

COMMONWEALTH of VIRGINIA

Department of Historic Resources (DHR), 2801 Kensington Avenue, Richmond, Virginia 23221

Key Points about the National and State Register Process for Property Owners

- Listing in the national and state registers is honorary. It recognizes a historic property's importance to its community, the State, and/or the Nation as well as encouraging good stewardship of the historic property.
- National and state register listings do not place restrictions on private property owners. Owners have no obligation to open their properties to the public, to restore them, or even to maintain them, if they choose not to do so.
- Under Federal and State laws, private property owners can do anything they wish with their Register-listed property, provided that no Federal or State license, permit, or funding is involved.
- If a listed property is destroyed or its integrity is greatly altered, it is removed from the registers.
- To ensure public participation in the nomination process, property owners and local officials are notified of proposed nominations to the National Register and provided the opportunity to comment. In addition, once a nomination is submitted to the National Park Service another public comment period is published in the *Federal Register*. Further details about the public participation process are available at http://www.dhr.virginia.gov/registers/GuidanceMaterials/LegalNotificationForm_2016.pdf
- Federal agencies whose projects affect a listed property must give DHR (Virginia's State Historic Preservation Office) an opportunity to comment on the project and its effects on the property. Further details are provided below.
- Federal and State Investment Tax Credits for rehabilitation and other provisions are available, should a property owner choose to use them. Further details are provided below.
- Owners may also qualify for Federal grants for historic preservation when funding is available. Refer to the National Park Service web site for Federal grant information. Currently, Virginia has no grants available for privately owned properties.

National Register of Historic Places (NRHP)

Established under the National Historic Preservation Act of 1966 (NHPA), as amended, the national historic preservation program is a partnership between the Federal, State, Tribal, and local governments; private organizations; and the public. The Act and its provisions establish the framework within which citizens plan, identify, evaluate, register, and protect significant historic and archeological properties throughout the country. Central to this framework is the NRHP--the Nation's official list of historic properties worthy of preservation, administered by the National Park Service (NPS), Department of the Interior. Properties listed in the NRHP include districts, sites, buildings, structures, and objects that are significant in American history, architecture, archeology, engineering, and culture.

Historic places are nominated to the NRHP by nominating authorities: the State Historic Preservation Officer (SHPO), appointed by the Governor of the State in which the property is located; the Federal Preservation Officer (FPO) for properties under Federal ownership or control; or by the Tribal Historic Preservation Officer (THPO) if the property is on tribal lands. Anyone can prepare a nomination to the NRHP, at which time the SHPO, FPO or THPO reviews the proposed nomination, and notifies property owners and local officials of the intent to nominate. Nominations submitted through the State must first be approved by a State Review Board (SRB) before being reviewed by the NPS. The members of the SRB, who are appointed by the SHPO, use the same criteria as the National Register to evaluate properties and then recommend them to the NPS for listing in the NRHP.

The NRHP continues to reflect the desire of Americans, as expressed in the NHPA, that "the historical and cultural foundation of the nation should be preserved as a living part of our community life and development in order to give a sense of orientation to the American people."

Virginia Landmarks Register (VLR)

In 1966, the Virginia General Assembly established the Virginia Historic Landmarks Commission, now the Department of Historic Resources (DHR). DHR is the State Historic Preservation Office responsible for managing

the VLR, the state's official list of properties important to Virginia's history. The Historic Resources Board (HRB), appointed by the Governor of Virginia, is responsible for listing properties to the VLR. Just as the same evaluation criteria are used for the National and State registers, the same register form is also used for both the VLR and the NRHP. Nearly 2300 historic properties are listed in the VLR. This number does not include the tens of thousands of properties within each listed historic district.

Federal and State Tax Provisions

The Tax Reform Act of 1986 revises the historic preservation tax incentives authorized by Congress in the Tax Reform Act of 1976, the Revenue Act of 1978, the Tax Treatment Extension Act of 1980, the Economic Recovery Tax Act of 1981, and the Tax Reform Act of 1984, and, as of January 1, 1987, provides for a 20% Investment Tax Credit (ITC) with a full adjustment to basis for rehabilitating historic commercial, industrial and rental residential buildings. The former 15% and 20% ITCs for rehabilitations of older commercial buildings are combined into a single 10% ITC for commercial or industrial buildings built before 1936. The Tax Treatment Extension Act of 1980 provides Federal tax deductions for charitable contributions for conservation purposes of partial interests in historically important land areas or structures. Whether these provisions are advantageous to a property owner is dependent upon the particular circumstances of the property and the owner.

Owners of properties listed in the VLR may be eligible for a 25% ITC for the certified rehabilitation of income-producing and non-income producing certified historic structures such as commercial, industrial, or rental or non-rental residential buildings. Owners who rehabilitate an income-producing building listed in both the National and State registers may use both Federal and State ITCs. Tax Credits are only available if a property owner chooses to use them and individuals should consult the appropriate local IRS office for assistance in determining the tax consequences of the above provisions. Refer also to 36 CFR 67 at the Heritage Preservation Services web site or to the Tax Credit Program on the DHR web site.

Results of Federal and State Listing

Property owners, historic district sponsoring organizations, and/or local governments may purchase an attractive official plaque noting designation for properties in historic districts and individually listed properties. Owners of recognized historic properties are also eligible for the Virginia Preservation Easement Program, as well as technical assistance from the staff of DHR. Professional architects, architectural historians, and archaeologists are available to provide technical guidance in the care and maintenance of buildings and sites.

Planning for Federal, federally licensed, and federally assisted projects includes consideration of historic properties. Section 106 of the NHPA requires that Federal agencies allow the SHPO an opportunity to comment on all projects affecting historic properties either listed in or determined eligible for listing in the NRHP. The Advisory Council on Historic Preservation (www.achp.gov) oversees and ensures the consideration of historic properties in the Federal planning process. Buildings listed in the VLR may also be considered as part of a state-funded project, such as highway planning. Register listing also requires consideration in issuing a surface coal mining permit. In accordance with the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201-1328; 91 Stat. 445), there must be consideration of historic values in the decision to issue a surface coal mining permit where coal is located. Staff at DHR are available to provide more information about these requirements.

Local governments may have laws to encourage the preservation of their historic places. Such programs are established at the local level and therefore are entirely separate from the Register process managed by DHR. Some local governments have enacted their own identification procedures; some use listing in the National and State registers as an indicator of historic significance. Local historic preservation programs can provide some protection against the possible harmful effects of State-funded, -licensed, or -assisted projects. Some provide limited financial assistance to owners in the form of grants, loans, or tax benefits. They may establish other protections or reviews for preservation purposes. Your local government's planning department can provide more information.

Websites with Additional Information

www.nps.gov/history - National Park Service's main website for Historic Preservation and History programs

www.nps.gov/nr/ - National Register of Historic Places main website

www.cr.nps.gov/local-law/nhpa1966.htm - Provides the full text of the National Historic Preservation Act of 1966

www.dhr.virginia.gov - Department of Historic Resources (DHR) main website

www.dhr.virginia.gov/register/register.htm - Registers Homepage of DHR's website

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Rights of Private Property Owners to Comment and/or Object to a Nomination for Listing in the Virginia Landmarks Register and/or the National Register of Historic Places

The Department of Historic Resources (DHR) is Virginia's State Historic Preservation Office (SHPO). DHR administers the Virginia Landmarks Register on behalf of the Commonwealth of Virginia and, as the SHPO, administers Virginia's participation in the National Register of Historic Places, which is managed by the National Park Service. DHR is your primary point of contact for all matters related to the Virginia Landmarks Register (VLR) and the National Register of Historic Places (NRHP).

Supporting and/or Commenting on a Nomination

A private property owner who supports a nomination for listing in either or both the VLR and the NRHP is invited to send a letter of support but is not required to do so in order for the nomination to proceed. Private property owners also are welcome to comment on a nomination even if they do not seek to go on record with either a vote of support for or an objection to a nomination. Copies of letters of support and/or comment are provided to the State Review Board (SRB) and the Board of Historic Resources (BHR) for review, along with the nomination to which they refer, and are included with the nomination if the SRB has recommended it to proceed to the NRHP.

Objecting to a Nomination

A private property owner has the right to object to listing in either the VLR or the NRHP, or object to listing in both registers. For a private property that is being individually nominated, each owner or partial owner of the private property may object to listing regardless of the portion of the property that party owns. For a historic district that is being nominated, each owner of private property in the proposed historic district is counted as one individual regardless of how many properties that party owns, and regardless of whether the properties contribute to the significance of the district.

The private property owner's objection to listing must be provided to DHR in writing. Any owner or partial owner of private property who chooses to object to listing shall submit to DHR a written statement of objection that has been attested and notarized by a notary public and that references the subject property by address and/or parcel number and certifying that the party is the sole or partial owner of the private property, as appropriate. Only upon such submission shall such objecting owner be counted by DHR in determining whether a majority of private property owners has objected to a nomination. An objection to both the VLR and NRHP designations can be submitted in the same letter. However, in order for an objection to listing in the VLR to be counted, it must be submitted to DHR a minimum of 7 business days prior to the scheduled Board meeting listed in the notification letter. An objection to NRHP listing will stand even if the letter arrives too late for consideration of the VLR listing.

For an individually nominated private property, if **a majority** of the private property's owners object according to the process described herein, the nomination will not proceed. For a historic district nomination, if **a majority** of the private property owners within the historic district boundary object according to the process described herein, the nomination will not proceed. In both types of cases, as the SHPO, DHR shall submit the nomination to the National Park Service's Keeper for a determination of eligibility of the property for listing in the NRHP. If the property is then determined eligible for listing, although not formally listed, Federal agencies will be required to allow for the Advisory Council on Historic Preservation to have an opportunity to comment before the agency may fund, license, or assist a project which will affect the property.

Letters of objection must be addressed to the State Historic Preservation Officer at the Department of Historic Resources, 2801 Kensington Avenue, Richmond, Virginia 23221.

Letters of objection received a minimum of 7 business days prior to the Board meeting will be copied to the members of the SRB and BHR for review, along with the nomination to which they refer. If, at the Board meeting, the nomination is approved to proceed to the NRHP, all letters of objection will be forwarded to the National Park Service to consider with their review of the nomination, along with any letters of support or comment that DHR has received. Letters of objection to listing in the National Register of Historic Places may be submitted to DHR even after the Board meeting at which the nomination is approved. DHR will forward any letters of objection to the National Park Service. The National Park Service continues to accept letters of objection up to the date of listing in the NRHP. The National Park Service typically concludes review and approval of a nomination within approximately 55 days of receipt of the nomination from DHR.