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OFFICE OF
SECRETARY OF STATE
STATE OF WEST VIRGINIA

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1972

ENROLLED

SENATE BILL NO. 207

(By Mr. Mc PONT, Mr. President and Mr. HUBBARD)

PASSED MARCH 7, 1972

In Effect From Passage



FILED IN THE OFFICE
JOHN D. ROCKEFELLER, IV
SECRETARY OF STATE
THIS DATE 3-28-72

207

ENROLLED

Senate Bill No. 207

(By MR. McCOURT, MR. PRESIDENT, and MR. HUBBARD)

[Passed March 7, 1972; in effect from passage.]

AN ACT to amend and reenact section fifteen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, and to amend and reenact article one, chapter twenty-nine of said code, all relating to historic preservation; natural resources; organization and administration; the public land corporation; department of archives and history; short title; legislative findings; department of archives and history created; office of state historian and archivist; powers and duties; organization and advisory commissions established; and providing for the delivery of official books to the archivist for their preservation.

Be it enacted by the Legislature of West Virginia:

That section fifteen, article one, chapter twenty of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that article one, chapter twenty-nine of said code be amended and reenacted, all to read as follows:

CHAPTER 20. NATURAL RESOURCES.

ARTICLE 1. ORGANIZATION AND ADMINISTRATION.

§20-1-15. Public land corporation.

1 The public land corporation of West Virginia, hereto-
2 fore created and established, shall be continued as an
3 activity of the department of natural resources. The cor-
4 poration may sue and be sued, contract and be contracted
5 with, plead and be impleaded, and have and use a common
6 seal. It shall be a public benefit corporation composed
7 of the governor as chairman, the director of the depart-
8 ment of natural resources as secretary, the commissioner

9 of agriculture, the attorney general, the director of the
10 engineering experiment station at West Virginia Uni-
11 versity and the state historian and archivist, none of
12 whom shall receive additional compensation as members
13 of the corporation.

14 The corporation shall be vested with the title of the
15 state in public land, the title to which now is or may
16 hereafter become absolutely vested in the state of West
17 Virginia by reason of any law governing the title of lands
18 within the state, except such public lands of the state as
19 may be by law specifically allocated to and used by other
20 state agencies, institutions and departments.

21 The corporation is hereby authorized and empowered
22 to:

23 (1) Acquire from any persons or the state commis-
24 sioner of forfeited lands, by purchase, lease or other
25 agreement, any lands necessary and required for public
26 use;

27 (2) Acquire by purchase, condemnation, lease, or
28 agreement, receive by gifts and devises, or exchange,
29 rights-of-way, easements, waters and minerals suitable
30 for public use;

31 (3) Sell, purchase or exchange lands or stumpage for
32 the purpose of consolidating lands under state or federal
33 government administration;

34 (4) Negotiate and effect loans or grants from the gov-
35 ernment of the United States or any agency thereof for
36 acquisition and development of such lands as may be
37 authorized by law to be acquired for public use;

38 (5) Expend the income from the use and development
39 of public lands for the purpose of liquidating obligations
40 incurred in the acquisition, development and administra-
41 tion of such lands, until all such obligations have been
42 fully discharged, and thereafter pay such income into the
43 state fund for general revenue purposes and uses;

44 (6) Expend the income from the use and development
45 of public lands for the purchase, development, restoration,
46 and preservation for public use, of sites, structures, ob-
47 jects and documents of prehistoric, historical, archeologi-

48 cal, and architectural and cultural significance to the state
49 of West Virginia; and

50 (7) Expend the income from the use and development
51 of public lands for the purpose of obtaining grants or
52 matching moneys available from the government of the
53 United States or any of its instrumentalities for prehistoric,
54 historic, archeological, architectural and cultural purposes.

55 The corporation shall have the authority to designate
56 lands to which it has title for development and ad-
57 ministration for the public use including forestation, rec-
58 reation, wildlife, stock grazing, agricultural rehabilitation
59 and homesteading or other conservation activities and
60 may contract or lease for the proper development of oil,
61 gas or minerals, except that no contract or lease may be
62 entered into for the extraction and removal by stripping
63 or auger mining of coal, and water rights within or upon
64 the lands or property under its control. It shall convey,
65 assign, or allot lands to the title or custody of proper
66 departments or other agencies of state government for
67 administration and control within the functions of such
68 departments or other agencies as provided by law. The
69 corporation shall make proper lands available for the
70 purpose of cooperating with the government of the United
71 States in the relief of unemployment and hardship or for
72 any other public purpose. The corporation shall report an-
73 nually to the Legislature on its public land holdings, its
74 financial condition and its operations and shall make such
75 recommendations to the Legislature as deemed proper
76 concerning the acquisition, development, disposition and
77 use of public lands.

78 During the continuance of the Blennerhassett historical
79 commission, the public land corporation and its members
80 shall consult with and keep the said Blennerhassett his-
81 torical commission fully informed as to any official action
82 to be taken or proposed to be taken pursuant to this act
83 regarding or affecting Blennerhassett island and its pre-
84 historic, historic, archeological, architectural, cultural and
85 recreational significance or development or any of the
86 powers and duties of the Blennerhassett historical com-
87 mission.

CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.

ARTICLE 1. DEPARTMENT OF ARCHIVES AND HISTORY.

§29-1-1. Short title.

1 This article shall be known and may be cited as the
2 "West Virginia Historic Preservation Act of 1972."

§29-1-2. Legislative findings.

1 That the state of West Virginia, being possessed of a
2 heritage that is both ancient and honorable, should
3 undertake a program of systematically identifying, re-
4 storing, preserving, protecting and developing those sites,
5 structures, documents and objects which are of a
6 prehistoric, historical, archeological, architectural and
7 cultural significance by reason of their association with
8 the heritage of the state of West Virginia from the earliest
9 times of the reorganized government of Virginia or of
10 the dominion or colony of Virginia as related to the area
11 which comprises the state of West Virginia, for the public
12 use and to serve as a constant reminder of a past
13 that is rich in history and as a source of inspiration for
14 the future. It is the purpose of this article to provide
15 for a coordinated and comprehensive approach to the
16 preservation of the cultural, scientific and historic heri-
17 tage of the state of West Virginia.

**§29-1-3. Department of archives and history created; office of
state historian and archivist.**

1 A department of archives and history and the office
2 of state historian and archivist are hereby created and
3 established.

4 The state historian and archivist shall be appointed by
5 the governor, with the advice and consent of the Senate,
6 for a term of four years and shall be the chief executive
7 officer of the department.

§29-1-4. Powers and duties.

1 The department of archives and history and the state
2 historian and archivist shall have the following powers
3 and duties:

4 (1) Locate, identify, excavate, preserve, protect, re-

5 store, acquire and recommend for acquisition to the pub-
6 lic land corporation; prehistoric, historic, archeological,
7 architectural and cultural sites, structures, documents and
8 objects worthy of preservation;

9 (2) To survey, investigate and register such prehis-
10 toric, historic, archeological, architectural and cultural
11 sites, structures, documents and objects either upon its
12 own initiative or in cooperation with the West Virginia
13 antiquities commission, reputable societies, organization
14 or agencies of the state and federal government;

15 (3) To operate and maintain a state library and to
16 collect for permanent preservation therein all valuable
17 papers and documents relating to the state of West Vir-
18 ginia, and the territory included therein from the earliest
19 times, together with all public records, state papers, docu-
20 ments of the Legislature, executive and judicial depart-
21 ments, and the reports all of state officials, boards and
22 directors, of state institutions, educational, charitable,
23 penal and otherwise, from the twentieth of June, eighteen
24 hundred and sixty-three, to which the annual additions
25 shall be added as produced;

26 (4) To preserve and protect the battle flags and regi-
27 mented flags borne by West Virginians in war;

28 (5) To submit to the governor and the Legislature an
29 annual report of its activities and needs, including a list-
30 ing of all the state's papers, public documents, books,
31 pamphlets and other property belonging to the state;

32 (6) To mark by proper monument, tablets or markers,
33 prehistoric, historic, archeological, architectural, scenic
34 or geological sites within the state and to arrange for the
35 purchase, replacement, care of and maintenance of such
36 monuments, tablets or markers and formulate and pre-
37 pare appropriate copy for them to protect, preserve and
38 display the Fairfax stones;

39 (7) To transmit to the department of finance and ad-
40 ministration for publication or republication matters of
41 prehistorical, historical, archeological, architectural or
42 cultural interest, to cooperate with said department in
43 compiling, printing and distributing such publications,
44 and to sell publications, postcards and other souvenirs

45 of a prehistorical, historical, archeological, architectural
46 or cultural nature at the state museum and at prehistori-
47 cal, historical, archeological, architectural or cultural
48 properties administered by the department and to devote
49 the revenue arising therefrom to the work of the de-
50 partment;

51 (8) To enter into agreements with responsible private
52 historical, archeological, architectural or cultural associ-
53 ations, foundations and similar organizations or with the
54 National Park Service, or with state agencies, for carry-
55 ing on services or programs, or for the purpose of raising
56 moneys in order to further improve and develop pre-
57 historical, historical, archeological, architectural or cul-
58 tural properties, museums, publications and other func-
59 tions of the department: *Provided*, That said agreements
60 shall be approved by the governor;

61 (9) With the advice and consent of the governor to
62 accept, receive and expend gifts, donations, contributions,
63 endowments, bequests or devises or money, security, or
64 property, both real and personal, or any interest therein
65 and to accept, receive and administer the same subject to
66 any terms, limitations or restrictions placed thereon by
67 the donor;

68 (10) To cooperate with agencies and instrumentalities
69 of the United States of America and to cooperate with and
70 advise the public land corporation in the purchase, de-
71 velopment, restoration and preservation for public use, of
72 sites, structures, objects and documents of prehistoric, his-
73 torical, archeological, architectural and cultural signifi-
74 cance to the state of West Virginia;

75 (11) To apply for and accept any grants or other
76 moneys available for the purpose of this article from the
77 federal government or any of its departments, agencies
78 or instrumentalities;

79 (12) To maintain an office in the state capitol, city of
80 Charleston;

81 (13) To have and use an official seal for use in official
82 business;

83 (14) To dispose of real and personal property which
84 does not have sufficient prehistoric, historic, archeological,

85 architectural or cultural value to justify its retention:
86 *Provided, however,* That such disposals shall not be made
87 without the consent of the governor or of an advisory
88 commission appointed by him pursuant to section six of
89 this article;

90 (15) To make agreements with the executive depart-
91 ment and state boards, commissions, and agencies, for the
92 provision of state papers to the department and to such
93 state institutions of higher learning as request them;

94 (16) To make reasonable rules and regulations govern-
95 ing the public use of its facilities and library;

96 (17) To edit and publish a quarterly historical maga-
97 zine devoted to the history, biography, bibliography, and
98 genealogy of West Virginia.

99 During the continuance of the Blennerhassett historical
100 commission, the department of archives and history and
101 the state historian and archivist shall consult with and
102 keep the said Blennerhassett historical commission fully
103 informed as to any official action to be taken or proposed
104 to be taken pursuant to this act regarding or affecting
105 Blennerhassett island and its prehistoric, historic, arche-
106 ological, architectural, cultural and recreational signif-
107 cance or development or any of the powers and duties
108 of the Blennerhassett historical commission.

§29-1-5. Organization.

1 The department of archives and history shall be com-
2 posed of such administrative divisions as the state his-
3 torian and archivist shall deem necessary and proper for
4 effectuating the purposes of this article.

§29-1-6. Advisory commissions established.

1 In consultation with the state historian and archivist,
2 the governor may establish and appoint such advisory
3 commissions as are necessary and proper for carrying out
4 the purposes of this article. All members of such com-
5 missions shall serve without remuneration, but may be
6 reimbursed for any and all reasonable and necessary ex-
7 pense incurred in the performance of their duties: *Pro-*
8 *vided,* That unless the Blennerhassett historical commis-
9 sion has ceased to exist, no such advisory commission

10 shall be appointed regarding Blennerhassett island with-
11 out the approval of the Blennerhassett historical commis-
12 sion.

**§29-1-7. Delivery to state historian and archivist of official
books, records and documents not in current use;
prima facie evidence.**

1 Any state, county or other official may turn over to the
2 state historian and archivist, with his consent, for perma-
3 nent preservation and record in the state department of
4 archives and history, any official books, records, docu-
5 ments, original papers, or files, not in current use in his
6 office, taking a receipt therefor: *Provided*, That such
7 official shall first make and keep on record in his official
8 files a certified copy of such book, record, document,
9 original paper, or file. Such official may in like manner
10 turn over to the state historian and archivist, with his
11 consent, for the use of the state, any printed books,
12 records, documents or reports not in current use in his
13 office. Nothing herein, however, shall be construed to
14 allow the removal of any books or records affecting the
15 title to any estate within the jurisdiction of the official
16 having custody of such records. The state historian and
17 archivist shall embody in his report to the governor a
18 general list of all such books, records, documents or pa-
19 pers so received; and upon the request of any person
20 entitled thereto shall furnish a certified copy of any such
21 record, document, paper, or extract therefrom, and such
22 certified copy shall be entitled to the same weight as
23 evidence as though certified by the official by whom such
24 record, document, or paper was deposited with the state
25 historian and archivist.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Russell G. Brown

Chairman Senate Committee

Phyllis D. Ruedge

Chairman House Committee

Originated in the Senate.

To take effect from passage.

Howard W. Carson

Clerk of the Senate

C. A. Blankenship

Clerk of the House of Delegates

George Brent

President of the Senate

Levin F. McKeown

Speaker House of Delegates

The within *approved* this the *16th*
March
day of _____, 1972.

Arthur A. Shouse, Jr.

Governor



PRESENTED TO THE
GOVERNOR

Date 3/16/72

Time 2:10 p.m.