



Maryland Department of Planning  
Maryland Historical Trust

Martin O'Malley  
Governor  
Anthony G. Brown  
Lt. Governor

Richard Eberhart Hall  
Secretary  
Matthew J. Power  
Deputy Secretary

**ANNOTATED CODE OF MARYLAND**  
**State Finance and Procurement Article**  
**TITLE 5A. DIVISION OF HISTORICAL AND CULTURAL PROGRAMS**  
**Subtitle 1. Established**

**§ 5A-101. Established.**

There is a Division of Historical and Cultural Programs in the Department of Planning.

[An. Code 1957, art. 83B, § 5-101(a); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-102. Governmental units in Division.**

The Division of Historical and Cultural Programs includes the Maryland Historical Trust.

[An. Code 1957, art. 83B, § 5-101(b); 2005, ch. 26, § 2; ch. 440, §§ 2, 3; 2008, ch. 521, § 4.]

**Subtitle 2. Commission on African American History and Culture**

**§ 5A-201. to 5A-208. Commission on African American History and Culture.**

Redesignated.

**Subtitle 3. Maryland Historical Trust**

**PART I. General Provisions.**

**§ 5A-301. Definitions.**

(a) *In general.*- In this subtitle the following words have the meanings indicated.

(b) *Director.*- "Director" means the Director of the Maryland Historical Trust.

(c) *Financial assistance.*- "Financial assistance" means action by the State or a State unit to award grants, loans, loan guarantees, or insurance to a public or private entity to finance, wholly or partly, an undertaking.

(d) *Governmental unit.*- "Governmental unit" means an agency, authority, board, commission, council, office, or other unit or instrumentality of the government of the State or of a political subdivision of the State.

(e) *Historic property.*-

(1) "Historic property" means a district, site, building, structure, monument, or object significant to:

(i) the prehistory or history of the State; or

(ii) the upland and underwater archaeology, architecture, engineering, or culture of the State.

(2) "Historic property" includes related artifacts, records, and remains.

(f) *Nonprofit organization.*- "Nonprofit organization" means a corporation, foundation, or other legal entity, no part of the net earnings of which inures to the benefit of a private shareholder or individual holding an interest in the entity.

(g) *Political subdivision.*- "Political subdivision" means a county or municipal corporation of the State.

(h) *Preservation or historic preservation.*- "Preservation" or "historic preservation" means the identification, evaluation, recordation, documentation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, and reconstruction of a historic property.

(i) *State Historic Preservation Officer.*- "State Historic Preservation Officer" means the individual who administers the State Historic Preservation Program under the National Historic Preservation Act of 1966, 16 U.S.C. §§ 470-470mm.

(j) *State unit.*- "State unit" has the meaning stated in § 11-101 of the [State Government Article](#).

(k) *Submerged.*- "Submerged" means beneath or substantially beneath water.

(l) *Terrestrial.*- "Terrestrial" means relating to land above the mean high tide line and above nontidal waters.

(m) *Trust.*- "Trust" means the Maryland Historical Trust.

(n) *Undertaking.*- "Undertaking" means a project that involves or may result in building construction, building alteration, or land disturbance.

[An. Code 1957, art. 83B, §§ 5-601(a), (h), (j), (l), (v), (w), (x), (y), (aa), (bb), (cc), 5-702(g); 2005, ch. 26, § 2; ch.440, §§ 2, 3; 2007, ch. 5.]

**§ 5A-302. Findings.**

The General Assembly finds that:

- (1) historic properties significant to the State's heritage are being lost or substantially altered, often inadvertently, with increasing frequency;
- (2) historic properties are a vital part of our community life and development and cannot be replaced if lost or destroyed;
- (3) it is in the public interest to preserve the State's heritage and enrich present and future generations with the cultural, educational, inspirational, social, and economic benefits of the past;
- (4) increasing knowledge of our historic resources, establishing better means of identifying and administering them, and encouraging their preservation will assist the economic and cultural growth of the State; and
- (5) the State's heritage has been enriched by accomplishments and contributions of the State's private preservation organizations, and their continuing activities are in the public interest.

[An. Code 1957, art. 83B, § 5-602; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-303. Rehabilitation tax credits.**

(a) *Definitions.*-

- (1) In this section the following words have the meanings indicated.
- (2) "Business entity" means:
  - (i) a person conducting or operating a trade or business in the State; or
  - (ii) an organization operating in Maryland that is exempt from taxation under § 501(c)(3) of the Internal Revenue Code.
- (3) "Certified heritage area" has the meaning stated in § [13-1101 of the Financial Institutions Article](#).
- (4) (i) "Certified heritage structure" means a structure that is located in the State and is:
  1. listed in the National Register of Historic Places;
  2. designated as a historic property under local law and determined by the Director to be eligible for listing on the National Register of Historic Places;

3.
  - A. located in a historic district listed on the National Register of Historic Places or in a local historic district that the Director determines is eligible for listing on the National Register of Historic Places; and
  - B. certified by the Director as contributing to the significance of the district; or
4. located in a certified heritage area and certified by the Maryland Heritage Areas Authority as contributing to the significance of the certified heritage area.
  - (ii) "Certified heritage structure" does not include a structure that is owned by the State, a political subdivision of the State, or the federal government.
- (5) "Certified rehabilitation" means a completed rehabilitation of a certified heritage structure that the Director certifies is a substantial rehabilitation in conformance with the rehabilitation standards of the United States Secretary of the Interior.
- (6) "Commercial rehabilitation" means a rehabilitation of a structure other than a single-family, owner-occupied residence.
- (7) "Director" means the Director of the Maryland Historical Trust.
- (8) "Local historic district" means a district that the governing body of a county or municipal corporation, or the Mayor and City Council of Baltimore, has designated under local law as historic.
- (9) "National register structure" means a structure that is:
  - (i) listed on the National Register of Historic Places; or
  - (ii) located in a historic district listed on the National Register of Historic Places and certified by the Director as contributing to the significance of the district.
- (10) "Qualified rehabilitation expenditure" means any amount that:
  - (i) is properly chargeable to a capital account;
  - (ii) is expended in the rehabilitation of a structure that by the end of the calendar year in which the certified rehabilitation is completed is a certified heritage structure;
  - (iii) is expended in compliance with a plan of proposed rehabilitation that has been approved by the Director; and
  - (iv) is not funded, financed, or otherwise reimbursed by any:
    1. State or local grant;

2. grant made from the proceeds of tax-exempt bonds issued by the State, a political subdivision of the State, or an instrumentality of the State or of a political subdivision of the State;
3. State tax credit other than the tax credit under this section; or
4. other financial assistance from the State or a political subdivision of the State, other than a loan that must be repaid at an interest rate that is greater than the interest rate on general obligation bonds issued by the State at the most recent bond sale prior to the time the loan is made.

(11) "Substantial rehabilitation" means rehabilitation of a structure for which the qualified rehabilitation expenditures, during the 24-month period selected by the individual or business entity ending with or within the taxable year, exceed:

- (i) for owner-occupied residential property, \$5,000; or
- (ii) for all other property, the greater of:
  1. the adjusted basis of the structure; or
  2. \$5,000.

(b) *Director to establish certification process.*-

(1) The Director shall adopt regulations to:

- (i) establish procedures and standards for certifying heritage structures and rehabilitations under this section;
- (ii) for commercial rehabilitations, establish an application process for the award of initial credit certificates for Maryland heritage structure rehabilitation tax credits consistent with the requirements of this subsection;
- (iii) for commercial rehabilitations, establish criteria, consistent with the requirements of this subsection, for evaluating, comparing, and rating plans of proposed rehabilitation that have been determined by the Director to conform with the rehabilitation standards of the United States Secretary of the Interior; and
- (iv) for commercial rehabilitations, establish a competitive award process for the award of initial credit certificates for Maryland heritage structure rehabilitation tax credits that:

1. favors the award of tax credits for rehabilitation projects located in jurisdictions that have been historically underrepresented in the award of tax credits for commercial rehabilitations, based on the number of national register structures in each jurisdiction;
2. favors the award of tax credits for rehabilitation projects that are consistent with and promote current growth and development policies and programs of the State; and
3.
  - A. favors the award of tax credits for structures that are listed in the National Register of Historic Places or are designated as historic properties under local law and determined by the Director to be eligible for listing in the National Register of Historic Places; or
  - B. favors the award of tax credits for structures that are contributing buildings with historic significance and are located in historic districts listed in the National Register of Historic Places.

(2) The Director may not certify that a rehabilitation is a certified rehabilitation eligible for a tax credit provided under this section unless the individual or business entity seeking certification states under oath the amount of the individual's or business entity's qualified rehabilitation expenditures.

(3) Each year, the Director may accept applications for approval of plans of proposed commercial rehabilitations and for the award of initial credit certificates for the fiscal year that begins July 1 of that year.

(4) For commercial rehabilitations, the Director may not accept an application for approval of plans of proposed rehabilitation if:

- (i) any substantial part of the proposed rehabilitation work has begun; or
- (ii) the applicant for a commercial rehabilitation has previously submitted three or more applications for commercial rehabilitations with total proposed rehabilitations exceeding \$500,000 in that year.

(5) Except as provided in subsection (d)(3)(iii) of this section, not more than 75% of the total credit amounts under initial credit certificates issued for any fiscal year may be issued for projects in a single county or Baltimore City.

- (6) (i) The Director shall adopt regulations to charge a reasonable fee to certify heritage structures and rehabilitations under this section.
- (ii) The Director shall set the level of the fee so that the projected proceeds from the fee will cover the costs to the Trust of administering the credit under this section and the federal historic tax credit.
- (iii) The fee charged may not exceed 1% of the amount of the initial credit certificate issued for a commercial rehabilitation project or the amount of the credit for which a single-family, owner-occupied rehabilitation would be eligible based on the greater of the estimated or final qualified rehabilitation expenditures for the rehabilitation.
- (iv) The proceeds from the fee shall be deposited in a special fund, to be used only for the purposes of paying the costs of administering the credit under this section and the federal historic tax credit.
- (v) Any unused balance of the fund at the end of each fiscal year shall be transferred to the Reserve Fund established under subsection (d) of this section and shall increase the amount of the initial credit certificates that the Trust may issue for the following fiscal year.

(c) *Tax credit limitations.*-

- (1) Except as otherwise provided in this section, for the taxable year in which a certified rehabilitation is completed, an individual or business entity may claim a tax credit in an amount equal to 20% of the individual's or business entity's qualified rehabilitation expenditures for the rehabilitation.
- (2) (i) For any commercial rehabilitation, the State tax credit allowed under this section may not exceed the lesser of:
1. \$3,000,000; or
  2. the maximum amount specified under the initial credit certificate issued for the rehabilitation.
- (ii) For a rehabilitation other than a commercial rehabilitation, the State tax credit allowed under this section may not exceed \$50,000.
- (iii) For the purposes of the limitation under subparagraph (i) of this paragraph, the following shall be treated as a single commercial rehabilitation:

1. the phased rehabilitation of the same structure or property;
2. the separate rehabilitation of different components of the same structure or property; or
3. the rehabilitation of multiple structures that are functionally related to serve an overall purpose.

(3) (i) Subject to subparagraph (ii) of this paragraph, the initial credit certificate for a proposed commercial rehabilitation shall expire and the credit under this section may not be claimed if the commercial rehabilitation is not completed within 30 months after the initial credit certificate was issued.

(ii) For reasonable cause, the Director may postpone the expiration date for an initial credit certificate for a commercial rehabilitation.

(4) If the tax credit allowed under this section in any taxable year exceeds the total tax otherwise payable by the business entity or the individual for that taxable year, the individual or business entity may claim a refund in the amount of the excess.

(d) *Heritage Structure Rehabilitation Tax Credit Reserve Fund.-*

(1) In this subsection, "Reserve Fund" means the Heritage Structure Rehabilitation Tax Credit Reserve Fund established under paragraph (2) of this subsection.

(2) (i) There is a Heritage Structure Rehabilitation Tax Credit Reserve Fund that is a continuing, nonlapsing special fund that is not subject to [§ 7-302 of this article](#).

(ii) The money in the Fund shall be invested and reinvested by the Treasurer, and interest and earnings shall be credited to the General Fund.

(3) (i) Subject to the provisions of this subsection, the Director shall issue an initial credit certificate for each commercial rehabilitation for which a plan of proposed rehabilitation is approved.

(ii) An initial credit certificate issued under this subsection shall state the maximum amount of credit under this section for which the commercial rehabilitation may qualify.

(iii) 1. Except as otherwise provided in this subparagraph and in subsection (b)(6)(v) of this section, for any fiscal year, the Director may not issue initial credit certificates for credit amounts in the aggregate totaling more than the amount

appropriated to the Reserve Fund for that fiscal year in the State budget as approved by the General Assembly.

2. If the aggregate credit amounts under initial credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year as a result of the limitation under subsection (b)(5) of this section, any excess amount may be issued under initial credit certificates for projects in a county or Baltimore City in the same fiscal year, without regard to the limitation under subsection (b)(5) of this section.

3. Subject to subparagraph 2 of this subparagraph, if the aggregate credit amounts under initial credit certificates issued in a fiscal year total less than the amount appropriated to the Reserve Fund for that fiscal year, any excess amount shall remain in the Reserve Fund and may be issued under initial credit certificates for the next fiscal year.

4. For any fiscal year, if funds are transferred from the Reserve Fund under the authority of any provision of law other than paragraph (4) of this subsection, the maximum credit amounts in the aggregate for which the Director may issue initial credit certificates shall be reduced by the amount transferred.

(iv) For each of fiscal years 2009 and 2010, the Governor shall include in the budget bill an appropriation to the Reserve Fund.

(v) Notwithstanding the provisions of § 7-213 of this article, the Governor may not reduce an appropriation to the Reserve Fund in the State budget as approved by the General Assembly.

(vi) The Director may not issue an initial credit certificate for any fiscal year after fiscal year 2010.

(4) (i) Except as provided in this paragraph, money appropriated to the Reserve Fund shall remain in the Fund.

(ii) 1. Within 15 days after the end of each calendar quarter, the Trust shall notify the Comptroller as to each commercial rehabilitation completed and certified during the quarter:

- A. the maximum credit amount stated in the initial credit certificate for the project; and
  - B. the final certified credit amount for the project.
2. On notification that a project has been certified, the Comptroller shall transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the Reserve Fund to the General Fund.
- (iii) 1. On or before October 1 of each year, the Trust shall notify the Comptroller as to the maximum credit amount stated in the initial credit certificate for each commercial rehabilitation for which the initial credit certificate has expired under subsection (c)(3) of this section as of the end of the prior fiscal year.
2. On notification that the initial credit certificate for a project has expired under subsection (c)(3) of this section, the Comptroller shall transfer an amount equal to the maximum credit amount stated in the initial credit certificate for the project from the Reserve Fund to the General Fund.

*(e) Disqualifying work.-*

- (1) In this subsection, "disqualifying work" means work that:
- (i) is performed on a certified heritage structure for which a rehabilitation has been certified under this section; and
  - (ii) if performed as part of the rehabilitation certified under this section, would have made the rehabilitation ineligible for certification.
- (2) The credit allowed under this section shall be recaptured as provided in paragraph (3) of this subsection if, during the taxable year in which a certified rehabilitation is completed or any of the 4 taxable years succeeding the taxable year in which the certified rehabilitation is completed, any disqualifying work is performed on the certified heritage structure for which the certified rehabilitation has been completed.
- (3) (i) 1. If the disqualifying work is performed during the taxable year in which the certified rehabilitation was completed, 100% of the credit shall be recaptured.

2. If the disqualifying work is performed during the first full year succeeding the taxable year in which the certified rehabilitation was completed, 80% of the credit shall be recaptured.
3. If the disqualifying work is performed during the second full year succeeding the taxable year in which the certified rehabilitation was completed, 60% of the credit shall be recaptured.
4. If the disqualifying work is performed during the third full year succeeding the taxable year in which the certified rehabilitation was completed, 40% of the credit shall be recaptured.
5. If the disqualifying work is performed during the fourth full year succeeding the taxable year in which the certified rehabilitation was completed, 20% of the credit shall be recaptured.

(ii) The individual or business entity that claimed the tax credit shall pay the amount to be recaptured as determined under subparagraph (i) of this paragraph as taxes payable to the State for the taxable year in which the disqualifying work is performed.

*(f) Authority of Comptroller.-*

(1) The Comptroller may determine, under the process for return examination and audit under § 13-301 and 13-302 of the Tax - General Article:

- (i) the amount of rehabilitation expenditures used in calculating the credit;
  - (ii) whether such expenditures are qualified rehabilitation expenditures under this section;
- and
- (iii) whether the credit is allowable as claimed.

(2) The authority of the Comptroller to examine and audit a tax return does not limit the authority of the Director to determine whether a rehabilitation qualifies as a certified rehabilitation or whether a certificate of certified rehabilitation has been properly issued.

(3) The Comptroller may adopt regulations to require that an entity other than a corporation claim the tax credit on the tax return filed by that entity.

(4) (i) Except as otherwise provided in this paragraph, the credit under this section may be claimed for the year a certified rehabilitation is completed, only if the Director has, by the time the return is filed, issued a certificate of completion for the certified rehabilitation.

(ii) A taxpayer claiming the credit may amend a return for the year the certified rehabilitation was completed to account for a certificate issued subsequent to the filing of the original return.

(iii) An amended return shall be filed within the period allowed under the Tax - General Article for filing refund claims.

(iv) The provisions of this paragraph do not extend the period in which a certified rehabilitation must be completed to be eligible for a tax credit under this section.

(v) An amended return may account for an amended certification issued by the Director for a certified rehabilitation.

(g) *Refunds.*- A refund payable under subsection (c) of this section:

(1) operates to reduce the income tax revenue from corporations if the person entitled to the refund is a corporation subject to the income tax under Title 10 of the Tax - General Article;

(2) operates to reduce insurance premium tax revenues if the person entitled to the refund is subject to taxation under Title 6 of the Insurance Article; and

(3) operates to reduce the income tax revenue from individuals if the person entitled to the refund is:

(i) an individual subject to the income tax under Title 10 of the Tax - General Article; or

(ii) an organization exempt from taxation under § 501(c)(3) of the Internal Revenue Code.

(h) *Annual report.*-

(1) On or before December 15 of each fiscal year, the Director shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly, on:

(i) the initial credit certificates awarded for commercial rehabilitations under this section for that fiscal year; and

(ii) the tax credits awarded for certified rehabilitations completed in the preceding fiscal year.

(2) The report required under paragraph (1) of this subsection shall include for each initial credit certificate awarded for the fiscal year for a commercial rehabilitation:

(i) the name of the owner or developer of the commercial rehabilitation;

- (ii) the name and address of the proposed or certified rehabilitation and the county where the project is located;
  - (iii) the dates of receipt and approval by the Director of all applications regarding the project, including applications:
    - 1. for certification that a structure or property will qualify as a certified heritage structure; and
    - 2. for approval of the proposed rehabilitation; and
  - (iv) the maximum amount of the credit stated in the initial credit certificate for the project and the estimated rehabilitation expenditures stated in the application for approval of the plan of proposed rehabilitation.
- (3) The report required under paragraph (1) of this subsection shall include for each certified commercial rehabilitation completed during the preceding fiscal year:
- (i) the name of the owner or developer of the commercial rehabilitation;
  - (ii) the name and address of the certified rehabilitation and the county where the project is located;
  - (iii) the dates of receipt and approval by the Director of all applications regarding the project; and
  - (iv)
    - 1. the maximum amount of the credit stated in the initial credit certificate for the project and the estimated rehabilitation expenditures stated in the application for approval of the plan of proposed rehabilitation; and
    - 2. the actual qualified rehabilitation expenditures and the final amount of the credit for which the project qualified.
- (4) The report required under paragraph (1) of this subsection shall summarize for each category of certified rehabilitations:
- (i) the total number of applicants for:
    - 1. certification that a structure or property will qualify as a certified heritage structure;
    - 2. approval of plans of proposed rehabilitations; or
    - 3. certification of the completed rehabilitations;

(ii) the number of proposed projects for which plans of proposed rehabilitation were approved; and

(iii) the total estimated rehabilitation expenditures stated in approved applications for approval of plans of proposed rehabilitation and the total qualified rehabilitation expenditures for completed rehabilitations certified.

(5) The information required under paragraph (4) of this subsection shall be provided in the aggregate and separately for each of the following categories of certified rehabilitations:

(i) owner-occupied single family residential structures; and

(ii) commercial rehabilitations.

(i) *Termination; effect.-*

(1) Subject to the provisions of this subsection, the provisions of this section and the tax credit authorized under this section shall terminate as of July 1, 2010.

(2) On and after July 1, 2010:

(i) the tax credit authorized under this section may be claimed for:

1. a rehabilitation project, other than a commercial rehabilitation, for which an application for approval of a plan of proposed rehabilitation was received by the Director on or before June 30, 2010; or

2. a commercial rehabilitation for which an initial credit certificate has been awarded under subsection (d) of this section; and

(ii) the Director shall continue to report to the Governor and the General Assembly as required under subsection (h) of this section for as long as any rehabilitation project for which the tax credit may be claimed remains incomplete.

[An. Code 1957, art. 83B, § 5-801; 2005, ch. 25, § 13; ch. 26, § 2; ch. 440, §§ 2, 3; ch. 444, § 6; 2007, chs. 566, 567.]

#### **§ 5A-304. Board of Public Works - Acquisition of historic landmarks.**

(a) *In general.-*

(1) On request by the Trust, the Board of Public Works may acquire part or all of any property that the Trust finds is a historic landmark worthy of public care and preservation.

(2) The property may be acquired by gift or by purchase with any available money.

(b) *Trust to control and administer property.*-

(1) Under § 5A-318 of this subtitle, the Board of Public Works may select the Trust as the State unit to control and administer any property acquired.

(2) For these purposes the Board of Public Works may transfer title to or an interest in the property to the Trust or to an appropriate governmental unit, private agency, or corporation, subject to covenants and conditions that call for the property to:

(i) be properly maintained and controlled; and

(ii) revert to the Board of Public Works on breach of any of these conditions or covenants.

[An. Code 1957, art. 78A, § 14B; 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-305. Same - Architectural easements in Annapolis.**

(a) *In general.*-

(1) To preserve the architectural and scenic integrity and beauty of the State House and other nearby real properties owned or used by the State or a State unit, the Board of Public Works may acquire architectural easements in the following areas in the City of Annapolis:

(i) around State Circle;

(ii) on School Street opposite the Executive Mansion; and

(iii) on the easterly side of North Street, between State Circle and College Avenue.

(2) The areas listed in paragraph (1) of this subsection include:

(i) the bed of the street and outer sidewalk areas to the building line on the outer perimeter; and

(ii) an area extending outward 50 feet from that building line.

(b) *Methods of acquisition.*- The Board of Public Works may acquire architectural easements by purchase, gift, exchange, or condemnation under Title 12 of the [Real Property Article](#), with any available money.

(c) *Powers of Board of Public Works.*- The Board of Public Works may:

(1) agree or contract with the owner or user of real property in the specified area to prohibit the owner or user from making any structural or other physical change in the property that the Board

of Public Works determines would harm the architectural and scenic integrity and beauty of the property and the specified area; and

(2) give the owner or user cash or other consideration, including a promise not to acquire an architectural easement by condemnation over part or all of the property while the owner or user complies with the agreement or contract.

[An. Code 1957, art. 78A, § 14C; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-306. Effect of subtitle.**

This subtitle does not abrogate or supplant any power of the State Highway Administration.

[An. Code 1957, art. 83B, § 5-620(b); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-307, 5A-308.**

Reserved.

## PART II. ESTABLISHMENT AND ORGANIZATION

### § 5A-309. Definitions.

- (a) *In general.*- In this part the following words have the meanings indicated.
- (b) *Board.*- "Board" means the Board of Trustees of the Maryland Historical Trust.
- (c) *Trustee.*- "Trustee" means a member of the Board.

[2005, ch. 26, § 2; ch. 440, § 2.]

### § 5A-310. Maryland Historical Trust - In general.

- (a) *Established.*- There is a Maryland Historical Trust.
- (b) *Status.*-

- (1) The Trust is an instrumentality of the State, is a body corporate, and has perpetual existence.
- (2) The General Assembly may terminate the Trust if the purposes of the Trust end.

[An. Code 1957, art. 83B, §§ 5-603, 5-604; 2005, ch. 26, § 2; ch. 440, § 2.]

### § 5A-311. Purposes of Trust.

- (a) *In general.*- The purposes of the Trust are to:

- (1) preserve, protect, and enhance districts, sites, buildings, structures, and objects of significance in the prehistory, history, upland and underwater archeology, architecture, engineering, and culture of the State;
- (2) encourage others to do the same; and
- (3) promote interest in and study of those things listed in item (1) of this subsection.

- (b) *Nature of Trust.*- The Trust is charitable and is intended to benefit the residents of the State.

- (c) *Modification of Trust.*- The General Assembly may modify the Trust to carry out the purposes of the Trust.

[An. Code 1957, art. 83B, §§ 5-603, 5-604; 2005, ch. 26, § 2; ch. 440, § 2.]

### § 5A-312. Board established.

There is a Board of Trustees of the Trust.

**§ 5A-313. Membership.**

(a) *Composition; appointment.* -

(1) The Board consists of 15 trustees.

(2) The Governor, the President of the Senate, and the Speaker of the House of Delegates are ex officio trustees.

(3) With the advice and consent of the Senate, the Governor shall appoint the other 12 trustees.

(b) *Delegation of powers or duties.* -

(1) The Governor may delegate any or all of the Governor's powers or duties as trustee to a member of the Executive Department of the State.

(2) The President of the Senate may delegate any or all of the President's powers or duties as trustee to a member of the Senate.

(3) The Speaker of the House of Delegates may delegate any or all of the Speaker's powers or duties as trustee to a member of the House of Delegates.

(c) *Qualification.* -

(1) At least two of the trustees appointed by the Governor shall have:

- (i) an advanced degree in archaeology or a closely related field; and
- (ii) experience in archaeology.

(2) Of the trustees who qualify under paragraph (1) of this subsection:

- (i) at least one shall have experience in submerged archaeology; and
- (ii) at least one shall have experience in terrestrial archaeology.

(3) The Secretary shall advise the Governor on the appointment of trustees qualified under paragraph (1) of this subsection after consulting with the Advisory Committee on Archaeology established under [§ 5A-336 of this subtitle](#).

(d) *Tenure; vacancies.* -

(1) The term of an appointed trustee is 4 years.

(2) The terms of appointed trustees are staggered as required by the terms provided for trustees on October 1, 2005.

(3) If an appointed trustee fails to serve or to complete a term, the Governor shall appoint a successor for the rest of the term.

(e) *Geographic distribution of trustees.*- To the extent practicable and consistent with the purposes of the Trust, trustees shall be chosen, whether by delegation or appointment, to achieve a broad geographic distribution of trustees throughout the State.

[An. Code 1957, art. 83B, §§ 5-605, 5-624(e); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-314. Officers.**

(a) *In general.*- The Board shall elect annually a chair, a vice chair, and a treasurer from among its trustees.

(b) *Method of electing officers.*- The Board shall determine how its officers are to be elected.

[An. Code 1957, art. 83B, § 5-608; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-315. Quorum; meetings; compensation.**

(a) *Quorum.*- Eight trustees are a quorum.

(b) *Meetings.*-

(1) The Board shall meet at least twice a year at the times and places that it sets.

(2) The Director appointed under [§ 5A-316 of this](#) subtitle shall call a special meeting:

(i) on order of the chair, on the chair's own initiative; or

(ii) at the request of four or more trustees.

(3) (i) The Director shall notify each trustee in writing of the time and place of a meeting at least 7 days before the meeting.

(ii) The trustees may hold a meeting on less than 7 days' notice if all trustees agree.

(c) *Compensation.*- A trustee:

(1) may not receive compensation for duties performed as a trustee; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

[An. Code 1957, art. 83B, §§ 5-606, 5-608; 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-316. Director.**

(a) *Appointment; office.*-

(1) The trustees shall appoint a Director, with the approval of the Governor.

(2) The Director is the chief administrative officer of the Trust.

(b) *Qualifications.*- The Director shall have:

(1) knowledge in architecture, history, archeology, or another appropriate discipline relating to historic preservation; and

(2) experience in historic preservation or related fields.

(c) *Tenure.*- The Director serves at the pleasure of the Board and may be removed with the concurrence of the Governor.

(d) *Salary; staff.*-

(1) The Director is entitled to the salary provided in the State budget.

(2) The Director may employ a staff in accordance with the State budget.

(e) *Classification of service.*- Each position with the Trust is a special appointment in the State Personnel Management System.

(f) *Duties and functions.*- Under the direction of the Board, the Director shall perform the duties and functions that the Board prescribes.

[An. Code 1957, art. 83B, § 5-609; 2005, ch. 26, § 2; ch. 440, § 2.]

#### **§ 5A-317. Legal counsel.**

On request, the Board shall receive legal counsel and services from the Attorney General to carry out the purposes of the Trust.

[An. Code 1957, art. 83B, § 5-610; 2005, ch. 26, § 2; ch. 440, § 2.]

#### **§ 5A-318. Powers and duties.**

(a) *In general.*- The Board shall exercise the powers and duties of the Trust.

(b) *Powers.*- The Trust may:

(1) adopt regulations to carry out this subtitle;

(2) take legal action to enforce this subtitle;

(3) adopt and use an official seal;

(4) contract for consultant or other services;

(5) apply for and accept money, grants, or loans from federal, State, local, or private sources;

- (6) agree with a prospective mortgagor or grantee to provide financial assistance to a historic preservation project;
- (7) acquire and hold real and personal historic property by gift, purchase, devise, bequest, or any other means;
- (8) acquire or take assignment of a note, mortgage, or other security or evidence of indebtedness;
- (9) acquire, attach, accept, or take title to an historic property by conveyance or, if a mortgage is in default, by foreclosure;
- (10) sell, convey, assign, lease, or otherwise transfer or dispose of any property held by the Trust;
- (11) make contracts, leases, or other agreements necessary or incidental to the performance of the duties of the Trust;
- (12) preserve, restore, rehabilitate, reconstruct, protect, document, excavate, salvage, exhibit, and interpret historic properties;
- (13) accept a gift or bequest for any purpose of the Trust and, unless the donor specifies otherwise, use the principal and income of the gift or bequest by:
  - (i) spending all or part of them to further the Trust; or
  - (ii) investing them, with the consent of the State Treasurer, in general obligations of the State or other securities;
- (14) apply to Trust purposes any money, asset, property, or other thing of value the Trust receives incident to its operation; or
- (15) delegate any of the powers of the Trust to one or more trustees or the Director.

(c) *Duties.* - The Trust shall:

- (1) direct and conduct a comprehensive statewide survey of historic properties in cooperation with:
  - (i) units of the federal government;
  - (ii) State units, including the Department of Natural Resources;
  - (iii) political subdivisions;
  - (iv) private organizations; and
  - (v) individuals;

- (2) maintain an inventory and register of historic properties;
- (3) document, research, record, and evaluate the significance of historic properties;
- (4) prepare and implement comprehensive statewide and regional historic preservation plans;
- (5) help political subdivisions to develop local historic preservation plans and programs;
- (6) carry out programs and activities to protect, preserve, and encourage the preservation of historic properties;
- (7) preserve and administer historic properties held by the Trust;
- (8) cooperate with units of federal government, State units, political subdivisions, and private entities to ensure that historic properties are considered at all levels of planning and development;
- (9) review the policies and programs of each State unit that affect historic properties, and recommend ways to improve the effectiveness and coordination of these policies and programs, consistent with this subtitle;
- (10) administer programs of financial and technical assistance for historic preservation projects;
- (11) make recommendations on the certification and eligibility of historic properties for tax incentives and other programs of public assistance;
- (12) provide public information, education, and training relating to historic preservation;
- (13) encourage public interest and participation in historic preservation;
- (14) advise and assist the State Historic Preservation Officer in implementing the State Historic Preservation Officer's responsibilities;
- (15) advise the Governor and the General Assembly on historic preservation; and
- (16) submit annually to the Governor and, subject to [§ 2-1246 of the State Government Article](#), to the General Assembly a report of the activities of the Trust during the preceding year and any recommendations for actions appropriate to further its purposes.

(d) *Nonreversion of money.*- Income and fees received by the Trust, including fees authorized under this subtitle and income from educational and other preservation materials, activities, and services of the Trust, are not subject to [§ 7-302 of this article](#).

(e) *Audit.*- Money maintained under this section is subject to audit by the State, including the Legislative Auditor.

[An. Code 1957, art. 83B, §§ 5-605, 5-607; 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-319. Restrictions on property transfer, sale, and conveyance.**

(a) *Transfers from the State.*- Unless the Board of Public Works approves, the Trust may not dispose of any property transferred to it by the State or purchased with State money.

(b) *Transfer of historic property solely for investment prohibited.*- The Trust may not sell, convey, assign, or lease out any historic property solely for investment.

(c) *Transactions involving properties on or eligible for Maryland Register of Historic Properties.*-

Before selling or conveying real or personal property listed in or eligible to be listed in the Maryland Register of Historic Properties, the Trust shall:

(1) ensure that the proposed sale or conveyance provides for the preservation or enhancement of the property;

(2) give preference to acquisition proposals that:

(i) are made by political subdivisions or capable private nonprofit organizations qualifying under § 501(c)(3) of the Internal Revenue Code;

(ii) provide for uses most compatible with the historic or architectural value of the property; and

(iii) provide the greatest opportunity for public involvement, participation, education, and enjoyment; and

(3) provide a 6-month option to purchase to entities that:

(i) meet the requirements of item (2) of this subsection; and

(ii) propose to purchase at the State-established appraised fair market value.

(d) *Redemption by tenant.*- The reversion under a lease made by the Trust may not be redeemed at the option of the tenant unless the lease expressly provides that the reversion may be redeemed at the option of the tenant.

[An. Code 1957, art. 83B, § 5-611; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-320, 5A-321.**

Reserved.

### PART III. HISTORIC FUNDS AND CAPITAL PROJECTS

#### § 5A-322. Definitions.

- (a) *In general.*- In this part the following words have the meanings indicated.
- (b) *Council.*- "Council" means the Maryland Advisory Council on Historic Preservation.
- (c) *Historic Register.*- "Historic Register" means the Maryland Register of Historic Properties.
- (d) *Preparation costs.*- "Preparation costs" means the costs of studies, surveys, plans and specifications, or architectural, engineering, and other special services.

[An. Code 1957, art. 83B, §§ 5-601(g), 5-612(d)(1)(ii), (4), 5-613(d)(2), (5); 2005, ch. 26, § 2; ch. 440, § 2.]

#### § 5A-323. Identification of historic properties.

(a) *Maryland Inventory of Historic Properties.*- The Trust shall compile a Maryland Inventory of Historic Properties that consists of districts, sites, buildings, structures, and other objects of known or potential value to the prehistory, history, upland and underwater archeology, architecture, engineering, and culture of the State.

(b) *Maryland Register of Historic Properties.*-

(1) The Trust shall compile a Historic Register to include all properties in the State that are listed in or eligible for listing in the National Register of Historic Places of the United States Department of the Interior.

(2) The Trust shall adopt regulations specifying procedures and eligibility standards for including properties in the Historic Register.

(3) The Director shall determine whether a property is eligible to be listed in the National Register of Historic Places.

(4) (i) The Director's determination may be appealed to the Governor's Consulting Committee on the National Register of Historic Places, which reviews nominations to the National Register under the National Historic Preservation Act.

(ii) The determination of the Governor's Consulting Committee is final.

(c) *Confidentiality.*- The location and character of a historic property included in the Maryland Inventory of Historic Properties or the Historic Register shall be confidential if the Director determines that

disclosure would create a substantial risk of theft of the property or damage to the property or to the area where the property is located.

[An. Code 1957, art. 83B, §§ 5-601(k), 5-615; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-324. Advisory Council on Historic Preservation.**

(a) *Established.*- There is a Maryland Advisory Council on Historic Preservation.

(b) *Membership - Ex officio and appointed members.*-

(1) The Council consists of seven voting members.

(2) The ex officio members are:

- (i) the Secretary of General Services;
- (ii) the Secretary of Housing and Community Development;
- (iii) the Secretary of Planning; and
- (iv) the Secretary of Transportation.

(3) The Governor shall appoint the other three members, of whom:

- (i) two shall be individuals with expertise in architecture, history, archaeology, or another appropriate discipline that relates to historic preservation; and
- (ii) one shall be a member of the general public.

(4) An ex officio member may designate a deputy secretary from the member's department to act in the member's absence.

(c) *Chair.*- The Secretary of Planning serves as chair.

(d) *Tenure; vacancies.*-

(1) The term of an appointed member is 4 years.

(2) The terms of the appointed members are staggered as required by the terms provided for members of the Council on October 1, 2005.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) *Quorum; meetings.*-

(1) A majority of the authorized membership of the Council is a quorum.

(2) The Council shall set the times and places of its meetings.

(f) *Compensation.*- A member of the Council:

(1) may not receive compensation as a member; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(g) *Staff.*- The Director of the Trust is the secretary and staff to the Council.

[An. Code 1957, art. 83B, § 5-616(a), (b)(1)-(6), (c), (d), (e)(1)-(3), (f); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

### **§ 5A-325. Capital projects affecting historic properties.**

(a) *Duty to consult with Trust on State-financed capital projects.*-

(1) To the extent feasible, a State unit that submits a request or is otherwise responsible for a capital project shall consult with the Trust to determine whether the project will adversely affect any property listed in or eligible for listing in the Historic Register.

(2) The consultation shall occur:

(i) before the State unit submits a request for the capital project to the Department of Budget and Management under [§3-602 of this article](#);

(ii) before or as part of the final project planning phase for a major transportation capital project as defined in § 2-103.1 of the [Transportation Article](#); or

(iii) as early in the planning process as possible for a capital project that uses nonbudgeted money and is subject to the reporting requirements of [§ 3-602 of this article](#).

(b) *Capital projects under plan or interagency agreement.*-

(1) State units that own or control properties may consult with the Trust to develop plans or interagency agreements to identify, evaluate, and manage any of those properties that are listed in or eligible to be listed in the Historic Register.

(2) Capital projects undertaken in accordance with a plan approved by the Trust or an interagency agreement are not subject to further review under this section.

(c) *Nonstate capital projects financed with general obligation bonds.*-

(1) This subsection applies to a capital project that:

(i) is not being carried out by a State unit;

(ii) uses the proceeds of State general obligation bonds; and

(iii) is not otherwise reviewed by the Trust under this section.

(2) Before the Board of Public Works may approve the use of bond proceeds for the project, the Department of Budget and Management or another State unit responsible for the project shall consult with the Trust to determine whether the project will adversely affect any property listed in or eligible to be listed in the Historic Register.

(d) *Determination of adverse effect.*-

(1) Within 30 days after a State unit notifies the Director of a proposed capital project under this section, the Director shall determine whether the project would adversely affect any property listed in or eligible to be listed in the Historic Register.

(2) If the Director finds that the proposed capital project would have a significant adverse effect on a listed or eligible property, the Director and the State unit shall consult to determine whether a practicable plan exists to avoid, mitigate, or satisfactorily reduce the adverse effect.

(3) If the Director and the State unit cannot agree on a plan, the State unit shall submit to the Council a report of the consultations and the findings and recommendations of the State unit.

(4) Within 30 days after receiving the report, the Council shall submit to the State unit comments:

(i) accepting the adverse effect; or

(ii) recommending practicable alternatives to avoid, mitigate, or satisfactorily reduce the adverse effect.

(5) The State unit may:

(i) incorporate in the project the alternatives recommended by the Council; or

(ii) disagree with the comments of the Council.

(6) If the State unit disagrees with the comments of the Council, the State unit:

(i) shall respond in writing to the Council, explaining why the State unit refuses to adopt the measures included in the comments of the Council; and

(ii) may not proceed with the project for at least 10 working days after responding.

(e) *Inclusion of capital costs.*- Except for the cost of studies and surveys, a State unit may include the capital costs of preservation activities required under this subtitle as eligible project costs of any project undertaken or financed by the State unit.

(f) *Regulations.*- The Trust shall adopt regulations that establish procedures and standards for:

- (1) administrative review and comment under this section, including time frames for Trust action on specific categories of projects;
- (2) exempting specific projects, categories of projects, or categories of programs from any requirement of this section, if the exemption is found to be consistent with the purposes of this subtitle and the best interests of the State, considering the magnitude of the exemption and the risk of impairing historic properties; and
- (3) participation by State units, political subdivisions, private organizations, and other entities in proceedings under this section that may affect their interests.

(g) *National Historic Preservation Act.*- In accordance with regulations adopted under subsection (f) of this section, this section may be applied to any undertaking that is subject to the National Historic Preservation Act, 16 U.S.C. §470f.

(h) *Failure to comply.*- Failure by a State unit to comply with this section does not create a private cause of action under State law.

[An. Code 1957, art. 83B, §§ 5-617, 5-618(e)(1), 5-619(a); 2005, ch. 25, § 13; ch. 26, § 2; ch. 440, §§ 2, 3.]

#### **§ 5A-326. Protection and use of historic properties.**

(a) *In general.*- In cooperation with the Trust and subject to available resources, each State unit shall:

- (1) establish a program to identify, document, and nominate to the Trust each property owned or controlled by the State unit that appears to qualify for the Historic Register;
- (2) ensure that no property listed in or eligible to be listed in the Historic Register is inadvertently transferred, sold, demolished, destroyed, substantially altered, or allowed to deteriorate significantly; and
- (3) use any available historic building under its control to the extent prudent and practicable before acquiring, constructing, or leasing a building to carry out its responsibilities.

(b) *Transfer of historic properties.*- If it is prudent, practicable, and in the State's best interest to do so, a State unit that transfers a surplus property listed in or eligible to be listed in the Historic Register shall ensure that the transfer provides for the preservation or enhancement of the property.

(c) *Alteration or destruction of historic properties.*- If a historic property is to be altered substantially or destroyed by State action or with financial assistance from a State unit, the State unit shall cause timely steps to be taken to:

- (1) make appropriate investigations and records;
- (2) salvage appropriate objects and materials; and
- (3) deposit with the Trust the results of the investigations, the records, and the recovered objects and materials.

(d) *Permits, licenses, and financial assistance - Applications.*- A State unit that issues permits or licenses or provides financial assistance shall cooperate with the Trust by:

- (1) giving notice to the Trust, on request, of each application for a permit, a license, or financial assistance; and
- (2) requiring that, where appropriate, an applicant for a permit, a license, or financial assistance consult with the Trust before the State unit takes final action on the application.

(e) *Same - Conditions.*-

(1) After consulting with the Trust, and to avoid, mitigate, or satisfactorily reduce any significant adverse effect on a property listed in or eligible to be listed in the Historic Register, a State unit may put reasonable conditions on a license, permit, or award of financial assistance.

(2) A State unit may seek guidance from the Council before imposing conditions on a license, permit, or award of financial assistance.

(3) A person may appeal the reasonableness of a condition imposed on a license or permit in accordance with the Administrative Procedure Act.

(f) *Regulations.*- By regulation, the Trust shall establish professional standards, guidelines, and procedures to preserve historic properties owned, controlled, regulated, or assisted by State units, to minimize the need for Trust review, and to avoid duplication and delays.

(g) *National Historic Preservation Act.*- This section may be applied to any undertaking that is subject to the National Historic Preservation Act, 16 U.S.C. § 470f.

(h) *Failure to comply.*- Failure by a State unit to comply with this section does not create a private cause of action under State law.

[An. Code 1957, art. 83B, §§ 5-618(a)-(d), (e)(2), (f)-(h), 5-619(a), (b); 2005, ch. 25, § 13; ch. 26, § 2; ch. 440, § 2.]

**§ 5A-327. MHT Loan Program and MHT Loan Fund.**

(a) *Definitions.*-

- (1) In this section the following words have the meanings indicated.
- (2) "MHT Loan Fund" means the Historic Preservation Loan Fund of the Trust.
- (3) "MHT Loan Program" means the Historic Preservation Loan Program of the Trust.

(b) *MHT Loan Program.*-

- (1) There is a MHT Loan Program in the Trust.
- (2) The purpose of the MHT Loan Program is to implement and encourage the preservation of historic properties.
- (3) The Trust shall administer the MHT Loan Program and coordinate the MHT Loan Program with federal and State programs that complement or facilitate carrying out the MHT Loan Program.

(c) *Fund established.*- There is an MHT Loan Fund in the Trust.

(d) *Purpose of Fund.*- The MHT Loan Fund may be used:

- (1) to pay administrative costs directly related to the MHT Loan Program;
- (2) to pay for the Trust to acquire historic properties or interests in historic properties for its authorized purposes or for resale or lease subject to appropriate preservation covenants;
- (3) to pay costs, including preparation costs, to restore or rehabilitate historic properties owned by the Trust for:
  - (i) the Trust's authorized purposes; or
  - (ii) resale or lease subject to appropriate preservation covenants; or
- (4) to make loans to nonprofit organizations, political subdivisions, business entities, and individuals to:
  - (i) acquire, rehabilitate, restore, or refinance historic properties; or
  - (ii) provide short-term financing for costs, including preparation costs, directly related to work that the Trust or the State Historic Preservation Officer requires or recommends to

be undertaken before a construction project financed with federal or State money is begun or continued.

(e) *Status.*-

(1) The MHT Loan Fund is a continuing, nonlapsing special fund that is not subject to § 7-302 of this article.

(2) The State Treasurer shall hold and the Comptroller shall account for the MHT Loan Fund.

(f) *Composition.*- The MHT Loan Fund consists of:

(1) money appropriated in the State budget to the MHT Loan Program;

(2) money received as interest or repayment of principal on loans made under the MHT Loan Program or the Capital Revolving Fund for Historic Preservation;

(3) the proceeds from the resale or lease of property originally acquired by the Trust with money from the MHT Loan Fund or the Capital Revolving Fund for Historic Preservation;

(4) money received from other public or private sources for the benefit of the MHT Loan Fund; and

(5) money received from the sale of general obligation bonds.

(g) *Investments.*- Money in the MHT Loan Fund shall be invested in the same manner as other State money.

(h) *Regulations.*-

(1) The Department shall adopt regulations to carry out the purposes of the MHT Loan Program.

(2) The regulations shall include:

(i) application procedures;

(ii) procedures to give adequate notice to the public of assistance available under the MHT Loan Program;

(iii) provisions for the review of plans and specifications;

(iv) provisions for the inspection of projects during construction; and

(v) selection criteria the Trust must consider in evaluating loan applications, including:

1. the relative historical or cultural significance of, and the urgency of need for, the project to be financed by the loan;

2. any proposed contribution by the appropriate political subdivision to the project;

3. the geographic distribution of loan assistance from the MHT Loan Fund; and
4. other relevant factors.

(i) *Loans from the MHT Loan Fund.*-

(1) With the approval of the Secretary, for each loan the Trust may set:

- (i) the principal amount;
- (ii) the maturity;
- (iii) the repayment terms; and
- (iv) an interest rate that complies with applicable federal regulations governing State

borrowing.

(2) A loan from the MHT Loan Fund may be granted at an interest rate lower than rates on other loans from the MHT Loan Fund if:

- (i) the loan recipient is a nonprofit organization or a political subdivision; or
- (ii) the Secretary of Housing and Community Development determines under § 4-212 of the Housing and Community Development Article that after restoration or rehabilitation, the historic property will be wholly or partly occupied by individuals or families of limited income.

(3) A loan from the MHT Loan Program may be secured by:

- (i) a mortgage lien, which may be subordinate to other mortgage liens;
- (ii) a guarantee of repayment; or
- (iii) another form of collateral acceptable to the Trust.

(4) Without approval or execution by the Board of Public Works, the Trust may take title to a mortgaged property by foreclosure or by deed in lieu of foreclosure and:

- (i) convey title to a buyer; and
- (ii) obtain and seek enforcement of a deficiency judgment.

(5) An individual or business entity may receive a loan only if the recipient can document that private financing is unavailable.

(6) The Trust shall ensure that no loan is made under the MHT Loan Program to acquire, restore, or rehabilitate a historic property unless the historic property is listed in or eligible to be listed in the Historic Register.

(j) *Agreements to preserve and maintain property.*-

(1) The Trust shall require the recipient of a loan from the MHT Loan Program to enter into an agreement to preserve and maintain the property.

(2) If the property is real property, the agreement shall be a recordable historic preservation easement.

(3) The Secretary may waive the agreement requirement if the Secretary finds that an agreement is impracticable.

(k) *Trustees to make recommendations to Secretary.*- The trustees shall review and make recommendations to the Secretary about loans and expenditures from the MHT Loan Fund, and the Secretary shall approve each loan and expenditure from the MHT Loan Fund.

(l) *Board of Public Works approval.*-

(1) To the extent required by regulations adopted by the Secretary and approved by the Board of Public Works, the Secretary shall submit to the Board of Public Works for approval a proposed loan or expenditure from the MHT Loan Fund that will be financed through the sale of State general obligation bonds.

(2) Except for an expenditure under subsection (d)(2) or (3) of this section, a loan or expenditure from the MHT Loan Fund is not subject to Titles 4 and 5 of this article.

(m) *Report.*- On or before December 31 of each year, the Trust shall report to the Governor and, in accordance with [§2-1246 of the State Government Article](#), to the General Assembly on the financial status and the activities of the MHT Loan Program for the preceding fiscal year.

(n) *False statements.*-

(1) A person may not knowingly make or cause to be made a material false statement of fact, including an understatement or overstatement of financial condition, in a statement or report in or regarding an application for a loan or affecting an existing loan.

(2) A person who violates this subsection is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

[An. Code 1957, art. 83B, §§ 5-601(q), (r), 5-612(a)-(f), (g)(1), (2), (h), (i), (j)(1)(i)-(iv), (vi), (2)-(4), (k); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

## **§ 5A-328. MHT Grant Program and MHT Grant Fund.**

(a) *Definitions.*-

(1) In this section the following words have the meanings indicated.

(2) "MHT Grant Fund" means the Historic Preservation and Historical and Cultural Museum Assistance Grant Fund of the Trust.

(3) "MHT Grant Program" means the Historic Preservation Grant Program of the Trust.

(b) *MHT Grant Program - Established; purposes of Program.*-

(1) There is a MHT Grant Program in the Trust.

(2) The purposes of the MHT Grant Program are to:

(i) implement and encourage the preservation of historic properties; and

(ii) promote interest in and study of historic properties and their preservation.

(c) *Same - Duties of Trust.*-

(1) The Trust shall administer the MHT Grant Program and coordinate the MHT Grant Program with federal and State programs that complement or facilitate the MHT Grant Program.

(2) The Trust shall ensure that a grant awarded under the MHT Grant Program to acquire, restore, or rehabilitate a historic property is used only if the historic property is listed in or is eligible to be listed in the Historic Register.

(3) (i) The Trust shall require a grantee under the MHT Grant Program to enter into an agreement to preserve and maintain the property.

(ii) If the property is real property, the agreement shall be a recordable historic preservation easement.

(iii) The Secretary may waive the agreement requirement if the Secretary determines that an agreement is impracticable.

(d) *Same - Regulations.*-

(1) The Department shall adopt regulations to carry out the purposes of the MHT Grant Program.

(2) The regulations shall include:

(i) application procedures;

(ii) procedures to give adequate notice to the public of assistance available under the MHT Grant Program;

(iii) provisions for the review of plans and specifications;

(iv) provisions for the inspection of projects during construction; and

(v) selection criteria the Trust must consider when evaluating applications for grants, including:

1. the relative historical or cultural significance of, and the urgency of need for, the project to be financed by the grant;
2. any proposed contribution by the appropriate political subdivision to the project;
3. the geographic distribution of grant assistance from the MHT Grant Fund under subsection (e) of this section; and
4. other relevant factors.

(e) *MHT Grant Fund - Established; purposes of Fund.*-

(1) There is a MHT Grant Fund in the Trust.

(2) The MHT Grant Fund may be used:

- (i) for the purposes set forth in [§ 5A-353 of this](#) subtitle;
  - (ii) to make grants to nonprofit organizations, political subdivisions, business entities, and individuals to acquire, rehabilitate, or restore historic properties;
  - (iii) to make grants to nonprofit organizations and political subdivisions to pay costs, including preparation costs, that are directly related to a rehabilitation or restoration project;
  - (iv) to make grants to nonprofit organizations and political subdivisions for historic preservation education and promotion, including the research, survey, and evaluation of historic properties and the preparation of historic preservation planning documents and educational materials;
  - (v) to purchase or acquire historic properties or interests in historic properties for the Trust's authorized purposes or for resale or lease with appropriate preservation covenants;
  - (vi) to pay costs, including preparation costs, that are directly related to restoring or rehabilitating historic properties that the Trust owns for use in accordance with the Trust's authorized purposes or for resale or lease subject to appropriate preservation covenants;
- and

(vii) to pay for historic preservation education and promotion conducted by the Trust, and for the research, survey, and evaluation of historic properties and the preparation of historic preservation planning documents and educational materials.

(f) *Same - Administration.*- The Trust shall administer the MHT Grant Fund.

(g) *Same - Status.*-

(1) The MHT Grant Fund is a continuing, nonlapsing special fund that is not subject to [§ 7-302 of this](#) article.

(2) The Treasurer shall hold and the Comptroller shall account for the MHT Grant Fund.

(h) *Same - Composition.*- The MHT Grant Fund consists of:

(1) money appropriated in the State budget to the MHT Grant Program or the Historical and Cultural Museum Assistance Program under [§ 5A-352 of this](#) subtitle;

(2) the proceeds from the resale or lease of any properties originally acquired by the Trust from the MHT Grant Fund or the Capital Grant Fund for Historic Preservation;

(3) money received from other public or private sources for the benefit of the MHT Grant Fund; and

(4) money received from the sale of State general obligation bonds.

(i) *Same - Investments.*- Money in the MHT Grant Fund shall be invested in the same manner as other State money.

(j) *Same - Duties of trustees.*-

(1) The trustees shall review and make recommendations to the Secretary about grant applications and expenditure requests from the MHT Grant Fund.

(2) The trustees shall base their grant recommendations on a competitive selection process.

(3) In any fiscal year, the Secretary may hold up to 20% of the money in the MHT Grant Fund in reserve for emergency use in accordance with subsection (e) of this section.

(4) Grants to business entities may not exceed 10% of all grants awarded from the MHT Grant Fund under this section.

(k) *Same - Board of Public Works approval.*-

(1) To the extent required by regulations adopted by the Secretary and approved by the Board of Public Works, the Secretary shall submit to the Board of Public Works for approval grants or

expenditures from the MHT Grant Fund to be financed through the sale of State general obligation bonds.

(2) Except for an expenditure under subsection (e)(2)(v) and (vi) of this section, grants and expenditures from the MHT Grant Fund are not subject to Titles 4 and 5 of this article.

(l) *Report.*- On or before December 31 of each year, the Trust shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the financial status and the activities of the MHT Grant Program and the MHT Grant Fund for the preceding fiscal year.

(m) *False statements prohibited.*-

(1) A person may not knowingly make or cause to be made a material false statement of fact, including an understatement or overstatement of financial condition, in a statement or report in or regarding an application for a grant or affecting an existing grant.

(2) A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

[An. Code 1957, art. 83B, §§ 5-601(o), (p), 5-613(a), (b), (c), (f), (g), (i)(1)(i)-(iii), (v), (2), (3), (j); 2005, ch. 26, § 2; ch. 440, §§ 2, 3; 2007, ch. 5.]

### **§ 5A-329. Historic Marker Program Fund.**

(a) *"Fund" defined.*- In this section, "Fund" means the Historic Marker Program Fund.

(b) *Established.*- There is a Historic Marker Program Fund in the Trust.

(c) *Purpose of Fund.*- The purpose of the Fund is to produce and install historic markers at sites of statewide historical significance.

(d) *Administration.*- The Trust shall administer the Fund.

(e) *Status.*-

(1) The Fund is a continuing, nonlapsing special fund that is not subject to § 7-302 of this article.

(2) The State Treasurer shall hold and the Comptroller shall account for the Fund.

(f) *Composition.*- The Fund consists of:

(1) money appropriated to the Fund in the State budget;

(2) money recovered by the State to replace damaged or destroyed historic markers; and

(3) money from any other source received for the benefit of the Fund.

(g) *Use of Fund.*- The Trust may use money from the Fund to produce and install a historic marker at a site that the Trust determines to have statewide historical significance:

- (1) if the site is on State-owned land; or
- (2) if the site is not on State-owned land and at least one-half of the cost of producing and installing the historic marker is provided from sources other than the State.

(h) *Investments.*- Money in the Fund shall be invested in the same manner as other State money.

(i) *Approvals.*-

- (1) The Trust shall approve the form and text of historic markers produced and installed under this section.
- (2) Except as provided in paragraph (3) of this subsection, the Trust shall approve the location of a historic marker.
- (3) If a historic marker is to be placed within the right-of-way of a public highway or street, the unit of the State or the political subdivision that maintains the public highway or street shall approve the location and manner of installation of the historic marker.

(j) *Ownership of historic markers.*- The State owns the historic markers produced and installed under this section.

[An. Code 1957, art. 83B, § 5-614; 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

### **§ 5A-330. Lighthouse Preservation Special Fund.**

Repealed by Acts 2005, ch. 440, § 3, effective October 1, 2005.

### **§ 5A-331, 5A-332.**

Reserved.

## **PART IV. ARCHAEOLOGICAL PROPERTY**

### **§ 5A-333. Definitions.**

(a) *In general.*- In this part the following words have the meanings indicated.

(b) *Archaeology Office.*- "Archaeology Office" means the Archaeology Office established under [§ 5A-334 of this subtitle](#).

(c) *Associated funerary objects.*- "Associated funerary objects" means objects that are reasonably believed to have been placed with individual human remains as a part of the death rite or ceremony of a culture.

(d) *Cave.*-

(1) "Cave" has the meaning stated in § 5-1401 of the Natural Resources Article.

(2) "Cave" includes:

(i) any naturally occurring void, cavity, recess, cavern, sinkhole, grotto, rock shelter, or system of interconnecting passages beneath the surface of the earth or within a cliff or ledge; and

(ii) natural subsurface water and drainage systems.

(e) *Committee.*- "Committee" means the Advisory Committee on Archaeology.

(f) *Human remains.*- "Human remains" means any part of the body of a deceased human being in any state of decomposition.

(g) *Native American.*- "Native American" means an individual or a descendant of an individual who inhabited North America before European contact.

(h) *Submerged archaeological historic property.*- "Submerged archaeological historic property" means any underwater structure, remains, or object that:

(1) yields or is likely to yield information significant to the study of human prehistory, history, or culture; and

(2) (i) is so embedded in underwater land that excavating tools are needed to move the bottom sediments to reach all or part of it and has remained unclaimed for at least 100 years; or

(ii) is included or is eligible to be included in the National Register of Historic Places.

[An. Code 1957, art. 83B, § 5-601(b), (d), (e), (i), (m), (s), (z); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

#### § 5A-334. Archaeology Office - In general.

(a) *Established.*- There is an Archaeology Office in the Trust.

(b) *Research unit.*-

(1) The Archaeology Office includes a research unit.

(2) The research unit shall:

- (i) engage in and direct fundamental archaeological research;
- (ii) synthesize existing research information; and
- (iii) encourage archaeological research and investigation by museums, institutions of higher education, and scientific and historical institutions and organizations in the State.

(c) *Chief Archaeologist, State Terrestrial Archaeologist, and State Underwater Archaeologist.*-

(1) The Director shall employ a Chief Archaeologist, a State Terrestrial Archaeologist, and a State Underwater Archaeologist in accordance with [§ 5A-316 of this subtitle](#).

(2) (i) Each archaeologist employed under this subsection shall have an advanced degree in archaeology or a closely related field from an accredited college or university.

(ii) The Chief Archaeologist shall be a professional archaeologist.

(3) The Chief Archaeologist is the administrative head of the Archaeology Office.

(d) *Staff.*-

(1) Except as provided in paragraph (2) of this subsection, the Archaeology Office includes all staff members of the Trust who are archaeologists or hired to perform archaeological work, including those who may be assigned archaeological-related functions in other units of the Trust.

(2) The Archaeology Office does not include individuals specifically assigned to a park, museum, or other site-specific facility under the jurisdiction of the Trust.

[An. Code 1957, art. 83B, §§ 5-622, 5-623(a)(1); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-335. Same - Duties.**

(a) *Excavation and preservation.*- The Archaeology Office shall:

(1) cooperate in excavating historically or archaeologically significant sites in the custody or control of any other State unit;

(2) encourage the preservation of prehistoric or historic sites on privately owned land in the State;

(3) coordinate the work of retrieving and preserving archaeologically significant objects and materials found during public construction in the State;

(4) cooperate with and help museums, institutions of higher education, and other scientific or historical institutions and organizations in preserving and protecting objects and materials of archaeological nature in their custody or control;

(5) cooperate with similar units of other states in preserving archaeologically significant sites, objects, and materials; and

(6) keep institutions or units of other states from exploiting archaeologically significant sites, objects, and materials in this State.

(b) *Education and dissemination of information.* - The Archaeology Office also shall:

(1) make available to museums, institutions of higher education, and other scientific or historical institutions and organizations objects and materials suitable for demonstrating the archaeological history of the State;

(2) make available to public and private schools in the State exhibits on, and help to teach students about, the life of the early settlers and Native Americans of the State;

(3) disseminate archaeological information by publishing reports of archaeological research and investigation; and

(4) establish an educational program to train interested members of the public to identify, investigate, and register terrestrial archaeological historic property.

(c) *Goals, objectives, policy, and reporting requirements.* - The Archaeology Office also shall:

(1) prepare a list of prioritized research goals and objectives to guide the Trust and the Department's Division of Historical and Cultural Programs in choosing archaeological research projects to perform;

(2) develop, in consultation with the Committee, a policy that specifies the circumstances under which the Trust may directly perform archaeological investigations to comply with State or federal law that the Trust or the State Historic Preservation Officer administers; and

(3) provide to the Committee each year a copy of the part of the Trust's annual report to the Governor, required by §5A-318(c)(16) of this subtitle, that relates to the Trust's archaeological activities.

(d) *Adherence to archaeological goals or objectives.* -

(1) Except as provided in paragraph (2) of this subsection, an archaeologist who is not working for the Trust need not adhere to the archaeological research goals and objectives developed by the Archaeology Office under this section.

(2) An archaeologist who performs a project governed by any State or federal law that the Trust or the State Historic Preservation Officer administers shall adhere to those goals and objectives to the extent required by law.

[An. Code 1957, art. 83B, § 5-623(a)(2)-(13), (b); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-336. Advisory Committee on Archaeology.**

(a) *Established.*- There is an Advisory Committee on Archaeology.

(b) *Composition; appointment of members.*-

(1) The Committee consists of seven members appointed by the Governor on recommendation of the Secretary and with the advice and consent of the Senate.

(2) The Committee shall include representatives of reputable museums, institutions of higher education, other recognized scientific or historical institutions or organizations, and qualified private firms that provide archaeological services.

(c) *Qualifications of members.*- Each member of the Committee shall have skill and knowledge in archaeological matters.

(d) *Tenure; vacancies.*-

(1) The term of a member is 3 years and begins on July 1.

(2) The terms of members are staggered as required by the terms provided for members of the Committee on October 1, 2005.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(e) *Chair.*- The Committee shall elect a chair from among its members.

(f) *Meetings.*-

(1) The Committee shall meet at least four times a year at the times and places that the chair sets.

(2) At every meeting at least one of the following officers shall attend:

(i) the Chief Archaeologist;

(ii) the State Terrestrial Archaeologist; or

(iii) the State Underwater Archaeologist.

(g) *Compensation and reimbursement for expenses.*- A member of the Committee:

- (1) may not receive compensation for duties performed as a member; but
- (2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(h) *Duties.* - The Committee shall:

- (1) advise and assist the Archaeology Office on archaeological matters; and
- (2) review policies, plans, and regulations relating to archaeological matters.

[An. Code 1957, art. 83B, § 5-624(a), (b)(1)-(3), (c), (d); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-337. Communication of information about archaeological sites.**

A person who knows the location of an archaeological site in the State is encouraged to give the information to a reputable museum, an institution of higher education, another recognized scientific or historical institution or organization, or the Trust.

[An. Code 1957, art. 83B, § 5-621(c); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-338. Archaeological costs incurred in State projects.**

The costs of archaeological work incurred in a State project on a site of archaeological or historical significance shall be as stated in [§ 7-114.1 of this article](#).

[2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-339. Objects and materials found on submerged or terrestrial archaeological sites.**

(a) *State property if found on State land.* - Except as provided in subsection (b) of this section and elsewhere in this title, an object or material of historical or archaeological value or interest found on a submerged or terrestrial archaeological site on land that the State owns or controls:

- (1) is the property of the State; and
- (2) shall be deposited for permanent preservation with a reputable museum, an institution of higher education, or another recognized scientific or historical institution or organization.

(b) *Transfer of human remains - To descendants and culturally affiliated groups.* -

- (1) Subject to applicable federal law and paragraph (2) of this subsection, the Trust may transfer Native American or other human remains in its possession, custody, or control to an appropriate place of repose.

(2) If the cultural affiliation of human remains and associated funerary objects in the possession, custody, or control of the Trust can be established, the Trust may transfer the human remains and associated funerary objects in the following order of priority to:

- (i) the descendants of the deceased; or
- (ii) a group established as culturally affiliated with the deceased, including a Native American tribe, band, group, or clan.

(c) *Same - To museums, institutions, and organizations.-*

(1) Except for human remains of Native Americans and associated funerary objects subject to subsection (b)(2) of this section, the Trust may transfer any human remains and associated funerary objects in its possession, custody, or control to a reputable museum, an institution of higher education, or another recognized scientific or historical institution or organization for study, if:

- (i) the study is an essential part of scientific research;
- (ii) the outcome of the scientific research will benefit the State; and
- (iii) except as provided in paragraph (2) of this subsection, the study will be completed and the items returned to the Trust within 1 year after the date of the transfer.

- (2) (i) If a transferee under this subsection makes a good faith effort but cannot complete a study within 1 year, the transferee may request an extension from the Trust.
- (ii) The Trust may grant the extension only in accordance with its regulations.

(d) *Regulations.-*

(1) In consultation with the Commission on Indian Affairs, the Trust shall adopt regulations to carry out this section.

(2) The regulations shall include:

- (i) procedures to determine the appropriate disposition of human remains for which descent or cultural affiliation cannot be established;
- (ii) specific time frames and procedures to extend a study of human remains and associated funerary objects beyond 1 year; and
- (iii) procedures to account for any human remains and associated funerary objects that temporarily are transferred for study to a reputable museum, an institution of higher education, or another recognized scientific or historical institution or organization.

[An. Code 1957, art. 83B, § 5-627; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-340. Submerged archaeological historic property - In general.**

(a) *State property if on or recovered from State-controlled land.*- Submerged archaeological historic property on or taken from underwater land over which the State has sovereign control is the property of the State.

(b) *Conveyance of title.*- The State may convey title to part or all of submerged archaeological historic property it owns in accordance with a permit, if the Board of Public Works approves the permit in accordance with Title 10, Subtitle 3 of this article.

(c) *Disposition.*-

(1) The Trust and a holder of a permit under [§ 5A-341 of this subtitle](#) may enter into an agreement to dispose of submerged archaeological historic property recovered by the holder.

(2) The agreement may divide the recovered submerged archaeological historic property between the State and the holder.

(3) Subject to approval of the Board of Public Works, the division may be in value or in kind.

(4) The Trust shall be the arbiter of the division, acting in the best interest of the State and giving consideration to the fair treatment of the permit holder.

(5) An agreement under this subsection shall provide reasonable compensation to the permit holder for any recovered submerged archaeological historic property claimed and turned over to the State.

(d) *Educational program.*- The Trust shall:

(1) establish an educational program to train interested members of the public to identify and register submerged archaeological historic property; and

(2) certify members of the public who successfully complete the educational program.

(e) *Regulations.*-

(1) The Trust shall adopt regulations on issuing permits and disposing of and transferring submerged archaeological historic property under this subtitle.

(2) The regulations shall be adopted:

(i) with the approval of the Secretary; and

(ii) in consultation with the Federal Advisory Council on Historic Preservation and appropriate public and private sector groups in the State, including sport divers, professional dive operators, dive clubs, salvors, archaeologists, commercial fishermen, and historic preservationists.

[An. Code 1957, art. 83B, §§ 5-611.1, 5-620(i)(1), (2); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-341. Same - Permits.**

(a) *Required.*- Without a permit, a person may not excavate, remove, destroy, injure, deface, or disturb a submerged archaeological historic property on land over which the State has sovereign control.

(b) *Exception to permit requirement - In general.*- A person does not need a permit to inspect, study, explore, photograph, measure, record, or otherwise use and enjoy submerged archaeological historic property on land over which the State has sovereign control if the use or activity does not:

- (1) involve the excavation, removal, destruction, injury, or disturbance of the submerged archaeological historic property or its immediate environment;
- (2) endanger other persons or property; or
- (3) violate any law.

(c) *Same - Activities permitted by regulation.*-

(1) Regulations under § 5A-340(e) of this subtitle shall provide that an individual does not need a permit to collect from submerged archaeological historic property a limited number of objects or materials recoverable by hand or with the use of screwdrivers, wrenches, or pliers.

(2) The State is not liable for injury or loss sustained by an individual engaged in activity authorized in accordance with paragraph (1) of this subsection.

(d) *Same - Activities of Trust.*- The Trust does not need a permit to do anything for which a permit is required under this section, but shall obtain approval for the undertaking from the Board of Public Works.

(e) *Program to issue and administer permits.*- The Trust shall establish a program for issuing and administering permits for activity that involves the removal, excavation, destruction, injury, or disturbance of submerged archaeological historic property on land over which the State has sovereign control.

(f) *Exclusive permits.*- Subject to subsection (g) of this section, the Trust may issue to any person a permit granting an exclusive right to remove, excavate, destroy, injure, or disturb submerged archaeological historic property on land over which the State has sovereign control for the term and under the conditions that the Trust considers appropriate if:

- (1) the Trust and the applicant for the permit have entered into an agreement under § 5A-340(c) of this subtitle; and
- (2) the Trust determines that issuing the permit is in the best interest of the State and that the applicant for the permit has submitted a research plan that meets standards established by the Trust for:
  - (i) professional qualifications of the applicant and persons working under the permit;
  - (ii) techniques and methodology for the recovery and dissemination of data; and
  - (iii) proper conservation of information and materials.

(g) *Limitation on issuance.*- The Trust may not issue a permit to a person that seeks title to part or all of submerged archaeological historic property, or to a person that seeks to use submerged archaeological historic property for commercial salvage or another income-producing purpose, unless:

- (1) the applicant has provided the Trust with assurance acceptable to the Trust that the project will be carried out and completed in accordance with a research plan under subsection (f)(2) of this section; and
- (2) the Trust finds that:
  - (i) the submerged archaeological historic property is threatened with imminent destruction or substantial damage by natural or human factors unrelated to the proposed commercial excavation or disturbance;
  - (ii) the submerged archaeological historic property is not of major scientific, archaeological, anthropological, historical, recreational, or other public value;
  - (iii) the proposed excavation or disturbance will be minor and will produce information relevant to the statewide comprehensive historic preservation plan prepared by the Trust under § 5A-318(c)(4) of this subtitle; or
  - (iv) the submerged archaeological historic property will not be excavated or disturbed by any other person in the foreseeable future and will remain submerged until it is excavated or disturbed.

(h) *Fee.*- The Trust may charge a reasonable fee to issue a permit and may require an applicant or permit holder to pay for the cost of the Trust's review, administration, and supervision of the permit.

(i) *Enforcement.*- The Director or the Director's designee may enforce this section and may:

(1) issue a summons for a violation of this section or of a permit issued under this section;

(2) seize objects or materials removed from a submerged archaeological historic property, if the removal took place without a permit on or after July 1, 1988, or if the removal was contrary to the terms of a permit; and

(3) revoke a permit on a finding that the permit was issued improperly or the terms of the permit have been violated.

[An. Code 1957, art. 83B, § 5-620(a)-(f), (g)(1), (h), (i)(2); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

#### **§ 5A-342. Terrestrial archaeological excavation.**

(a) *Permit - Required.*- Without a permit, a person may not excavate, remove, destroy, injure, deface, or disturb a terrestrial archaeological site on land that the State owns or controls.

(b) *Same - Exception.*- The Trust does not need a permit to do anything for which a permit is required under this section.

(c) *Same - Issuance.*- The Trust may issue a permit to excavate a terrestrial archaeological site on land the State owns or controls to any person that the Trust determines is qualified to conduct an excavation to collect objects and materials of historical or archaeological value or interest.

(d) *Conduct of excavations.*- A terrestrial archaeological excavation may be conducted only to benefit a reputable museum, an institution of higher education, or another recognized scientific or historical institution or organization, so as to increase knowledge and appreciation of historical and archaeological objects and materials.

(e) *Regulations.*- The Trust may adopt regulations to ensure that objects and materials collected in a terrestrial archaeological excavation are properly safeguarded and preserved.

(f) *Enforcement.*- The Director or the Director's designee may enforce the provisions of this subtitle relating to terrestrial archaeological historic property in the same manner as provided in § 5A-341(i) of this subtitle for submerged archaeological historic property.

[An. Code 1957, art. 83B, §§ 5-625, 5-626, 5-629(a); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-343. Caves.**

*(a) In general.-*

(1) This section applies to all archaeological, prehistoric, and historic features found in any cave, including:

- (i) all or any part of any burial grounds, historic or prehistoric ruins, and archaeological sites; and
- (ii) relics, inscriptions, saltpeter workings, fossils, bones, and remains of historical human activity.

(2) Without a permit issued under this section, a person may not excavate, remove, destroy, injure, deface, or disturb features found in a cave.

*(b) Permits for caves on State land.-* In accordance with §§ 5A-341 and 5A-342 of this subtitle, an individual trained in archaeology may apply for and be issued a permit to excavate or remove features described in subsection (a) of this section from or in a cave on land that the State owns or controls by rights under a lease, option contract, or purchase contract.

*(c) Permits for caves on privately owned land.-*

(1) An individual may apply for a permit to excavate or remove archaeological, prehistoric, and historic features from a cave on privately owned land.

(2) An applicant for a permit shall:

- (i) be trained in archaeology;
- (ii) give the Trust a detailed statement of the purposes and objectives of the proposed excavation or removal;
- (iii) agree to provide the Trust with information from and results of any excavation, study, or collection in accordance with the terms of the permit;
- (iv) obtain the prior written consent of the owner of the land on which the excavation or removal will be conducted; and
- (v) agree to carry the permit while conducting the excavation or removal authorized by the permit.

(3) A permit may be issued for a maximum term of 2 years and may be renewed.

(4) A permit is not transferable, but a person working under the direct supervision of the permit holder need not obtain a separate permit.

(d) *Ownership of objects or materials found in cave on privately owned land.*- Any object or material of archaeological, prehistoric, or historic value or interest found in a cave on privately owned land is the property of the owner of the land.

(e) *Immunity of owner.*- If a person uses a cave for recreational or scientific purposes with the prior consent of and without a charge by the owner and sustains an injury, the owner and an authorized agent of the owner acting within the scope of the agent's authority are not liable for the injury.

(f) *Enforcement.*- The Director and the Director's designee may enforce the provisions of this part relating to archaeological historic property found in caves in the same manner as provided in § 5A-341(i) of this subtitle for submerged archaeological historic property.

[An. Code 1957, art. 83B, §§ 5-601(f), 5-628, 5-629(a); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

#### **§ 5A-344. Hearings.**

(a) *Right to hearing.*- If the Director or the Director's designee takes any enforcement action under this subtitle against a permit holder, the permit holder shall be given an opportunity for a hearing before the Secretary.

(b) *Application of contested case provisions.*- Subject to subsection (c) of this section, notice shall be given and the hearing shall be held in accordance with Title 10, Subtitle [2 of the State Government Article](#).

(c) *Specific notice requirements.*- The Director or the Director's designee shall provide notice that a hearing will be held within 30 days after the enforcement action, unless a different period is agreed to by the parties.

[An. Code 1957, art. 83B, §§ 5-620(g)(2), 5-629(b); 2005, ch. 26, § 2; ch. 440, § 2.]

#### **§ 5A-345. Archaeological historic property on privately owned land.**

(a) *Optional State protection.*- The provisions of this subtitle that protect property on land under State control if it is submerged archaeological historic property, terrestrial archaeological historic property, or archaeological historic property in a cave may apply to similar historic property on privately owned land if:

- (1) the owner asks the Trust in writing to apply the provisions to the property; and

(2) the Trust determines that the property is eligible for the Maryland Register of Historic Properties and deserves protection.

(b) *Use of privately owned land.*- Unless the State controls privately owned land by rights under a lease, option contract, or purchase contract, this subtitle does not:

(1) limit the use of the land by the owner or the owner's guest; or

(2) require the owner or guest to hold a permit before conducting any activity on the land.

[An. Code 1957, art. 83B, §§ 5-601(f), 5-621(a), (b); 2005, ch. 26, § 2; ch. 440, § 2.]

### **§ 5A-346. Prohibited acts; penalties.**

(a) *In general.*-

(1) A person who violates § 5A-339, § 5A-341, § 5A-342, or § 5A-343 of this subtitle, or a regulation adopted under any of those sections is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 30 days or a fine not exceeding \$1,000 or both.

(2) If a person is found guilty of a violation under paragraph (1) of this subsection, the court:

(i) may impose costs against the person; and

(ii) on request by the Trust, may revoke any permit issued to the person under § 5A-340, § 5A-341, § 5A-342, or § 5A-343 of this subtitle.

(3) Each day on which a violation occurs is a separate violation.

(b) *Violations of permits.*-

(1) A person who violates any term of a permit issued under § 5A-341 of this subtitle for use of a submerged archaeological historic property for commercial salvage or other income-producing purpose is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 1 year or a fine not exceeding \$10,000 or both.

(2) If a person is found guilty of a violation under paragraph (1) of this subsection, the court:

(i) may impose costs against the person; and

(ii) on request by the Trust, may revoke the person's permit.

(3) Each day on which a violation occurs is a separate violation.

(c) *Appropriation of materials and recorded information.*- Materials and recorded information obtained in violation of § 5A-339, § 5A-341, § 5A-342, or § 5A-343 of this subtitle are subject to appropriation by the State and will be managed, cared for, and administered by the Trust.

[An. Code 1957, art. 83B, § 5-630; 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-347, 5A-348.**

Reserved.

**PART V. HISTORICAL AND CULTURAL MUSEUM ASSISTANCE PROGRAM**

**§ 5A-349. Definitions.**

(a) *In general.*- In this part the following words have the meanings indicated.

(b) *Operating support.*- "Operating support" means money for necessary administrative, technical, or professional services, and related expenses.

(c) *Panel.*- "Panel" means the Museum Assistance Review Panel.

(d) *Program.*- "Program" means the Historical and Cultural Museum Assistance Program.

[An. Code 1957, art. 83B, § 5-702(a), (e), (f); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-350. Scope.**

This part applies to a museum in the State that:

- (1) is organized on a nonprofit basis for essentially educational or preservation purposes;
- (2) cares for tangible inanimate objects that the museum owns or uses;
- (3) exhibits those objects to the public on a regular schedule; and
- (4) interprets the State's cultural heritage, history, natural history, or history of science and technology.

[An. Code 1957, art. 83B, § 5-702(c); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-351. Findings.**

(a) *In general.*- The General Assembly finds that:

- (1) museums present, interpret, and preserve unusual and significant objects of the State's heritage for the benefit, enjoyment, and education of the residents of the State;
- (2) museums are unique and beneficial resources that supplement the State's educational system;
- (3) museums are repositories and caretakers of irreplaceable cultural objects for the benefit of today's generation and generations yet to come;

- (4) museums, including those located in small communities, play an important and cost-effective role in the State's leisure time and tourism industry;
- (5) it is not feasible or desirable to display the entire history and heritage of the State in a single facility at one location;
- (6) the history and heritage of the State should be displayed and interpreted to the public where the history happened and the heritage arose, so that centers of community pride may be created and tourist activity may be dispersed throughout the State; and
- (7) the public interest is served by helping museums to become more accessible and by helping residents of the State and visitors to understand the State's diverse heritage.

(b) *Financial assistance in public interest.*- The General Assembly finds that the public interest is served by establishing a program of financial assistance to support the upgrade, care, research, interpretation, documentation, and display of the State's irreplaceable museum collections.

[An. Code 1957, art. 83B, § 5-701; 2005, ch. 26, § 2; ch. 440, § 2.]

#### **§ 5A-352. Established.**

There is a Historical and Cultural Museum Assistance Program of the Trust.

[An. Code 1957, art. 83B, § 5-703(a); 2005, ch. 26, § 2; ch. 440, § 2.]

#### **§ 5A-353. Purpose of Program.**

(a) *In general.*- The purpose of the Program is to provide political subdivisions and nonprofit organizations with financial assistance for museums.

(b) *Grants.*- The Program shall make grants from the MHT Grant Fund under [§ 5A-328 of this subtitle](#) to political subdivisions and nonprofit organizations for use by museums for:

- (1) research related to collections, exhibits, or other educational activities;
- (2) the care, conservation, interpretation, and documentation of collections;
- (3) the planning, design, and construction of exhibits;
- (4) educational programs and projects;
- (5) the development of master plans for museums, including activities required to achieve accreditation by the American Association of Museums or another appropriate entity;
- (6) minor structural modifications to existing museum facilities;

(7) the development of plans and specifications and the provision of architectural, engineering, or other special services directly related to the construction or rehabilitation of museum facilities;  
or

(8) operating support for any museum-related activity, including activities described in items (1) through (7) of this subsection.

(c) *Report.*- On or before December 31 of each year, the Trust shall report to the Governor and, subject to § 2-1246 of the State Government Article, to the General Assembly on the financial status and the activities of the Program for the preceding fiscal year.

[An. Code 1957, art. 83B, § 5-613(i)(3), 5-703(b), 5-705(b)(1); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

#### § 5A-354. Museum Assistance Review Panel.

(a) *Established.*- There is a Museum Assistance Review Panel in the Program.

(b) *Membership.*-

(1) The Panel shall include as members:

- (i) the President of the Senate or the President's designee; and
- (ii) the Speaker of the House of Delegates or the Speaker's designee.

(2) The Secretary shall appoint the other members of the Panel.

(3) Of the members that the Secretary appoints:

- (i) one shall be a representative of the Executive Branch with functions related to the purposes of the Program; and
- (ii) the others shall fairly represent museums eligible for assistance under this part.

(c) *Duties.*-

(1) The Panel shall:

- (i) advise the Secretary and the staff of the Trust regarding Program policies and activities;
- (ii) review applications for grants under the Program and recommend approval or disapproval to the Secretary; and
- (iii) seek the advice and recommendations of the State Archivist in reviewing grant applications that relate in any part to the care and preservation of, or access to, archival material.

(2) The Panel shall recommend approval of a grant only after a competitive selection process.

[An. Code 1957, art. 83B, § 5-704; 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-355. Duties of Trust.**

(a) *Administration of Program.*- The Trust shall administer the Program and coordinate the Program with federal, State, and private programs that complement or facilitate carrying out the Program.

(b) *Survey, assistance, and planning.*- The Trust shall:

(1) survey the locations, resources, and needs of museums in the State;

(2) provide technical and general advisory assistance to museums that qualify or seek to qualify for grants under the Program; and

(3) encourage museums to develop long-range plans and to achieve accreditation by the American Association of Museums or another appropriate entity that accredits museums and helps them to meet professional standards.

[An. Code 1957, art. 83B, § 5-705(a), (c); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-356. Museum ineligibility.**

The Trust may not make a grant to a museum that:

(1) currently is receiving operating support from the Maryland State Arts Council;

(2) is operated wholly or partly by the State; or

(3) has not existed as a nonprofit organization for at least 3 years before applying for the grant.

[An. Code 1957, art. 83B, § 5-705(b)(2), (5); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-357. Reserve money.**

In any fiscal year, the Secretary may reserve up to 20% of the money available in the MHT Grant Fund under [§ 5A-328 of this](#) subtitle for unanticipated projects eligible for assistance under [§ 5A-353 of this](#) subtitle.

[An. Code 1957, art. 83B, § 5-705(b)(3); 2005, ch. 26, § 2; ch. 440, §§ 2, 3.]

**§ 5A-358. Regulations.**

(a) *In general.*- The Department shall adopt regulations to carry out the Program, including:

- (1) application and review procedures;
- (2) procedures for adequate public notice of assistance available under the Program; and
- (3) selection standards that the Panel shall consider in reviewing applications for grants.

(b) *Selection standards.*- Selection standards under subsection (a)(3) of this section include:

- (1) the relative merits of the project or activities within identified statewide needs;
- (2) the extent to which the appropriate political subdivision contributes to support the project;
- (3) the potential for the project to stimulate increased tourism, museum attendance, or museum self-sufficiency; and
- (4) other relevant factors, such as the extent to which the project helps achieve equal geographic distribution of grant assistance throughout the State.

[An. Code 1957, art. 83B, § 5-705(b)(4), (d); 2005, ch. 26, § 2; ch. 440, § 2.]

**§ 5A-359. False statements or reports.**

(a) *Prohibited.*- A person may not knowingly make or cause to be made a material misstatement of fact in a statement or report in or regarding an application for a grant or affecting a grant already made.

(b) *Penalty.*- A person who violates this section is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 2 years or a fine not exceeding \$5,000 or both.

[An. Code 1957, art. 83B, § 5-705(e); 2005, ch. 26, § 2; ch. 440, § 2.]