

Protection of County Courthouses in Texas

Courthouses and their accompanying public squares have always served both as the social center of the community and as the principal symbol of prosperity, civility, and democracy. Unfortunately, many of the state's most historically and architecturally important courthouses have been sold, destroyed, irretrievably altered, or obscured by unsympathetic additions and modifications. The very real threats faced by these landmarks led to the inclusion of **Chapter 442** in the **Texas Government Code**:

Sec. 442.008 HISTORIC COURTHOUSES. (a) A county may not demolish, sell, lease, or damage the historical or architectural integrity of any building that serves or has served as a county courthouse without notifying the commission of the intended action at least six months before the date on which it acts.

(b) If the commission determines that a courthouse has historical significance worthy of preservation, the commission shall notify the commissioner's court of the county of that fact not later than the 30th day after the date on which the commission received notice from the county. A county may not demolish, sell, lease, or damage the historical or architectural integrity of a courthouse before the 180th day after the date on which it received notice from the commission. The commission shall cooperate with any interested person during the 180-day period to preserve the historical integrity of the courthouse.

(c) A county may carry out ordinary maintenance of and repairs to a courthouse without notifying the commission.

As noted in paragraph (b) above, the success of this law depends on the concerned efforts and involvement of local citizens. It is therefore important that local citizens are aware of this important legislation and bring it to the attention of their county officials whenever changes to the county courthouse are anticipated.

We strongly urge that county officials and their representatives contact the Texas Historical Commission very early in the planning stages in order to allow ample time for the resolution of any potential problems.

Please note that this legislation also provides a penalty of not less than \$50 or more than \$1000 for each day of violation of this act.

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§ 442.0081 HISTORIC COURTHOUSE PRESERVATION AND MAINTENANCE PROGRAMS; GRANTS AND LOANS

- (a) The commission shall administer a historic courthouse preservation program.
- (b) A county that owns a historic courthouse may apply to the commission for a grant or loan for a historic courthouse project. The application must:
- (1) state the location of the courthouse;
 - (2) state whether the courthouse is or is likely to become a historic structure;
 - (3) state the amount of money or in-kind contributions that the county promises to contribute to the project;
 - (4) state whether the courthouse is currently functioning as a courthouse;
 - (5) include any plans, including a master preservation plan, that the county may have for the project; and
 - (6) include any other information that the commission by rule may require.
- (c) The commission may grant or loan money to a county that owns a historic courthouse, for the purpose of preserving or restoring the courthouse, if the county's application meets the standards of the historic courthouse preservation program. In considering whether to grant an application, the commission shall consider the preferences and factors listed in this section as well as any other factors that it may provide by rule.
- (d) In considering whether to grant an application, the commission shall give preference to:
- (1) a proposed project to preserve or restore a courthouse:
 - (A) that is or is likely to become a historic structure; and
 - (B) that:
 - (i) is still functioning as a courthouse;
 - (ii) was built before 1875; or
 - (iii) is subject to a conservation easement held by the commission; and
 - (2) a county that will provide or has provided at least 15 percent of the project's costs, including:
 - (A) in-kind contributions; and
 - (B) previous expenditures for master planning and renovations on the courthouse that are the subject of the application.
- (e) In considering whether to grant an application, the commission shall also consider the following factors:
- (1) the amount of money available for a grant or loan and the percentage of the costs that the county will contribute;
 - (2) whether the county will contribute any in-kind contribution such as labor or materials;
 - (3) the cost to preserve or restore the courthouse;
 - (4) the architectural style of the courthouse;
 - (5) the historic significance of the courthouse;
 - (6) the county's master preservation plan; and
 - (7) any other factors that the commission by rule may provide.
- (f) The commission shall adopt rules regarding the way in which it will consider the following factors in analyzing a county's contribution to project costs under Subsection (d) (2)
- (1) the period during which past expenditures can be considered;
 - (2) the amount of past expenditures that can be considered; and
 - (3) the amount and type of in-kind contributions that can be considered.

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- (g) The commission shall appoint a Texas Courthouse Preservation Program Advisory Committee. The committee shall assist the commission on matters relating to the historic courthouse preservation program. The commission may reimburse a committee member's travel expenses and provide a per diem for other expenses from funds appropriated to the commission, but not from funds in the historic courthouse preservation fund account created by this chapter. Chapter 2110 applies to the committee, but the committee must include:
- (1) members from the different geographical areas of the state;
 - (2) an equal number of members from counties with a population of:
 - (A) 24,999 or less;
 - (B) 25, 000 to 75, 000; and
 - (C) 75,001 or more; and
 - (3) at least the following members:
 - (A) one or more elected county officials;
 - (B) one or more members of historical organizations or persons with knowledge of and experience in preservation who are not elected county officials; and
 - (C) one or more members of the general public who do not meet the requirements of Paragraph (A) or (B).
- (g-1) To help protect courthouses that have benefited from the historic courthouse preservation program, the commission shall develop and implement a maintenance program to assist counties receiving money under the preservation program in continuing to maintain, repair, and preserve the courthouses. The maintenance program may include offering to periodically inspect the courthouses and offering counties technical assistance and information on best practices in maintaining the courthouses.
- (h) The commission shall adopt rules necessary to implement the historic courthouse preservation and maintenance programs.

Added by Acts 1999, 76th Leg., ch. 403, § 2, eff. Sept. 1, 1999.
Amended by Acts 2005, 79th Leg., ch. 646, § 1, 2, eff. Sept. 1, 2005.

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§ 442.0082 **HISTORIC COURTHOUSE PROJECT; REQUIREMENTS**

- (a) Before incurring any expenses payable from funds received from the commission under the historic courthouse preservation program, a county must have a master preservation plan for its historic courthouse project. The commission by rule shall prescribe the minimum standards for a master preservation plan.
- (b) A county that receives money under the historic courthouse preservation program must use recognized preservation standards for work on a historic courthouse project. The commission by rule shall establish standards regarding the quality of the work performed on a historic courthouse project.
- (c) A county that receives money under the historic courthouse preservation program for a historic courthouse project may use the money only for eligible preservation and restoration expenses that the commission by rule shall prescribe. Eligible expenses may include costs for:
 - (1) structural, mechanical, electrical, and plumbing systems and weather protection and emergency public safety issues not covered by insurance;
 - (2) code and environmental compliance, including complying with the federal Americans with Disabilities Act of 1990 and its subsequent amendments, Article 9102, Revised Statutes, and other state laws relating to accessibility standards, hazardous materials mitigation rules, and other similar concerns;
 - (3) replication of a missing architectural feature;
 - (4) removal of an inappropriate addition or modification; and
 - (5) restoration of a courtroom or other significant public space in a functional and historically appropriate manner.
- (d) A county's expenditure of money received under this chapter for a historic courthouse project is subject to audit by the state auditor in accordance with Chapter 321.
- (e) The commission by rule shall provide for oversight procedures on a project. These rules shall provide for reasonable inspections by the commission as well as periodic reports by a county on a project's progress.

Added by Acts 1999, 76th Leg., ch. 403, § 2, eff. Sept. 1, 1999.

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§ 442.0083 **FUNDING FOR HISTORIC COURTHOUSE PRESERVATION PROGRAM; HISTORIC COURTHOUSE PRESERVATION FUND ACCOUNT**

- (a) The historic courthouse preservation fund account is a separate account in the general revenue fund. The account consists of transfers made to the account, payments on loans made under the historic courthouse preservation program, grants and donations made for the purposes of the historic courthouse preservation program, and income earned on investments of money in the account. Appropriations to the commission for the historic courthouse preservation program shall be deposited to the credit of the account. Notwithstanding Section 404.071, income earned on money in" the account shall be deposited to the credit of the account.
- (b) Except as otherwise provided by Subsection (c), the commission may use money in the historic courthouse preservation fund account to provide a grant or loan to a county that owns a historic courthouse for a historic courthouse project. The grant or loan may be in the amount and according to the terms that the commission by rule shall determine.
- (c) The commission may use money in the historic courthouse preservation fund account to provide a loan under the historic courthouse preservation program only to the extent that the legislature provides in the General Appropriations Act that money appropriated to the commission for the program may be used to make loans.
- (d) As a condition for providing the money under this section, the commission may require creation of a conservation easement in the property, as provided by Chapter 183, Natural Resources Code, in favor of the state and may require creation of other appropriate covenants in favor of the state. The commission may take any necessary action to enforce repayment of a loan or any other agreements made under this section and Sections 442.0081 and
- (e) A grant for a historic courthouse project may not exceed the greater of \$6 million or two percent of the amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.
- (f) Biennial appropriations to the commission for administering the historic courthouse preservation and maintenance programs during a state fiscal biennium, including providing oversight for historic courthouse projects, may not exceed 2-1/2 percent of the amount appropriated for implementing the historic courthouse preservation and maintenance programs during the state fiscal biennium.
- (g) The commission by rule may set a limit on the loan amount for a historic courthouse project. This amount may be expressed as a dollar amount or as a percentage of the total amount appropriated for implementing the historic courthouse preservation program during the state fiscal biennium.
- (h) The commission may accept a gift, grant, or other donation for the historic courthouse preservation program or a specific historic courthouse project.

Added by Acts 1999, 76th Leg., ch. 403, § 2, eff. Sept. 1, 1999.

Amended by Acts 2005, 79th Leg., ch. 646, § 3, eff. Sept. 1, 2005.