

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1730 Session of
1993INTRODUCED BY PISTELLA, DALEY, GIGLIOTTI, TRELLO, CAWLEY,
COLAIZZO, JOSEPHS, MELIO, BELFANTI AND WILLIAMS, JUNE 7, 1993AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
APRIL 19, 1994

AN ACT

1 Amending Title 37 (Historical and Museums) of the Pennsylvania
2 Consolidated Statutes, FURTHER PROVIDING FOR THE DEFINITION <—
3 OF "ARCHAEOLOGICAL FIELD INVESTIGATION"; ADDING DEFINITIONS;
4 FURTHER PROVIDING FOR THE SPECIFIC POWERS AND DUTIES OF THE
5 PENNSYLVANIA HISTORICAL AND MUSEUM COMMISSION; further
6 providing for documents; establishing the Local Government
7 Records Management Improvement Fund; and imposing an <—
8 additional recording fee on certain documents; AND FURTHER <—
9 PROVIDING FOR COOPERATION BY PUBLIC OFFICIALS WITH THE
10 COMMISSION.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 ~~Section 1. Section 305 of Title 37 of the Pennsylvania~~ <—
14 ~~Consolidated Statutes is amending by adding a paragraph to read:~~

15 SECTION 1. THE DEFINITION OF "ARCHAEOLOGICAL FIELD" <—
16 INVESTIGATION" IN SECTION 103 OF TITLE 37 OF THE PENNSYLVANIA
17 CONSOLIDATED STATUTES IS AMENDED AND THE SECTION IS AMENDED BY
18 ADDING DEFINITIONS TO READ:

19 § 103. DEFINITIONS.

20 SUBJECT TO ADDITIONAL DEFINITIONS CONTAINED IN SUBSEQUENT
21 PROVISIONS OF THIS TITLE WHICH ARE APPLICABLE TO SPECIFIC

PROVISIONS OF THIS TITLE, THE FOLLOWING WORDS AND PHRASES WHEN
USED IN THIS TITLE SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
SECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

"ARCHAEOLOGICAL FIELD INVESTIGATION." [THE STUDY OF CULTURAL
HISTORY AT ANY ARCHAEOLOGICAL SITE BY PROFESSIONALLY ACCEPTED
MEANS OF SURVEYING, SAMPLING, EXCAVATION OR REMOVAL OF
ARCHAEOLOGICAL SPECIMENS] EXTENSIVE, CONTROLLED EXCAVATION OF AN
ARCHAEOLOGICAL SITE TO STUDY THE CULTURE HISTORY USING
PROFESSIONALLY ACCEPTED MEANS OF SAMPLING, REMOVING AND
EXCAVATING ARCHAEOLOGICAL SPECIMENS, ALSO KNOWN AS PHASE THREE
ARCHAEOLOGICAL RESEARCH OR DATA RECOVERY.

* * *

"ARCHAEOLOGICAL SURVEY." A VISUAL INSPECTION AND LIMITED
SAMPLING AND EXCAVATION OF AN ARCHAEOLOGICAL SITE TO DETERMINE
THE CHARACTERISTICS AND PHYSICAL EXTENT OF A SITE, ALSO KNOWN AS
PHASE ONE OR PHASE TWO ARCHAEOLOGICAL RESEARCH.

* * *

"SIGNIFICANT ARCHAEOLOGICAL SITE." AN AREA OF LAND WHICH
CONTAINS EXTENSIVE EVIDENCE OF PREVIOUS PREHISTORIC OR HISTORIC
HUMAN HABITATION, OR STRATIFIED DEPOSITS OF ANIMAL OR PLANT
REMAINS, OR MANMADE ARTIFACTS OR HUMAN BURIALS.

SECTION 2. SECTION 302(3) OF TITLE 37 IS AMENDED TO READ:

§ 302. SPECIFIC POWERS AND DUTIES.

THE COMMISSION SHALL HAVE THE POWER AND DUTY TO:

* * *

(3) ARCHAEOLOGICAL [AND ANTHROPOLOGICAL INVESTIGATIONS]
PROGRAM.--EXAMINE, OR CAUSE TO BE EXAMINED, RESEARCH OR
EXCAVATE THE OCCUPATION OR ACTIVITY SITES OR AREAS AND THE
CULTURAL MATERIAL REMAINS OF NATIVE AMERICAN, COLONIAL
AMERICAN AND MORE RECENT AMERICAN CULTURES IN THIS

1 COMMONWEALTH, UNDER THE PROFESSIONAL DIRECTION OF THE
2 COMMISSION THROUGH THE TECHNIQUES OF ARCHAEOLOGY,
3 ANTHROPOLOGY AND HISTORY; ACQUIRE, BY PURCHASE, GIFT OR
4 FIELDWORK, ARCHAEOLOGICAL OR ANTHROPOLOGICAL COLLECTIONS OF
5 OBJECTS AND DATA RELATIVE TO THE CULTURAL HISTORY OF THIS
6 COMMONWEALTH; CONDUCT, OR CAUSE TO BE CONDUCTED,
7 ARCHAEOLOGICAL SITE SURVEYS TO LOCATE, CATALOG, ASSESS AND
8 PERMANENTLY RECORD THESE HISTORIC RESOURCES THROUGHOUT THIS
9 COMMONWEALTH; MAINTAIN A CENTRAL REPOSITORY FOR MAP LOCATIONS
10 AND WRITTEN DESCRIPTIONS OF SUCH SITES AND HISTORIC
11 RESOURCES; CONDUCT, OR CAUSE TO BE CONDUCTED, RESEARCH UPON
12 THE CULTURAL OBJECTS AND DATA RELATED TO THE CULTURAL HISTORY
13 OF THIS COMMONWEALTH AND INTERPRET THE RESULTS OF THE
14 RESEARCH IN SCIENTIFIC AND POPULAR PUBLICATIONS, EXHIBITS AND
15 SPECIAL EDUCATIONAL PROGRAMS FOR THE PUBLIC; AND UNDERTAKE
16 APPROPRIATE CONSERVATION, RESEARCH, RESTORATION AND STORAGE
17 OF ALL MATERIAL ITEMS AND DATA RELATIVE TO THE CULTURAL
18 HERITAGE OF THIS COMMONWEALTH, WHICH ACCRUE TO THE
19 ARCHAEOLOGICAL AND ANTHROPOLOGICAL COLLECTIONS OF THE
20 COMMISSION.

21 * * *

22 SECTION 3. SECTION 305 OF TITLE 37 IS AMENDED BY ADDING A
23 PARAGRAPH TO READ:

24 § 305. Documents.

25 The commission shall have the power and duty to:

26 * * *

27 (7) Local Government Records Management Improvement
28 Fund.--Administer all moneys deposited in a nonlapsing fund
29 to be known as the Local Government Records Management
30 Improvement Fund created under section 308 (relating to Local

1 Government Records Management Improvement Fund).

2 Section 2 4. Title 37 is amended by adding a section to
3 read:

4 § 308. Local Government Records Management Improvement Fund.

5 (a) Creation.--There is hereby created the Local Government
6 Records Management Improvement Fund for the deposit of the State
7 portion of the fee authorized in subsection (e). All moneys in
8 this fund are hereby appropriated, upon approval of the
9 Governor, to the commission for the purposes set forth in this
10 section.

11 (b) Purpose.--All moneys in this fund are to be used by the
12 commission for the provision of archival and records management
13 services to school districts, to municipalities other than
14 counties and to either county offices represented on the County
15 Records Committee or an equivalent office in a home rule charter
16 county.

17 (c) Limitations on use of moneys.--Specifically, this fund
18 shall be used to support, within the commission the following:

19 (1) Management and operation of a security microfilm
20 storage program.

21 (2) Vital records and disaster recovery services.

22 (3) Educational and training seminars relating to
23 information management.

24 (4) The delivery of professional and technical
25 assistance.

26 (5) The preservation, reproduction and use of
27 historically valuable local records.

28 (6) A records management and archives grant program.

29 (7) INVESTIGATION OF ALTERNATIVE RECORDS STORAGE SYSTEMS
30 EMPLOYING THE LATEST GENERATION TECHNOLOGY.

1 (d) Allocation of fund.--The moneys in the fund shall be
2 allocated as follows:

3 (1) To cover the administrative, equipment, personnel
4 and other program costs required to deliver the fund services
5 as enumerated in subsection (c).

6 (2) All moneys not expended for costs enumerated in
7 paragraph (1) shall be used for the award of records
8 management and archives grants as follows:

9 (i) Eighty percent county offices represented on the
10 County Records Committee or an equivalent office in a
11 home rule charter county.

12 (ii) Twenty percent to municipalities other than
13 counties and to school districts.

14 (3) The commission shall promulgate rules and
15 regulations setting forth criteria and procedures for the
16 award of grants from fund moneys in consultation with the
17 County Records Committee and the Local Government Records
18 Committee.

19 (e) Additional recording fee.--An additional fee of \$3 shall <—

20 (1) EXCEPT AS OTHERWISE PROVIDED IN PARAGRAPH (2), AN <—
21 ADDITIONAL FEE OF \$4 SHALL be charged and collected by
22 recorders of deeds, or by their equivalent officer in a home
23 rule charter county, for every deed, mortgage or other
24 instrument in writing for which a recording fee is provided.

25 Of that amount, \$1 \$2 shall be forwarded on a monthly basis <—

26 to the Department of Revenue for deposit in the fund. WHICH <—

27 SHALL DEPOSIT ONE-HALF INTO THE FUND AND THE OTHER HALF SHALL

28 BE CREDITED TO THE HISTORICAL PRESERVATION FUND FOR THE

29 SUPPORT OF AN ARCHAEOLOGICAL PROGRAM AS DESCRIBED IN SECTION

30 302(3) (RELATING TO SPECIFIC POWERS AND DUTIES). The

1 remaining \$2 shall be accounted for and paid to the county
2 treasurer or to the equivalent officer in a home rule charter
3 county. Of that \$2, \$1.50 shall be used by the county to
4 support records management and archival activities and 50c
5 shall be used to cover costs associated with the collection
6 and remittance of the fee and to support office records
7 management activities in the office of the recorder of deeds
8 or in its equivalent in a home rule charter county. The money
9 designated for county use shall be expended in accordance
10 with a comprehensive records management plan based on the
11 goal of standardizing and equalizing the capabilities of all
12 county offices consistent with their need to receive, manage
13 and provide information to the public as efficiently as
14 possible. The plans shall be prepared by the board of county
15 commissioners for each county or by the equivalent office in
16 a home rule charter county in consultation with a committee
17 composed of all elected county officers in each county,
18 except that in a city of the first class, the plans shall be
19 prepared by the mayor with the approval of the city council
20 by resolution.

21 (2) IN COUNTIES OF THE SECOND CLASS, AN ADDITIONAL FEE <—
22 OF \$2 SHALL BE CHARGED AND COLLECTED BY RECORDERS OF DEEDS
23 FOR EVERY DEED, MORTGAGE OR OTHER INSTRUMENT IN WRITING FOR
24 WHICH A RECORDING FEE IS PROVIDED. REVENUE FROM THE FEE SHALL
25 BE FORWARDED ON A MONTHLY BASIS TO THE DEPARTMENT OF REVENUE
26 WHICH WILL DEPOSIT ONE-HALF IN THE LOCAL GOVERNMENT RECORDS
27 MANAGEMENT IMPROVEMENT FUND AND THE OTHER ONE-HALF WILL BE
28 CREDITED TO THE HISTORICAL PRESERVATION FUND FOR THE SUPPORT
29 OF AN ARCHAEOLOGICAL PROGRAM AS DESCRIBED IN SECTION 302(3)
30 (RELATING TO SPECIFIC POWERS AND DUTIES).

1 (f) Definitions.--As used in this section, the following
2 words and phrases shall have the meanings given to them in this
3 subsection:

4 "County." Any county, including any county operating under a
5 home rule charter or optional plan, and any city of the first
6 class.

7 "Recorder of deeds." The recorder of deeds in any county, or
8 the equivalent office in any county operating under a home rule
9 charter or optional plan, or the equivalent office in any city
10 of the first class.

11 SECTION 5. SECTION 507 OF TITLE 37 IS AMENDED TO READ: <—

12 § 507. COOPERATION BY PUBLIC OFFICIALS WITH THE COMMISSION.

13 (A) GENERAL RULE.--COMMONWEALTH AGENCIES AND POLITICAL
14 SUBDIVISIONS SHALL COOPERATE FULLY WITH THE COMMISSION IN THE
15 PRESERVATION, PROTECTION AND INVESTIGATION OF ARCHAEOLOGICAL
16 RESOURCES AND TO THAT END SHALL:

17 [(1) NOTIFY ALL POTENTIAL PERMITTEES, CONTRACTORS OR
18 OTHER PERSONS WHOSE ACTIVITIES MAY AFFECT ARCHAEOLOGICAL
19 SITES THAT THE ESTIMATED COST OF ARCHAEOLOGICAL SURVEYS OR
20 ARCHAEOLOGICAL FIELD INVESTIGATIONS IS REQUIRED TO BE
21 INCLUDED WITHIN THEIR BID OR APPLICATION FOR A PERMIT.

22 (2)] (1) NOTIFY THE COMMISSION BEFORE UNDERTAKING ANY
23 COMMONWEALTH OR COMMONWEALTH-ASSISTED PERMITTED OR CONTRACTED
24 PROJECTS THAT MAY AFFECT ARCHAEOLOGICAL SITES.

25 [(3)] (2) NOTIFY THE COMMISSION WHEN THEY BECOME AWARE
26 OF ANY UNDERTAKING IN CONNECTION WITH ANY COMMONWEALTH OR
27 COMMONWEALTH-ASSISTED PERMITTED OR CONTRACTED PROJECT,
28 ACTIVITY OR PROGRAM WHICH AFFECTS OR MAY AFFECT AN
29 ARCHAEOLOGICAL SITE, AND PROVIDE THE COMMISSION WITH
30 INFORMATION CONCERNING THE PROJECT, PROGRAM OR ACTIVITY.

(B) SURVEY OR INVESTIGATION BY COMMISSION.--[UPON NOTIFICATION OR DETERMINATION THAT AN ARCHAEOLOGICAL RESOURCE IS OR MAY BE ADVERSELY AFFECTED, THE COMMISSION MAY, WITHIN 60 DAYS AFTER REASONABLE NOTICE TO THE COMMONWEALTH AGENCY OR POLITICAL SUBDIVISION, CONDUCT A SURVEY OR OTHER INVESTIGATION TO RECOVER, PRESERVE OR OTHERWISE PROTECT INFORMATION FROM THE ARCHAEOLOGICAL RESOURCE, PROVIDED THAT THIS SUBSECTION SHALL NOT APPLY IF A COMMONWEALTH AGENCY OR A POLITICAL SUBDIVISION NOTIFIED THE COMMISSION IN WRITING OF THE POTENTIAL EFFECT OF A PROPOSED ACTION ON AN ARCHAEOLOGICAL RESOURCE AND THE COMMISSION DOES NOT ADVISE THAT COMMONWEALTH AGENCY OR POLITICAL SUBDIVISION WITHIN 60 DAYS THAT IT INTENDS TO CONDUCT A SURVEY OR INVESTIGATION.]

(1) UPON A DETERMINATION BY THE COMMISSION THAT A STATE-SPONSORED, FUNDED, PERMITTED OR LICENSED ACTIVITY MAY ADVERSELY EFFECT AN ARCHAEOLOGICAL SITE, THE COMMISSION MAY REQUIRE THAT AN ARCHAEOLOGICAL SURVEY BE CONDUCTED. THE SURVEY SHALL BE DETERMINED NECESSARY ONLY WHEN THE COMMISSION, BASED ON RECORDED MATERIAL EVIDENCE, DETERMINES THAT THE SITE IS A SIGNIFICANT ARCHAEOLOGICAL SITE. A WRITTEN DETERMINATION SHALL BE MADE BY THE COMMISSION WITHIN 30 DAYS OF RECEIPT OF A REQUEST FOR REVIEW.

(2) THE COMMISSION SHALL CONDUCT ARCHAEOLOGICAL SURVEYS WITHIN 90 DAYS OF THE DETERMINATION, EXCEPT THAT THE COMMISSION MAY NOTIFY THE PROJECT APPLICANT THAT AN ADDITIONAL 60 DAYS MAY BE REQUIRED WHEN THE DETERMINATION IS MADE BETWEEN THE MONTHS OF DECEMBER THROUGH MARCH.

(3) BASED ON AN ARCHAEOLOGICAL SURVEY, IN EXCEPTIONAL CIRCUMSTANCES, THE COMMISSION MAY DETERMINE THAT AN ARCHAEOLOGICAL FIELD INVESTIGATION, ALSO KNOWN AS PHASE

1 THREE, IS NECESSARY TO RECOVER OR PROTECT ARCHAEOLOGICAL
2 DATA. THE ARCHAEOLOGICAL FIELD INVESTIGATION WILL BE
3 CONDUCTED IN A TIMELY MANNER WITH CONSIDERATION FOR THE NEEDS
4 OF THE PROJECT SPONSOR AND PROPERTY OWNER.

5 (4) FAILURE OF THE COMMISSION TO PROVIDE WITHIN 30 DAYS
6 A WRITTEN DETERMINATION SHALL CONSTITUTE A FINDING THAT A
7 SURVEY OR INVESTIGATION IS NOT NECESSARY.

8 (5) THE COMMISSION SHALL CONDUCT AND PAY ANY COSTS
9 ASSOCIATED WITH AN ARCHAEOLOGICAL SURVEY OR FIELD
10 INVESTIGATION DETERMINED NECESSARY BY THE COMMISSION UNDER
11 THIS SECTION EXCEPT FOR THE FOLLOWING:

12 (I) PROJECTS OF OTHER STATE AGENCIES AND
13 INSTRUMENTALITIES.

14 (II) PROJECTS ON COMMONWEALTH LANDS.

15 (III) PROJECTS OF PUBLICLY REGULATED UTILITIES.

16 (IV) ARCHAEOLOGICAL SURVEYS AND FIELD INVESTIGATIONS
17 REQUIRED UNDER FEDERAL LAW.

18 (6) THE COMMISSION SHALL PAY THE LOCAL GOVERNMENT SHARE
19 OF ANY COSTS ASSOCIATED WITH ANY ARCHAEOLOGICAL SURVEY OR
20 FIELD INVESTIGATION CONDUCTED OR REQUIRED BY THE COMMISSION
21 ON LOCALLY OWNED HIGHWAYS AND BRIDGE PROJECTS IN COUNTIES OF
22 THE THIRD THROUGH EIGHTH CLASS IF THE PROJECT IS BEING
23 UNDERTAKEN SOLELY WITH STATE OR LOCAL FUNDS.

24 (7) THE COMMISSION UNDER NO CIRCUMSTANCES SHALL REQUIRE
25 OR CONDUCT AN ARCHAEOLOGICAL SURVEY ON PRIVATE PROPERTY
26 WITHOUT THE CONSENT OF THE PROPERTY OWNER, UNLESS THE PROJECT
27 IS STATE-PERMITTED, SPONSORED OR LICENSED OR REQUIRED UNDER
28 FEDERAL LAW.

29 (8) ALL DETERMINATIONS BY THE COMMISSION UNDER THIS
30 SECTION SHALL BE SUBJECT TO THE PROVISIONS OF TITLE 2

1 (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE).

2 Section 3 6. This act shall take effect in 60 days.

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