

NORTH CAROLINA GENERAL ASSEMBLY  
1971 SESSION

CHAPTER 885  
HOUSE BILL 1054

AN ACT AUTHORIZING CITIES AND COUNTIES TO DESIGNATE AND PROTECT HISTORIC PROPERTIES; TO CREATE CITY AND COUNTY HISTORIC PROPERTIES COMMISSIONS; TO DEFINE THEIR DUTIES; AND TO PROVIDE OTHERWISE FOR THE REGULATION, ACQUISITION, AND PRESERVATION OF HISTORIC BUILDINGS, STRUCTURES, SITES, AREAS AND OBJECTS.

The General Assembly of North Carolina enacts:

**Section 1.** Legislative findings. The historical heritage of our State is one of our most valued and important assets. Conservation of historic properties will stabilize and increase the values in their areas and strengthen the overall economy of the State. This act authorizes cities and counties of the State, within their respective zoning jurisdictions, and by means of listing, regulation, and acquisition, (1) to safeguard the heritage of the city or county by preserving any property therein that embodies important elements of its cultural, social, economic, political or architectural history; and (2) to promote the use and conservation of such property for the education, pleasure and enrichment of the residents of the city or county and the State as a whole.

**Sec. 2.** Appointment of Historic Properties Commission. Before exercising the powers set forth in this act, the governing board of any city or county shall appoint or designate a Historic Properties Commission for said city or county. The Commission shall serve at the pleasure of the governing board and consist of not less than five nor more than ten members, a majority of whom have demonstrated special interest, experience or education in history or architecture. In establishing the Commission and making appointments to it, the governing body may seek the advice of any State or local historical agency, society or organization. Members shall be appointed for terms not to exceed three years and shall be eligible for reappointment as shall be specified by the governing board. As an alternative to the appointment of a separate Historic Properties Commission, the governing board may designate, ex officio, the members of a Historic District Commission created pursuant to Session Laws 1965, Chapter 504, as amended, as the Historic Properties Commission. The governing board may also designate itself or a city or county planning board to serve, ex officio, as the Historic Properties Commission for the city or county. All members of a Historic Properties Commission, whether appointed or designated, shall be residents of the area of zoning jurisdiction in which the powers authorized by this act are exercised. The powers conferred by this act may be exercised only within the zoning jurisdiction of the city or county. Members of the Commission shall serve without pay, but may be reimbursed for expenses incurred in the performance of their duties. Membership on a Historic Properties Commission is hereby declared, pursuant to Article VI, Section 9, of the Constitution of North Carolina, to be an office that may be held concurrently with any other elective or appointive office.

**Sec. 3.** Powers of the Properties Commission. Any city or county Historic Properties Commission appointed or designated pursuant to this act shall be authorized to:

- (1) Recommend to the city or county governing board structures, sites, areas or objects to be designated by ordinance as "Historic Properties".

- (2) Acquire the fee or any lesser included interest to any such Historic Properties, to hold, manage, restore and improve the same, and to exchange and dispose of the same by sale, lease or otherwise subject to rights of public access and other covenants and in a manner that will conserve the property for the purposes of this act.
- (3) Restore, preserve and operate such Historic Properties.
- (4) Recommend to the governing board that designation of any building, structure, site, area or object as a Historic Property be revoked or removed.
- (5) Conduct an educational program on Historic Properties within its jurisdiction.
- (6) Cooperate with the State, federal and local governments in pursuance of the purposes of this act. The governing board or the Commission when authorized by the governing board may contract with the State, or the United States of America, or any agency of either, or with any other organization provided the terms are not inconsistent with State or federal law.
- (7) Enter, solely in performance of its official duties and only at reasonable times, upon private lands for examination or survey thereof. However, no member, employee or agent of the Commission may enter any private building or structure without the express consent of the owner or occupant thereof.
- (8) All meetings or hearings of the Commission shall be open to the public, and reasonable notice of the time and place thereof shall be given to the public.

**Sec. 4.** Adoption of an ordinance; criteria for designation. Upon complying with Section 5 of this act, the governing board may adopt and from time to time amend or repeal an ordinance designating one or more Historic Properties on the following criteria: historical and cultural significance; suitability for preservation or restoration; educational value; cost of acquisition, restoration, maintenance, operation or repair; possibilities for adaptive or alternative use of the property; appraised value; and the administrative and financial responsibility of any person or organization willing to underwrite all or a portion of such costs. In order for any building, structure, site, area or object to be designated in the ordinance as a Historic Property, it must in addition meet the criteria established for inclusion of the property in the National Register of Historic places established by the National Historic Preservation Act of 1966, Public Law 89-665, 15 U.S.C.A. Section 470(a), as amended, as evidenced by appropriate findings in resolutions of the city or county Historic Properties Commission.

The ordinance shall describe each property designated in the ordinance, the name or names of the owner or owners of the property, and any other information the governing board deems necessary within the authority of this Chapter. For each building, structure, site, area or object designated as a Historic Property, the ordinance shall require that the waiting period set forth in Section 6 of this act be observed prior to its demolition, material alteration, remodeling or removal. For each designated Historic Property, the ordinance shall also provide for a suitable sign on the property that the property has been so designated. If the owner consents, the sign shall be placed upon the property. If the owner objects the sign shall be placed on a nearby public right of way.

**Sec. 5.** Required procedures. No ordinance designating a historic building, structure, site, area or object nor any amendment thereto may be adopted, nor may any property be accepted or acquired by a Historic Properties Commission or the governing board of a city or county, until the following procedural steps have been taken:

- (1) The Historic Properties Commission shall make or cause to be made an investigation and report on the historic, architectural, educational or cultural significance of each building, structure, site, area or object proposed for designation or acquisition.

- (2) The North Carolina Department of Archives and History, acting through the Advisory Council on Historic Preservation or another agent or employee of the Department designated by the Director, shall make an analysis of and recommendations concerning the report of the Historic Properties Commission. This is waived if the Department fails to submit its analysis and recommendations to the governing board within 60 days after written request for the analysis has been mailed to the Department by the clerk of the city or county governing board. This requirement is also waived with respect to any building, structure, site, area or object of national, state or local historical significance that is currently listed (as certified by the Director of the Department of Archives and History) on the National Register of Historic Places established by the National Historic Preservation Act of 1966, Public Law 89-665, 15 U.S.C.A. Section 470(a), as amended.
- (3) The Historic Properties Commission and the governing board shall hold a public hearing on the proposed ordinance. Notice of the hearing shall be published at least once in a newspaper generally circulated within the city or county in which the property or properties to be designated or acquired are located, and written notice of the hearing shall be mailed by the Properties Commission to all owners and occupants of properties whose identity and current mailing address can be ascertained by the exercise of reasonable diligence. All such notices shall be published or mailed not less than 10 nor more than 20 days prior to the date set for the public hearing.
- (4) Following the joint public hearing, the governing board may adopt the ordinance as proposed, adopt the ordinance with any amendments it deems necessary, or reject the proposal.
- (5) Upon adoption of the ordinance, the owners and occupants of each designated Historic Property shall be given written notification of such designation by the governing board, insofar as reasonable diligence permits. One copy of the ordinance and each amendment thereto shall be filed by the Historic Properties Commission in the office of the Register of Deeds of the county in which the property or properties are located. Each Historic Property designated in the ordinance shall be indexed according to the name of the owner of the property in the grantee and grantor indexes in the Register of Deeds office, and the Historic Properties Commission shall pay a reasonable fee for filing and indexing. In the case of any property lying within the zoning jurisdiction of a city, a second copy of the ordinance and each amendment thereto shall be kept on file in the office of the city or town clerk and be made available for public inspection at any reasonable time. A third copy of the ordinance and each amendment thereto shall be given to the city or county building inspector, if any. The fact that a building, structure, site, area or object has been designated a Historic Property shall be clearly indicated on all tax maps maintained by the county or city for such period as the designation remains in effect.
- (6) Upon the adoption of the Historic Properties ordinance or any amendment thereto, it shall be the duty of the Historic Properties Commission to give notice thereof to the tax supervisor of the county in which the property is located. The designation and any recorded restrictions upon the property limiting its use for preservation purposes shall be considered by the tax supervisor in appraising it for tax purposes.

**Sec. 6.** Required waiting period. A property which has been designated as a Historic Property by ordinance as herein provided may, after notice has been made to the owner

as provided in Section 5(e), be demolished, materially altered, remodeled or removed only after 90 days' written notice of the owner's proposed action has been given to the Historic Properties Commission. During this period, the Commission may negotiate with the owner and with any other parties in an effort to find a means of preserving the property. During this period, or at any time prior thereto following notice of designation to the owner as provided in Section 5(e), and where such action is reasonably necessary or appropriate for the continued preservation of the property, the Commission may enter into negotiations with the owner for the acquisition by gift, purchase, exchange or otherwise of the property or any interest therein authorized by Section 3(c) of this act. The Commission may reduce the waiting period required by this section in any case where the owner would suffer extreme hardship, not including loss of profit, unless a reduction in the required waiting period were allowed. The Commission shall have the discretionary authority to waive all or any portion of the required waiting period, provided that the alteration, remodeling or removal is undertaken subject to conditions agreed to by the Commission insuring the continued maintenance of the architectural or historical integrity and character of the Property.

**Sec. 7.** Certain changes not prohibited. Nothing in this act shall be construed to prevent the ordinary maintenance or repair of any exterior architectural feature in or on a Historic Property that does not involve a change in design, material, or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration, demolition or removal of any such feature when a building inspector or similar official certifies to the Commission that such action is required for the public safety because of an unsafe or dangerous condition. Nothing herein shall be construed to prevent a property owner from making any use of his property not prohibited by other statutes, ordinances, or regulations.

**Sec. 8.** Authority to acquire historic buildings. Within the limits of its zoning jurisdiction, any city or county governing board (and, with the approval of the governing board, any Historic Properties Commission) may acquire property designated by ordinance as Historic Property, and may pay therefor out of any funds which may be appropriated for that purpose. The general powers granted to municipalities by G.S. 160-200(1), (2), (4), and (5) of the General Statutes, and to counties by G.S. 153-2(2), (3), and (4), and by G.S. 153-9(13) and (14) shall be deemed to include specifically the authority to acquire, maintain, manage, repair, restore, exchange or dispose of any building or structure designated as a Historic Property in any ordinance adopted pursuant to this act. In the event the property is acquired under this section but is not used for some other governmental purpose, it shall be deemed to be a "museum" under the provisions of G.S. 160-200(40), notwithstanding the fact that the property may be or remain in private use, so long as the property is made reasonably accessible to and open for visitation by the general public.

**Sec. 9.** Appropriations. A city or county governing board is authorized to make appropriations to a Historic Properties Commission established pursuant to this act in any amount that it may determine necessary for the expenses of the operation of the Commission, and may make available any additional amounts necessary for the acquisition, restoration, preservation, operation and management of historic buildings, structures, sites, areas or objects designated as Historic Properties, or of land on which historic buildings or structures are located or to which they may be removed.

**Sec. 10.** Ownership of property. All lands, buildings, structures, sites, areas or objects acquired by funds appropriated by a city or county shall be acquired in the name of the city or county unless otherwise provided by the governing board. So long as owned by the city or county, Historic Properties may be maintained by or under the supervision and control of the city or county. However, all lands, buildings or structures acquired by a Historic Properties Commission from funds other than those appropriated by a city or county may be acquired and held in the name of the Historic Properties Commission, the city or county, or both.

**Sec. 11.** Act to apply to publicly owned buildings and structures. Nothing in this act shall be construed to prevent the regulation or acquisition of historic buildings, structures, sites, areas or objects owned by the State of North Carolina or any of its political subdivisions, agencies, or instrumentalities.

**Sec. 12.** Conflict with other laws. Whenever any ordinance adopted pursuant to this act requires a longer waiting period or imposes other higher standards with respect to a designated Historic Property than are established under any other statute, charter provision, or regulation, this act shall govern. Whenever the provisions of any other statute, charter provision, ordinance or regulation require a longer waiting period or impose other higher standards than are established under this act, such other statute, charter provision, ordinance or regulation shall govern.

**Sec. 13.** Remedies. In case any building, structure, site, area or object designated a Historic Property is about to be demolished whether as the result of deliberate neglect or otherwise, materially altered, remodeled or removed, except in compliance with the ordinance, the city or county or the Historic Properties Commission, may institute any appropriate action or proceedings to prevent such unlawful demolition, material alteration, remodeling or removal, to restrain, correct or abate such violation, or to prevent any illegal act or conduct with respect to such Historic Property.

**Sec. 14.** G.S. 121-7.1 repealed. G.S. 121-7.1, as it appears in the 1969 Cumulative Supplement to the 1964 Replacement Volume 3B of the General Statutes of North Carolina is repealed.

**Sec. 15.** Severability. Should any section, clause or provision of this act be declared by the courts to be unconstitutional or invalid for any reason, such decision shall not affect the validity of the act as a whole nor any part thereof other than the part so declared to be unconstitutional or invalid.

**Sec. 16.** All laws and clauses of laws in conflict with this act are hereby repealed to the extent of such conflict; provided, however, that any city or county governing board may elect to proceed either under the provisions of this act or any similar provisions of its charter, and this act shall not be construed to repeal such charter provisions.

**Sec. 17.** This act shall become effective upon its ratification.

In the General Assembly read three times and ratified, this the 16th day of July, 1971.