

CHAPTER 267

HISTORICAL RESOURCES

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267.011 Short title.—This act shall be known as the "Florida Historical Resources Act."

History.—s. 1, ch. 67-50; s. 42, ch. 86-163.

267.021 Definitions.—For the purpose of this act, the term:

(1) "Division" means the Division of Historical Resources of the Department of State.

(2) "Agency" means any state, county, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law.

(3) "Historic property" or "historic resource" means any prehistoric or historic district, site, building, object, or other real or personal property of historical, architectural, or archaeological value. These properties or resources may include, but are not limited to, monuments, memorials, Indian habitations, ceremonial sites, abandoned settlements, sunken or abandoned ships, engineering works, treasure trove, artifacts, or other objects with intrinsic historical or archaeological value, or any part thereof, relating to the history, government, and culture of the state.

(4) "Preservation" or "historic preservation" means the identification, evaluation, recordation, documentation, analysis, recovery, interpretation, curation, acquisition, protection, management, rehabilitation, restoration, stabilization, maintenance, or reconstruction of historic properties.

(5) "National Register of Historic Places" means the list of historic properties significant in American history, architecture, archaeology, engineering, and culture, maintained by the Secretary of the Interior, as established by the National Historic Preservation Act of 1966, as amended.

(6) "Folklife" means the traditional expressive culture shared within the various groups in Florida: familial, ethnic, occupational, religious, and regional. Expressive culture includes a wide range of creative and symbolic forms such as custom, belief, technical skill, language, literature, art, architecture, music, play, dance, drama, ritual, pageantry, and handicraft, which forms are generally learned orally, by imitation, or in performance and are maintained or perpetuated without formal instruction or institutional direction.

(7) "Florida history museum" means a public or private nonprofit institution which is established permanently in this state for the purpose of promoting and encouraging knowledge and appreciation of Florida history through the collection, preservation, exhibition, and interpretation of artifacts and other historical properties related to Florida history and the primary role of which is to collect and care for artifacts and other objects of intrinsic historical or archaeological value and exhibit them regularly through a facility or facilities owned or operated by the institution.

(8) "Official Florida Historical Marker" means any marker, plaque, or similar device awarded, approved, or administered by the Division of Historical Resources for the purpose of recognizing and informing the general public about historic properties, persons, events, and other topics relating to the history and culture of the state.

History.—s. 2, ch. 67-50; ss. 10, 35, ch. 69-106; s. 72, ch. 71-377; s. 3, ch. 79-322; s. 1, ch. 81-124; s. 1, ch. 85-281; s. 43, ch. 86-163; s. 4, ch. 89-359; s. 2, ch. 94-190.

Note.—Subsection (6) former s. 265.135.

267.031 Division of Historical Resources.—

(1) The division shall adopt such rules as deemed necessary to carry out its duties and responsibilities under this chapter.

(2) The division may make and enter into all contracts and agreements with other agencies, organizations, associations, corporations and individuals, or federal agencies as it may determine are necessary, expedient, or incidental to the performance of its duties or the execution of its powers under this chapter.

(3) The division may accept gifts, grants, bequests, loans, and endowments for purposes not inconsistent with its responsibilities under this chapter.

(4) All law enforcement agencies and offices are authorized and directed to assist the division in carrying out its duties under this chapter.

History.—s. 3, ch. 67-50; ss. 10, 25, 27, 35, ch. 69-106; s. 73, ch. 71-377; s. 1, ch. 73-280; s. 4, ch. 78-323; s. 1, ch. 81-173; s. 11, ch. 83-85; s. 130, ch. 83-217; s. 44, ch. 86-163.

267.061 Historic properties; state policy, responsibilities.—

(1) STATE POLICY RELATIVE TO HISTORIC PROPERTIES.—

(a) The rich and unique heritage of historic properties in this state, representing more than 10,000 years of human presence, is an important legacy to be valued and conserved for present and future generations. The

destruction of these nonrenewable historical resources will engender a significant loss to the state's quality of life, economy, and cultural environment. It is therefore declared to be state policy to:

1. Provide leadership in the preservation of the state's historic resources;
2. Administer state-owned or state-controlled historic resources in a spirit of stewardship and trusteeship;
3. Contribute to the preservation of non-state-owned historic resources and to give encouragement to organizations and individuals undertaking preservation by private means;
4. Foster conditions, using measures that include financial and technical assistance, for a harmonious coexistence of society and state historic resources;
5. Encourage the public and private preservation and utilization of elements of the state's historically built environment; and
6. Assist local governments to expand and accelerate their historic preservation programs and activities.

(b) It is further declared to be the public policy of the state that all treasure trove, artifacts, and such objects having intrinsic or historical and archaeological value which have been abandoned on state-owned lands or state-owned sovereignty submerged lands shall belong to the state with the title thereto vested in the Division of Historical Resources of the Department of State for the purposes of administration and protection.

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

(a) Each state agency of the executive branch having direct or indirect jurisdiction over a proposed state or state-assisted undertaking shall, in accordance with state policy and prior to the approval of expenditure of any state funds on the undertaking, consider the effect of the undertaking on any historic property that is included in, or eligible for inclusion in, the National Register of Historic Places. Each such agency shall afford the division a reasonable opportunity to comment with regard to such an undertaking.

(b) Each state agency of the executive branch shall initiate measures in consultation with the division to assure that where, as a result of state action or assistance carried out by such agency, a historic property is to be demolished or substantially altered in a way which adversely affects the character, form, integrity, or other qualities which contribute to historical, architectural, or archaeological value of the property, timely steps are taken to determine that no feasible and prudent alternative to the proposed demolition or alteration exists, and, where no such alternative is determined to exist, to assure that timely steps are taken either to avoid or mitigate the adverse effects, or to undertake an appropriate archaeological salvage excavation or other recovery action to document the property as it existed prior to demolition or alteration.

(c) In consultation with the division, each state agency of the executive branch shall establish a program to locate, inventory, and evaluate all historic properties under the agency's ownership or control that appear to qualify for the National Register. Each such agency shall exercise caution to assure that any such

historic property is not inadvertently transferred, sold, demolished, substantially altered, or allowed to deteriorate significantly.

(d) Each state agency of the executive branch shall assume responsibility for the preservation of historic resources which are owned or controlled by such agency. Prior to acquiring, constructing, or leasing buildings for the purpose of carrying out agency responsibilities, the agency shall use, to the maximum extent feasible, historic properties available to the agency. Each agency shall undertake, consistent with the preservation of such properties, the mission of the agency, and the professional standards established pursuant to paragraph (3)(k), any preservation actions necessary to carry out the intent of this paragraph.

(e) Each state agency of the executive branch, in seeking to acquire additional space through new construction or lease, shall give preference to the acquisition or use of historic properties when such acquisition or use is determined to be feasible and prudent compared with available alternatives. The acquisition or use of historic properties is considered feasible and prudent if the cost of purchase or lease, the cost of rehabilitation, remodeling, or altering the building to meet compliance standards and the agency's needs, and the projected costs of maintaining the building and providing utilities and other services is less than or equal to the same costs for available alternatives. The agency shall request the division to assist in determining if the acquisition or use of a historic property is feasible and prudent. Within 60 days after making a determination that additional space is needed, the agency shall request the division to assist in identifying buildings within the appropriate geographic area that are historic properties suitable for acquisition or lease by the agency, whether or not such properties are in need of repair, alteration, or addition.

(f) Consistent with the agency's mission and authority, all state agencies of the executive branch shall carry out agency programs and projects, including those under which any state assistance is provided, in a manner which is generally sensitive to the preservation of historic properties and shall give consideration to programs and projects which will further the purposes of this section.

(3) DIVISION RESPONSIBILITY.—It is the responsibility of the division to:

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

(b) Develop a comprehensive statewide historic preservation plan.

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

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

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

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

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

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

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

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

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

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

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

1. Notwithstanding s. 273.02, the division shall maintain an adequate record of all objects in its custody which have a historical or archaeological value. Once each year, on July 1 or as soon thereafter as practicable, the division shall take a complete inventory of all such objects in its custody the value or cost of which is \$500 or more and a sample inventory of such objects the value or cost of which is less than \$500. Each inventory shall be compared with the property record, and all dis-

crepancies shall be traced and reconciled. Objects of historical or archaeological value are not required to be identified by marking or other physical alteration of the objects.

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

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

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

5. All moneys received from the sale of an object which has historical or archaeological value pursuant to subparagraph 3. shall be deposited in the Museum of Florida History Trust Fund and shall be used exclusively for the acquisition of additional historical and archaeological objects or the preservation and maintenance of any such objects in the custody of the division.

6. The division shall adopt rules pursuant to chapter 120 that prescribe criteria for the inventory and for the loan, exchange, sale, transfer, or other disposal of state-owned objects of historical or archaeological value.

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

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

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

(n) Coordinate and direct the state historical marker program, which shall be a program of popular history and heritage designed to inform the general public about persons, events, structures, and other topics

relating to the history and culture of the state; encourage interest in preserving the historical resources of the state and its localities; promote a sense of community and place among Florida citizens; and provide for the enjoyment and edification of tourists.

1. The division shall install markers recognizing historic properties, as well as individuals, events, and other topics significant in Florida or American history, architecture, archaeology, or culture and shall keep a register of those markers.

2.a. The division shall designate an approved marker as an Official Florida Historical Marker.

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

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

4. The division shall also establish and maintain a central register of historic properties, to be known as the Florida Register of Heritage Landmarks, which generally shall consist of properties more than 50 years of age deemed worthy of preservation for their exceptional historical significance to the state as a whole or a region of the state and their architectural or archaeological integrity.

a. The division shall adopt rules pursuant to chapter 120 that prescribe criteria and a process for the identification, evaluation, and designation of Heritage Landmark properties, as well as for withdrawal of designation.

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

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

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

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

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

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

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

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

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

6. The division shall develop a comprehensive plan for the state historical marker program which shall be kept up to date and shall incorporate goals and objectives of the program, as well as policies, plans, and procedures relating to:

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

b. Selection of subjects to be marked.

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

d. Maintenance of markers.

e. Removal or replacement of markers.

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

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

7. In order to enhance public participation and involvement in the identification and interpretation of subjects relating to the history and culture of Florida, there is created within the Department of State the "State Historical Marker Council."

a. The council shall consist of five members who represent different areas of the state, are appointed by the Secretary of State, and are qualified through the demonstration of special interest, experience, or education in interpretation of the state's history and historical properties, as follows:

(I) At least two members shall have professional training and experience in one or more of the following fields: history, historic preservation, architecture, architectural history, or archaeology.

(II) At least two members shall be duly authorized representatives of a statewide or local historical, historic preservation, or archaeological organization.

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

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

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

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

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

9. The division shall encourage the initiation of proposals for Official Florida Historical Markers from departments or agencies of the state; units of county, municipal, or other local governments; corporations, partnerships, or other organizations, whether public or private or whether or not for profit; or any individual.

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

11. The division shall seek cooperation from local volunteers throughout the state and, where appropriate, shall encourage the establishment of citizen support organizations, pursuant to s. 267.17, to assist in maintaining Official Florida Historical Markers and facilitating public access to places marked.

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

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

appropriate. The division is hereby vested with the exclusive authority and power to erect and maintain said historic signs or markers within the right-of-way of any state highway.

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

(5) STATE HISTORIC PRESERVATION OFFICER.—The division shall employ a State Historic Preservation Officer, and such other specialists in the field of historic preservation as deemed necessary, who shall possess such qualifications as the division may prescribe. The State Historic Preservation Officer shall serve at the pleasure of the division director and shall have his or her duties prescribed by the division director.

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

History.—s. 6, ch. 67-50; ss. 10, 25, 35, ch. 69-106; s. 5, ch. 81-173; s. 19, ch. 83-216; s. 2, ch. 85-281; s. 47, ch. 86-163; s. 2, ch. 87-33; s. 1, ch. 88-351; s. 1, ch. 90-259; s. 243, ch. 91-224; s. 2, ch. 92-61; s. 197, ch. 92-279; s. 55, ch. 92-326; s. 3, ch. 94-190; s. 108, ch. 94-356; s. 854, ch. 95-148; s. 3, ch. 95-235.

267.0612 Historic Preservation Advisory Council; creation; membership; powers and duties.—In order to enhance public participation and involvement in the preservation and protection of the state's historic and archaeological sites and properties, there is created within the Department of State the "Historic Preservation Advisory Council."

(1) The council shall consist of 12 members who represent different areas of the state, are appointed by the Secretary of State, and are qualified, through the demonstration of special interest, experience, or education, in the preservation of the state's historic and archaeological sites and properties, as follows:

(a) At least three members shall have practical experience in the preservation of historic or archaeological sites and properties as demonstrated in one or more of the following fields: architecture, architectural history, historic preservation, history, or archaeology.

(b) Each of at least three members shall be the president, chief elected officer, or other duly authorized representative of a statewide historic preservation, architectural, historical, or archaeological organization.

(c) Each of at least three members shall be the president, chief elected officer, or other duly authorized representative of a local historic preservation board, commission, or nonprofit organization.

(2) Members shall be appointed for 4-year terms, except for an appointment to fill an unexpired term, in which event the appointment shall be for the remainder of the unexpired term only. No person shall serve more than two consecutive terms on the council.

(3) Members shall elect a chairperson annually. No member shall be elected to consecutive terms as chairperson.

(4) The council shall meet at the call of its chairperson, at the request of a majority of its membership, or at the request of the division. Members shall serve without pay, but shall be entitled to reimbursement for their expenses in carrying out their official duties, as provided in s. 112.061.

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

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

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

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

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

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

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

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

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

History.—ss. 1, 2, ch. 83-103; s. 48, ch. 86-163; s. 1, ch. 87-33; ss. 1, 2, ch. 90-26; s. 5, ch. 91-429; s. 4, ch. 94-190; s. 855, ch. 95-148.

267.0617 Historic Preservation Trust Fund.—

(1) There is hereby created within the division the Historic Preservation Trust Fund, which shall consist of moneys appropriated by the Legislature, moneys deposited pursuant to ss. 550.0351(2) and 607.1901(2), and moneys contributed to the fund from any other source. The fund shall be administered by the division for the purpose of financing grants in furtherance of the purposes of this section.

(2) The division is authorized to conduct and carry out a program of historic preservation grants-in-aid, including matching grants, to any department or agency

of the state; any unit of county, municipal, or other local government; any corporation, partnership, or other organization, whether public or private or whether or not for profit; or any individual for projects having as their purpose the identification, acquisition, protection, preservation, rehabilitation, restoration, or construction of historic sites and properties, or Florida history, or the planning of such activities. Funds appropriated from general revenue for the historic preservation grants-in-aid program shall not be provided for a project owned by private individuals or owned by for-profit corporations. All moneys received from any source as appropriations, deposits, or contributions to this program shall be paid and credited to the Historic Preservation Trust Fund.

(3) All grants of state funds to assist the preservation of historic properties shall be made from the Historic Preservation Trust Fund and may be awarded only pursuant to applications for such assistance made to the Division of Historical Resources. The Historic Preservation Advisory Council shall review each application for a historic preservation grant-in-aid and shall submit annually to the Secretary of State for approval lists of all applications that are recommended by the council for the award of grants, arranged in order of priority. The division may allocate grants only for projects that are approved or for which funds are appropriated by the Legislature.

(4) The Division of Historical Resources may accept and administer moneys appropriated to it for the purpose of providing grants for the projects approved by the Secretary of State.

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

History.—s. 3, ch. 78-357; s. 1, ch. 81-126; s. 170, ch. 81-259; s. 1, ch. 84-248; s. 49, ch. 86-163; s. 8, ch. 88-137; s. 2, ch. 90-26; s. 3, ch. 90-267; s. 5, ch. 91-429; s. 59, ch. 92-348; s. 5, ch. 94-190; ss. 28, 31, ch. 95-242.

267.062 Naming of state buildings and other facilities.—

(1) Except as specifically provided by law, no state building, road, bridge, park, recreational complex, or other similar facility shall be named for any living person.

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

History.—ss. 1, 2, ch. 71-267; s. 50, ch. 86-163.

267.071 Historical museums.—It is the duty of the division to:

(1) Promote and encourage throughout the state knowledge and appreciation of Florida history by encouraging the people of the state to engage in the preservation and care of artifacts, museum items, treasure trove, and other historical properties; the collection, research, fabrication, exhibition, preservation, and interpretation of historical materials; the publicizing of the state's history through media of public information; and other activities in historical and allied fields.

(2) Encourage, promote, maintain, and operate historical museums, including, but not limited to, mobile museums, junior museums, and the Museum of Florida History in the state capital.

(3) Plan and develop, in cooperation with other state agencies and with municipalities, programs to promote and encourage the teaching of Florida's history and heritage in Florida schools and other educational institutions and other such educational programs as may be appropriate.

History.—s. 7, ch. 67-50; ss. 10, 35, ch. 69-106; s. 6, ch. 81-173; s. 8, ch. 91-221.

267.072 Museum of Florida history programs; trust fund.—

(1) There is created the Museum of Florida History Trust Fund to be administered by the Department of State for the purposes set forth in this section.

(2) The division shall:

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

(b) Support the establishment and operation of a nonprofit organization or association to promote and encourage knowledge and appreciation of Florida history and the programs of the Museum of Florida History and to cooperate with historical societies and other organizations to provide funding and promotional support for the programs of the museum. Such organization or association may, with the consent of the division, operate the museum store or conduct special events and programs in the museum. All proceeds must be used to support the programs of the Museum of Florida History.

(c) Deposit gifts and donations for the purpose of assisting the Museum of Florida History and its programs in the Museum of Florida History Trust Fund to be used exclusively for the benefit of programs of the museum and in a manner consistent with any terms or conditions agreed to by the division in accepting such gifts.

(3)(a) The division may conduct a program to provide:

1. Grants from the Museum of Florida History Trust Fund, including matching grants, to a department or agency of the state; a unit of county, municipal, or other

local government; or a public or private profit or non-profit corporation, partnership, or other organization to assist in the development of public educational exhibits relating to the historical resources of Florida; and

2. Grants from the Museum of Florida History Trust Fund to Florida history museums that are not state-operated to assist such museums in paying for operating costs.

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

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

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

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

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

(c) An application for a grant from the trust fund must be made to the division on a form provided by the division. The division shall adopt rules prescribing categories of grants, application requirements, criteria and procedures for the review and evaluation of applications, and other procedures necessary for the administration of the program, subject to the requirements of this section. The division shall provide opportunities for persons from different areas of the state who, due to education, experience, or special interest, are knowledgeable about the development and operation of historical museums or historical exhibits for public education to evaluate the applications and shall consider their evaluations and recommendations in selecting the applicants that it will recommend to the Secretary of State to receive grants. The division shall submit a list of such applicants, arranged in order of priority, to the Secretary of State. The division may award a grant to a Florida history museum only if the award has been approved by the Secretary of State.

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

(e) The division may grant moneys quarterly from the trust fund to history museums in advance of an exhibit or program for which the moneys are granted.

History.—ss. 2, 3, 4, ch. 80-159; s. 7, ch. 81-173; s. 2, ch. 83-243; s. 51, ch. 86-163; s. 5, ch. 89-359; s. 1, ch. 90-115; s. 4, ch. 95-235.

267.081 Publications.—It is the duty of the division to:

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

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

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

History.—s. 8, ch. 67-50; ss. 10, 35, ch. 69-106; s. 8, ch. 81-173; s. 53, ch. 86-163.

267.11 Designation of archaeological sites.—The division may publicly designate an archaeological site of significance to the scientific study or public representation of the state's historical, prehistoric, or aboriginal past as a "state archaeological landmark." In addition, the division may publicly designate an interrelated grouping of significant archaeological sites as a "state archaeological landmark zone." However, no site or grouping of sites shall be so designated without the express written consent of the private owner thereof. Upon designation of an archaeological site, the owners and occupants of each designated state archaeological landmark or landmark zone shall be given written notification of such designation by the division. Once so designated, no person may conduct field investigation activities without first securing a permit from the division.

History.—s. 1, ch. 73-166; s. 55, ch. 86-163.

267.12 Research permits; procedure.—

(1) The division may issue permits for excavation and surface reconnaissance on state lands or lands within the boundaries of designated state archaeological landmarks or landmark zones to institutions which the division shall deem to be properly qualified to conduct such activity, subject to such rules and regulations as the division may prescribe, provided such activity is undertaken by reputable museums, universities, colleges, or other historical, scientific, or educational institutions or societies that possess or will secure the archaeological expertise for the performance of systematic archaeological field research, comprehensive analysis, and interpretation in the form of publishable reports and monographs, such reports to be submitted to the division.

(2) Those state institutions considered by the division permanently to possess the required archaeological expertise to conduct the archaeological activities allowed under the provisions of the permit may be designated as accredited institutions which will be allowed to conduct archaeological field activities on state-owned or controlled lands or within the boundaries of any designated state archaeological landmark or any landmark

zone without obtaining an individual permit for each project, except that those accredited institutions will be required to give prior written notice of all anticipated archaeological field activities on state-owned or controlled lands or within the boundaries of any designated state archaeological landmark or landmark zone to the division, together with such information as may reasonably be required by the division to ensure the proper preservation, protection, and excavation of the archaeological resources. However, no archaeological activity may be commenced by the accredited institution until the division has determined that the planned project will be in conformity with the guidelines, regulations, and criteria adopted pursuant to ss. 267.11-267.14. Such determination will be made by the division and notification to the institution given within a period of 15 days from the time of receipt of the prior notification by the division.

(3) All specimens collected under a permit issued by the division or under the procedures adopted for accredited institutions shall belong to the state with the title thereto vested in the division for the purpose of administration and protection. The division may arrange for the disposition of the specimens so collected by accredited state institutions at those institutions and for the temporary or permanent loan of such specimens at permitholding institutions for the purpose of further scientific study, interpretative displays, and curatorial responsibilities.

History.—s. 1, ch. 73-166; s. 56, ch. 86-163.

267.13 Prohibited practices; penalties.—

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

(b) Any person who by means of excavation either conducts archaeological field investigations on, or removes or attempts to remove, or defaces, destroys, or otherwise alters any archaeological site or specimen located upon, any land owned or controlled by the state or within the boundaries of a designated state archaeological landmark or landmark zone, except in the course of activities pursued under the authority of a permit or under procedures relating to accredited institutions granted by the division, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and any vehicle or equipment of any person used in connection with the violation is subject to forfeiture to the state if it is determined by any court of law that the vehicle or equipment was involved in the violation. Such person shall forfeit to the state all

specimens, objects, and materials collected or excavated, together with all photographs and records relating to such material. The court may also order the defendant to make restitution to the state for damage and the cost of restoring the affected resource as provided in s. 775.089.

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

(2)(a) The division may institute an administrative proceeding to impose an administrative fine of not more than \$500 a day on any person or business organization that, without written permission of the division, explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archaeological value located on state-owned or state-controlled lands, including state sovereignty submerged lands.

(b) The division shall institute an administrative proceeding by serving written notice of a violation by certified mail upon the alleged violator. The notice shall specify the law or rule allegedly violated and the facts upon which the allegation is based. The notice shall also specify the amount of the administrative fine sought by the division. The fine shall not become due until after service of notice and an administrative hearing. However, the alleged violator shall have 20 days from service of notice to request an administrative hearing. Failure to respond within that time shall constitute a waiver, and the fine shall become due without a hearing.

(c) The division may enter its judgment for the amount of the administrative penalty imposed in a court of competent jurisdiction, pursuant to s. 120.69. The judgment may be enforced as any other judgment.

(d) The division may apply to a court of competent jurisdiction for injunctive relief against any person or business organization that explores for, salvages, or excavates treasure trove, artifacts, sunken or abandoned ships, or other objects having historical or archaeological value located on state-owned or state-controlled land, including state sovereignty submerged land, without the written permission of the division.

(3) Any person who:

(a) Reproduces, retouches, reworks, or forges any archaeological or historical object originating from an archaeological site as designated by ss. 267.11–267.14 and deriving its principal value from its antiquity or makes any such object, whether a copy or not; or

(b) Falsely labels, describes, identifies, or offers for sale or exchange any object with intent to represent the same to be an original and genuine archaeological or historical specimen,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 73-166; s. 9, ch. 81-173; s. 1, ch. 93-114.

267.14 Legislative intent.—It is the declared intention of the Legislature that field investigation activities on privately owned lands should be discouraged except in accordance with both the provisions and spirit of ss. 267.11–267.14; and persons having knowledge of the location of archaeological sites are encouraged to communicate such information to the division.

History.—s. 1, ch. 73-166; s. 57, ch. 86-163.

267.16 Florida Folklife Programs.—It is the duty and responsibility of the division to:

(1) Identify, research, interpret, and present Florida folk arts, artists, performers, folklore, traditions, customs, and cultural heritage and make folk cultural resources and folklife projects available throughout the state. The division shall compile, edit, publish, and print directories, books, articles, pamphlets, and other folklife materials to disseminate information about folk cultural resources. The division may sponsor conferences, workshops, festivals, lectures, and exhibitions on Florida folklife and promote the folk cultural resources of the state.

(2) Adopt rules necessary to carry out its duties and responsibilities with respect to such programs; enter into contracts and agreements with other agencies, organizations, associations, corporations, individuals, or federal agencies necessary to carry out its duties; and seek and accept gifts, grants, bequests, loans, and endowments for purposes consistent with its responsibilities.

(3) Use the facilities at the Stephen Foster State Folk Culture Center as the primary location of the annual Florida Folk Festival.

(4) Maintain the Florida Folklife Archives to preserve and administer any materials, including, but not limited to, documents, recordings, photographs, publications, and notes, pertaining to folklife according to approved archival practices and to permit such materials, at reasonable times and under the supervision of the Florida Folklife Programs, to be inspected, examined, and copied. Any materials placed in the keeping of or collected by the Florida Folklife Programs under special terms or conditions restricting their use shall be made accessible in accordance with such terms and conditions and shall be confidential and exempt from the provisions of s. 119.07(1) to the extent necessary to meet such terms and conditions. This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(5) Adopt rules by which it may advance or reimburse travel and per diem expenses, in the amount and manner provided in s. 112.061, to folklife informants and participants in the Florida Folklife Programs.

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

History.—s. 5, ch. 79-322; s. 3, ch. 81-124; s. 33, ch. 86-163; s. 2, ch. 89-63; s. 98, ch. 90-360; s. 181, ch. 95-148.

Note.—

A. Repealed by s. 1, ch. 95-217.

B. Section 4, ch. 95-217, provides that "[n]otwithstanding any provision of law to the contrary, exemptions from chapter 119, Florida Statutes, or chapter 286, Florida Statutes, which are prescribed by law and are specifically made subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes, are not subject to review under that act, and are not abrogated by the operation of that act, after October 1, 1995."

Note.—Former s. 265.137.

267.161 Florida Folklife Council.—

(1)(a) The Florida Folklife Council is created as a part of the Department of State, to consist of seven members appointed by the Secretary of State. The Secretary of State shall appoint each member for a 4-year term and shall appoint a successor for each member within 90 days after the expiration of the member's term. The Secretary of State shall fill any vacancy for the remainder of the unexpired term within 90 days after the vacancy occurs. Members shall be appointed to provide geographical, ethnic, and professional representation on the council.

(b) The council shall meet at the call of its chair, at the request of a majority of its membership, at the request of the division, or at such times as may be prescribed by its rules. The council shall annually elect from its membership a chair and vice chair. No member may be elected to consecutive terms as chair.

(c) Members of the council shall serve without compensation or honorarium, but shall be entitled to receive reimbursement for per diem and travel expenses incurred in the performance of their duties as provided in s. 112.061.

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

(2) The council shall:

(a) Advise and assist the division and the state folklorist with respect to folk arts, folklife, and the following goals of the Florida Folklife Programs:

1. The stimulation and encouragement of statewide public interest and participation in folk arts and folklore; and

2. The development and promotion of Florida folk artists, performers, festivals, folklife projects, and folk resources.

(b) Recommend to the division and the state folklorist projects for the identification, collection, and preservation of Florida folklore, folk arts, traditions, cultural heritage, skills, and customs and make these resources available throughout the state.

(c) Assist the state folklorist in developing proposals and grant applications to fund projects of the Florida Folklife Programs.

History.—s. 4, ch. 79-322; ss. 2, 5, ch. 81-124; ss. 1, 4, ch. 82-46; s. 2, ch. 83-265; s. 32, ch. 86-163; ss. 1, 2, 3, ch. 90-11; s. 5, ch. 91-429; s. 182, ch. 95-148.

Note.—Former s. 265.136.

267.162 Florida Folklife Trust Fund.—There is created within the Division of Historical Resources of the Department of State the Florida Folklife Trust Fund, which shall consist of moneys appropriated by the Legislature; grants from the Florida Arts Council or any other agency; moneys from fees, admissions, and sales of publications or items; and moneys contributed to the fund from any other source. The fund shall be administered by the Department of State for the purpose of financing grants and for the administration of the Florida Folklife Programs.

History.—s. 6, ch. 79-322; s. 4, ch. 81-124; s. 127, ch. 83-217; s. 34, ch. 86-163.

Note.—Former s. 265.138.

267.17 Citizen support organizations; use of state property; audit.—

(1) CITIZEN SUPPORT ORGANIZATIONS.—The division may support the establishment of citizen support organizations to provide assistance, funding, and promotional support for the archaeology, museum, folklife, and historic preservation programs of the division. For the purposes of this section, a "citizen support organization" shall mean an organization which is:

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

(b) Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, real or personal; and make expenditures to or for the direct or indirect benefit of the division or individual program units of the division;

(c) Determined by the division to be consistent with the goals of the division and in the best interests of the state; and

(d) Approved in writing by the division to operate for the direct or indirect benefit of the division; such approval shall be given in a letter of agreement from the division.

(2) USE OF PROPERTY.—

(a) The division may permit, without charge, appropriate use of property and facilities of the division by a citizen support organization, subject to the provisions of this section. Such use must be directly in keeping with the approved purposes of the citizen support organization and may not be made at times or places that would unreasonably interfere with opportunities for the general public to use such facilities for established purposes.

(b) The division may prescribe by rule any condition with which a citizen support organization shall comply in order to use division property or facilities.

(c) The division shall not permit the use of any property or facilities of the state by a citizen support organization which does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, sex, age, or national origin.

(3) ANNUAL AUDIT.—Each citizen support organization shall cause an annual postaudit of its financial accounts to be conducted by an independent certified public accountant. The annual audit report shall be submitted to the division for review. The Auditor General and the division are each authorized to require and obtain from the citizen support organization, or from its independent auditor, such data as may be needed relative to the operation of the organization. The identity of donors who desire to remain anonymous shall be confi-

dential and exempt from the provisions of s. 119.07(1), and that anonymity shall be maintained in the auditor's report. This exemption is subject to the Open Government Sunset Review Act in accordance with 's. 119.14.

History.—s. 62, ch. 86-163; s. 6, ch. 89-55; s. 99, ch. 90-360.

Note.—

A. Repealed by s. 1, ch. 95-217.

B. Section 4, ch. 95-217, provides that "[n]otwithstanding any provision of law to the contrary, exemptions from chapter 119, Florida Statutes, or chapter 286, Florida Statutes, which are prescribed by law and are specifically made subject to the Open Government Sunset Review Act in accordance with section 119.14, Florida Statutes, are not subject to review under that act, and are not abrogated by the operation of that act, after October 1, 1995."