

HOUSE BILL NO. HB0300

Rights for historic preservation.

Sponsored by: Representative(s) Iekel, Berger and Hammons
and Senator(s) Massie and Mockler

A BILL

for

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

7

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

9

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

12

ARTICLE 2

13

HISTORIC PRESERVATION RIGHTS

14

15 **34-1-201. Definitions.**

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1 (a) As used in this article:

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3 (i) "Historic preservation right" means a
4 nonpossessory property right stated in the form of a
5 restriction, easement, covenant or condition or, with or
6 without limitation, in any other form in any deed, will,
7 plat or without limitation, in any other instrument
8 executed by or on behalf of the owner, or in any
9 condemnation order of taking, appropriate to preserving the
10 significant physical character and visual characteristics
11 of structures having architectural, historical or cultural
12 significance, together with any associated real property,
13 whether or not improved;

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15 (ii) "Owner" means any person possessing a fee
16 simple title to real property and any person possessing any
17 other interest in the property including a contract
18 purchaser, a lessee and a tenant.

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20 **34-1-202. Conveyance; acceptance by grantee.**

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22 (a) An owner may convey a historic preservation right
23 in real property to the state, any city, town, county,
24 joint powers board or other political subdivision of the

1 state or to a nonprofit corporation or trust whose primary
2 purpose includes the preservation of buildings, structures
3 or sites of historical, architectural or cultural
4 significance.

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

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

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21 **34-1-203. Historic preservation rights specified;**
22 **release, transfer or assignment restricted.**

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

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6 (i) Access or public visitation;

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8 (ii) Affirmative acts of alteration,
9 restoration, rehabilitation, repair, maintenance,
10 investigation, documentation, payment of taxes or
11 compliance with law or local ordinance or resolution;

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13 (iii) Conditions of operation, use, restoration,
14 alteration, repair or maintenance;

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16 (iv) Acts detrimental to preservation;

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18 (v) Construction, placement, maintenance,
19 alteration or removal of roads, utilities or other
20 structures on or above ground;

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22 (vi) Any other acts or uses relating to the
23 preservation of structures or improvements or
24 appurtenances.

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2 (b) A historic preservation right:

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

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

14

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

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20 (iv) Shall not affect a restriction, easement,
21 covenant, third party right of enforcement or condition
22 otherwise valid under law nor diminish the acquisition of
23 real property by purchase, gift, grant, eminent domain or

1 otherwise in accordance with law or the lawful use of the
2 property for public purposes.

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4 **34-1-204. Enforcement by civil action.**

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

11

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

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(END)