Florida served by the direct-support organization and the university in its preservation efforts. The president of the university, or the president's designee, shall serve as a member of the board of directors.

(3)(2) The direct-support organization shall operate under written contract with the university board. The contract must provide for:

(a) Approval of the articles of incorporation and bylaws of the direct-support organization by the university board and the department.

(b) Submission of an annual budget for the approval of the university board. The budget must comply with rules adopted by the university board.

(c) Certification by the university board that the direct-support organization is complying with the terms of the contract and in a manner consistent with the historic preservation goals and purposes of the university board and in the best interest of the state. Such certification must be made annually by the university and reported in the official minutes of a meeting of the university board.

(d) The reversion to the university board, or the state if the university board ceases to exist, of moneys and property held in trust by the direct-support organization for the benefit of the university board if the direct-support organization is no longer approved to operate for the university board, or the university board ceases to exist, ~~and if such moneys and property were acquired after October 1, 1986.~~

(e) The fiscal year of the direct-support organization, which must begin July 1 of each year and end June 30 of the following year.

(f) The disclosure of material provisions of the contract and the distinction between the University of West Florida board of trustees and the direct-support organization to donors of gifts, contributions, or bequests, as well as on all promotional and fundraising publications.

~~(3) The members of the direct-support organization's board of directors must include members of the board of trustees.~~

(4) The university board may authorize a direct-support organization to use its property (except money), facilities, and personal services, subject to the provisions of this section and s. 240.299. A direct-support organization that does not provide equal employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin may not use the property, facilities, or personal services of the university board. For the purposes of this subsection, the term "personal services" includes full-time personnel and part-time personnel as well as payroll processing.

(5) The university board shall establish policies and may adopt rules pursuant to s. 240.299 prescribing the procedures by which the direct-support organization is governed and any conditions with which a direct-support organization must comply to use property, facilities, or personal services of the university board.

(6) Any moneys may be held in a separate depository account in the name of the direct-support organization and subject to the provisions of the contract with the university board. Such moneys may include lease income, admissions income, membership fees, private donations, income derived from fundraising activities, and grants applied for and received by the direct-support organization.

(7) The direct-support organization shall provide for an annual financial and compliance audit of its financial accounts and records by an independent certified public accountant in accordance with generally accepted accounting standards rules established by the board. The annual audit report must be submitted to the university board for review and approval. The university, the Auditor General, and others authorized in s. 240.299 shall

have the authority to require and receive from the direct-support organization, or from its independent auditor, any detail or supplemental data relative to the operation of the organization. Upon approval, the university board shall certify the audit report to the Auditor General for review.

(8) The identity of a donor or prospective donor of property to a direct-support organization who desires to remain anonymous, and all information identifying such donor or prospective donor, is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution; and that anonymity must be maintained in the auditor's report. The university and the Auditor General shall have access to all records of the direct-support organization at any time it is requested he or she so requests.

(9) Provisions governing direct-support organizations in s. 240.99 and not provided in this section shall apply to the direct-support organization.

Section 19. This act shall not affect the validity of any judicial or administrative action involving the Historic Pensacola Preservation Board of Trustees pending as of July 1, 2001. The Department of State shall be substituted as of that date for the Historic Pensacola Preservation Board of Trustees as a party in interest in any such pending action.

Section 20. Paragraph (h) of subsection (2) of section 607.1901, Florida Statutes, is amended to read:

607.1901 Corporations Trust Fund creation; transfer of funds.—

(2)

(h) The division shall transfer from the trust fund to the Historical Resources Operating Trust Fund, quarterly, prorations transferring \$1.5 million each fiscal year, to be used as provided in s. 267.0619 ~~267.072~~.

Section 21. Paragraph (e) of subsection (2) of section 872.05, Florida Statutes, is amended to read:

872.05 Unmarked human burials.—

(2) DEFINITIONS.—As used in this section:

(e) “State Archaeologist” means the person employed by the division pursuant to s. 267.031(6) ~~267.061(4)~~.

Section 22. Except as otherwise provided herein, this act shall take effect January 1, 2002.

Approved by the Governor June 8, 2001.

Filed in Office Secretary of State June 8, 2001.