

ENROLLED ACT NO. 96, HOUSE OF REPRESENTATIVES

FIFTY-EIGHTH LEGISLATURE OF THE STATE OF WYOMING  
2005 GENERAL SESSION

AN ACT relating to rights in real property; establishing historic preservation rights as specified; defining terms; providing for conveyance and requiring acceptance by grantee; specifying effect; restricting the transfer or assignment of rights; providing for enforcement; and providing for an effective date.

*Be It Enacted by the Legislature of the State of Wyoming:*

**Section 1.** W.S. 34-1-201 through 34-1-204 are created to read:

ARTICLE 2  
HISTORIC PRESERVATION RIGHTS

**34-1-201. Definitions.**

(a) As used in this article:

(i) "Historic preservation right" means a nonpossessory property right stated in the form of a restriction, easement, covenant or condition or, with or without limitation, in any other form in any deed, will, plat or in any other instrument executed by or on behalf of the owner, or in any condemnation order of taking, appropriate to preserving the significant physical character and visual characteristics of structures having architectural, historical or cultural significance, together with any associated real property, whether or not improved, as determined eligible to the national register of historic places by the Wyoming state historic preservation office;

(ii) "Owner" means any person possessing a fee simple title to real property and any person possessing any

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other interest in the property including a contract purchaser, a lessee and a tenant.

**34-1-202. Conveyance; acceptance by grantee.**

(a) An owner may convey a historic preservation right in real property to the state, any city, town, county, joint powers board or other political subdivision of the state or to a nonprofit corporation or trust whose primary purpose includes the preservation of buildings, structures or sites of historical, architectural or cultural significance.

(b) The conveyance of a historic preservation right pursuant to this section shall not take effect until the conveyance is accepted by the grantee. Acceptance of the right may be conditioned upon any requirements imposed by the grantee including compensation by the grantor for the management of the right.

(c) Any conveyance of a historic preservation right shall bind only the interest of the grantor. Any conveyance of a historic preservation right by a person with limited interest in the property shall only be valid to the extent it does not violate the provisions of the instrument under which such grantor holds his limited interest.

**34-1-203. Historic preservation rights specified; release, transfer or assignment restricted.**

(a) An instrument conveying or reserving a historic preservation right may require, prohibit, condition, limit or control any of the following with respect to the grantor or grantee:

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- (i) Access or public visitation;
- (ii) Affirmative acts of alteration, restoration, rehabilitation, repair, maintenance, investigation, documentation, payment of taxes or compliance with law or local ordinance or resolution;
- (iii) Conditions of operation or use;
- (iv) Acts detrimental to preservation;
- (v) Any other acts or uses relating to the preservation of structures or improvements or appurtenances.

(b) A historic preservation right:

(i) Includes any preservation restriction imposed by agency rule or regulation or by local ordinance or resolution and is not unenforceable because of lack of privity of estate or contract, lack of benefit to specific property or because of the benefit assigned;

(ii) Shall be enforced in accordance with its terms and transferred, recorded and indexed in the same manner as fee simple interests in real property subject only to limitations provided in this article;

(iii) May be transferred or assigned only to the state, any city, town, county, joint powers board or other political subdivision of the state or to a nonprofit corporation or trust;

(iv) Shall not affect a restriction, easement, covenant, third party right of enforcement or condition otherwise valid under law nor diminish the acquisition of

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real property and the historic preservation right by purchase, gift, grant, eminent domain or otherwise in accordance with law or the lawful use of the property for public purposes.

**34-1-204. Enforcement by civil action.**

The state, any city, town, county, joint powers board or other political subdivision of the state or any nonprofit corporation or trust holding a historic preservation right may enforce the right by initiating a civil action seeking injunctive relief, specific performance or damages.

**Section 2.** This act is effective July 1, 2005.

(END)

\_\_\_\_\_  
Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Governor

TIME APPROVED: \_\_\_\_\_

DATE APPROVED: \_\_\_\_\_

I hereby certify that this act originated in the House.

\_\_\_\_\_  
Chief Clerk