

The Maryland Historical Trust Act of 1985, as amended
Sections 5A-325 and 5A-326 of the Annotated Code of Maryland

§ 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.]