

**WEST VIRGINIA LEGISLATURE**

**REGULAR SESSION, 1973**

**ENROLLED**

**SENATE BILL NO. 421**

(By Mr. Cates and Mr. Leonard)

PASSED April 19 1973

In Effect Ninety days from Passage

FILED IN THE OFFICE  
EDGAR F. HEISKELL III  
SECRETARY OF STATE  
THIS DATE 5-1-73

421

**ENROLLED**

**Senate Bill No. 421**

(By Mr. Oates and Mrs. Leonard)

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[Passed April 10, 1973; in effect ninety days from passage.]

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AN ACT to amend chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article twenty-six-a, relating to municipal and county historic landmarks commissions; setting forth certain legislative determinations; authorizing any municipality or county to establish a municipal historic landmarks commission or county historic landmarks commission; relating to the appointment of members thereto; relating to provisions to be included in the ordinance or order establishing any such commission; authorizing the employment of employees, assistants, technical personnel and consultants; authorizing any municipality or county to appropriate funds to any such commission; setting forth the powers and duties of any such commission; relating to agreements and restrictions concerning landmarks; relating to assistance of other agencies; and providing that every such commission shall cooperate and coordinate its activities with the West Virginia department of archives and history and the West Virginia antiquities commission.

*Be it enacted by the Legislature of West Virginia:*

That chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article twenty-six-a, to read as follows:

**ARTICLE 26A. MUNICIPAL AND COUNTY HISTORIC  
LANDMARKS COMMISSIONS.**

**§8-26A-1. Legislative determinations.**

1 It is hereby declared as a matter of legislative determina-  
2 tion:

3 (1) That the state of West Virginia is richly endowed with  
4 numerous historic buildings, structures and sites which have  
5 a close and immediate relationship to the values upon which  
6 this state and the nation were founded;

7 (2) That such historic buildings, structures and sites can  
8 best be identified, studied, preserved and protected for the  
9 benefit of residents of this state and this nation by authorizing  
10 and empowering action for this purpose at the local level;

11 (3) That the preservation and protection of such historic  
12 buildings, structures and sites aid the development of educa-  
13 tion in this state;

14 (4) That there is little hope of preserving and protecting  
15 such historic buildings, structures and sites unless recognition  
16 is provided for the owners thereof in order that the same  
17 should be preserved and protected; and

18 (5) That the Legislature hereby finds that it is in the  
19 best interest of the education and general welfare of the  
20 people of this state and nation to identify, study, preserve and  
21 protect historic buildings, structures and sites in this state  
22 and this article shall be broadly construed in order to accom-  
23 plish the purposes herein set forth.

**§8-26A-2. Municipality or county may establish historic land-  
marks commission; appointments; detailed provisions  
to be provided by ordinance or order; appropriation  
of funds.**

1 Any municipality by ordinance and any county by order  
2 of the county court entered of record may, if it so desires,  
3 establish a municipal historic landmarks commission or county  
4 historic landmarks commission, hereinafter in this article  
5 referred to as the commission, to consist of five members, ap-  
6 pointed by the mayor or county court, as the case may be.

7 In any such ordinance or order, the governing body shall  
8 include provisions specifying (1) the terms of the members  
9 of such commission; (2) a method of filling vacancies; (3)

10 whether the members of the commission are to be reim-  
11 bursed for all reasonable and necessary expenses actually incur-  
12 red in the performance of their duties; (4) the officers of the  
13 commission to be elected from the membership thereof;  
14 (5) requirements as to meetings of the commission; (6) re-  
15 quirements as to a quorum of the commission; (7) require-  
16 ments as to voting by members of the commission; and (8)  
17 such other matters as may be deemed necessary or desirable  
18 for the proper functioning of the commission.

19 Any such commission may also be authorized and em-  
20 powered by any such ordinance or order to employ, within  
21 the limits of funds available therefor, such employees, assis-  
22 tants, technical personnel and consultants as are necessary  
23 to discharge the duties and responsibilities of the com-  
24 mission.

25 Any municipality or county establishing any such com-  
26 mission shall have plenary power and authority to appropriate  
27 funds to such commission for expenditure by the com-  
28 mission for the purposes of this article.

**§8-26A-3. Powers and duties of commission.**

1 Any such commission shall have plenary power and  
2 authority, within the jurisdictional limits of the municipality  
3 or county, as the case may be, and within the limits of  
4 available funds, to:

5 (1) Make a survey of, and designate as historic landmarks,  
6 buildings, structures and sites which constitute the principal  
7 historical and architectural sites which are of local, regional,  
8 statewide or national significance. No building, structure or  
9 site shall be deemed to be an historic one unless it has been  
10 prominently identified with, or best represents, some major  
11 aspect of the cultural, political, economic, military or social  
12 history of the locality, region, state or nation, or has had a  
13 major relationship with the life of an historic personage or  
14 event representing some major aspect of, or ideals related to,  
15 the history of the locality, region, state or nation. In the  
16 case of buildings or structures which are to be so designated,  
17 they shall embody the principal or unique features of an  
18 architectural type or demonstrate the style of a period of our  
19 history or method of construction, or serve as an illustration  
20 of the work of a master builder, designer or architect whose

21 genius influenced the period in which he worked or has  
22 significance in current times;

23 (2) Prepare a register of buildings, structures and sites  
24 which meet the requirements of subdivision (1) of this section,  
25 publish lists of such properties and, with the consent of the  
26 property owners, inspect such properties from time to time  
27 and publish a register thereof from time to time setting forth  
28 appropriate information concerning the registered buildings,  
29 structures and sites;

30 (3) With the consent of the property owners, certify and  
31 mark with appropriately designed markers, buildings, structures  
32 and sites which it has registered;

33 (4) Establish standards for the care and management of  
34 certified landmarks and withdraw such certification for failure  
35 to maintain the standards so prescribed;

36 (5) Acquire by purchase, gift or lease and administer  
37 registered landmarks and easements and interests therein,  
38 both real and personal;

39 (6) Lease or sell property so acquired under terms and  
40 conditions designed to insure the proper preservation of the  
41 landmark in question;

42 (7) Establish historic districts for registered landmarks,  
43 utilizing the same guidelines set forth in subdivision (1)  
44 above, and designate the area thereof by appropriate markers;

45 (8) Identify historical districts for registered landmarks and  
46 aid and encourage the municipality or county in which the  
47 district or landmark is located to adopt rules and regulations  
48 for the preservation of historical or architectural values;

49 (9) Prepare and place historical markers on or along the  
50 highway or street closest to the location which is intended to  
51 be identified by such marker;

52 (10) Seek the advice and assistance of individuals, groups  
53 and departments and agencies of government who or which  
54 are conducting historical preservation programs and coordinate  
55 the same insofar as possible;

56 (11) Seek and accept gifts, bequests, endowments and  
57 funds from any and all sources for the accomplishment of the  
58 functions of the commission;

59 (12) Adopt rules and regulations concerning the operation  
60 of the commission, the functions and responsibilities of its  
61 officers, employees, assistants and other personnel and such

62 other matters as may be necessary to carry out the purposes of  
63 this article; and

64 (13) Adopt such other rules and regulations as may be  
65 deemed necessary to effectuate the purposes of this article,  
66 but no such rules and regulations shall be inconsistent with the  
67 provisions of this article or with any plan of the planning  
68 commission of such municipality or county.

**§8-26A-4. Restrictions on use of property designated an historic landmark.**

1 Whenever any such commission, with the consent of the  
2 property owner, certifies property as being a registered land-  
3 mark, it may seek and obtain from such property owner an  
4 agreement as to such restrictions upon the use of the prop-  
5 erty as the commission finds are reasonable and are calcu-  
6 lated to perpetuate and preserve the features which led it to  
7 designate such property as an historical landmark. All such  
8 agreements between such commission and the property owner  
9 shall be in writing, and when duly signed and acknowledged,  
10 shall be recorded in the office of the clerk of the county court  
11 of the county wherein such landmark is located and when so  
12 recorded shall be notification to the assessor of such county  
13 of the restrictions therein set forth.

**§8-26A-5. Notice to county assessor of designation of historic district.**

1 When any such commission establishes an historic district,  
2 it shall notify the county assessor of the county in which such  
3 district or any part thereof is located of the fact of such es-  
4 tablishment and the boundaries of the district, together with  
5 the restrictions which are applicable to the properties located  
6 in such district which have been mutually agreed upon by such  
7 commission and the owners of property within such district.  
8 The agreement shall be recorded in the same manner as the  
9 recordation of agreements between the commission and owners  
10 of designated landmarks entered into pursuant to the provi-  
11 sions of section four of this article. The county assessor shall  
12 take such factors into consideration in assessing the proper-  
13 ties therein.

**§8-26A-6. Assistance of state agencies; coordination.**

1     Upon the request of any such commission, all agencies of  
2     the state shall assist such commission in the discharge of its  
3     duties and functions.  
4     Every such commission shall cooperate and coordinate its  
5     activities with the West Virginia department of archives and  
6     history, the West Virginia historical society and the West Vir-  
7     ginia antiquities commission, with the view of developing a uni-  
8     fied program for the identification, study, preservation and  
9     protection of all historic buildings, structures and sites in this  
10    state.

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

H. Darrel Darley  
Chairman Senate Committee

Lawrence C. Thurston Jr.  
Chairman House Committee

Originated in the Senate.

Takes effect ninety days from passage.

Howard W. Carson  
Clerk of the Senate

C. A. Blankenship  
Clerk of the House of Delegates

H. B. Brotherton Jr.  
President of the Senate

Lewis H. McManus  
Speaker House of Delegates

The within approved this the 16th  
day of April, 1973.  
Arch A. Moore Jr.  
Governor



PRESENTED TO THE  
GOVERNOR

Date 4/16/73

Time 9:11 a.m.