

## CHAPTER 29

## PRESERVATION INTEREST

**§1551. Definitions**

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings. [PL 1979, c. 389 (NEW).]

**1. Historic property.** "Historic property" shall mean a structure, a plot of land which was the setting of an event or any combination of land and buildings, including the surrounding air space, which has a special historical, architectural or archaeological interest or value, and which is predominantly in its original, historical or natural conditions.

[PL 1979, c. 389 (NEW).]

**1-A. Owner.** "Owner" means any person, corporation, partnership, organization or other legal entity, including a municipality, county or other political subdivision of the State, an agency of the Federal Government and any quasi-governmental entity, which owns or controls historic property.

[PL 1989, c. 171, §3 (NEW).]

**2. Preservation agreement.** "Preservation agreement" shall mean any deed, will or other instrument executed by or on behalf of the owner of historic property, or an order of taking, which includes within it the terms of a preservation interest.

[PL 1979, c. 389 (NEW).]

**3. Preservation interest.** "Preservation interest" shall mean a right created by a preservation agreement which may be in the form of a restriction, easement, covenant or condition which is held by a qualified holder and which pertains to preserving or restoring historic property.

[PL 1979, c. 389 (NEW).]

**4. Qualified holder.** "Qualified holder" shall mean a nonprofit preservation or historical organization whose purposes include preservation of historic property or a governmental body. The holder shall have the power to acquire interests in property.

[PL 1979, c. 389 (NEW).]

## SECTION HISTORY

PL 1979, c. 389 (NEW). PL 1989, c. 171, §3 (AMD).

**§1552. Preservation interests authorized; enforcement; release**

A preservation interest is the right of a qualified holder to control the treatment of historic property so that its historical integrity is preserved. The preservation interest entitles representatives of a qualified holder to enter the property in a reasonable manner and at reasonable times to assure compliance. [PL 1979, c. 389 (NEW).]

The preservation interest may be enforced by injunction or other proceeding at law or in equity. No preservation interest may be unenforceable on account of lack of privity of estate or contract or lack of benefit to particular land or on account of being assignable or being assigned to any other qualified holder. [PL 1979, c. 389 (NEW).]

A preservation interest may be released in whole or in part by the qualified holder for such consideration, if any, as the holder may determine, in the same manner as the holder may dispose of any interests in property, subject to the conditions of the preservation agreement. [PL 1979, c. 389 (NEW).]

## SECTION HISTORY

PL 1979, c. 389 (NEW).

### §1553. Scope of preservation interest

A preservation interest may forbid, limit or require any or all of the following acts which affect the historic property's special character or special historical, architectural or archaeological value: [PL 1979, c. 389 (NEW).]

**1. Exterior alterations.** Exterior alterations of an historic property, including, but not limited to, maintenance, placement, removal or decoration; [PL 1979, c. 389 (NEW).]

**2. Interior alterations.** Interior alterations of an historic property, including, but not limited to, maintenance, renovation, construction or decoration; [PL 1979, c. 389 (NEW).]

**3. Demolition and additions.** Demolition of historic property, construction or placing of new buildings, additions, roads, signs, billboards or other advertising, utility poles or other structures, under, on or above the ground; [PL 1979, c. 389 (NEW).]

**4. Landscaping.** Alteration, removal or destruction of trees, shrubs or other vegetation; or fixtures, including, but not limited to, ornamental ironwork, walls, walks, hitching posts and fences; or artifacts, including, but not limited to, historic or prehistoric relics, pottery or shards of pottery, tools, bottles or evidence of structural foundations; [PL 1979, c. 389 (NEW).]

**5. Landfill.** Dumping or placing of soil or other substance or material as landfill, or dumping or placing of trash, waste or unsightly or offensive materials; and [PL 1979, c. 389 (NEW).]

**6. Other acts.** Any other acts detrimental to the preservation of historic property. [PL 1979, c. 389 (NEW).]

#### SECTION HISTORY

PL 1979, c. 389 (NEW).

### §1554. Recordation

So that the title to the historic property affected reflects any preservation interest, all preservation agreements shall be recorded and indexed in the registry of deeds for the county where the property is located in the manner of conveyances of interests in property. The preservation agreement shall describe the property subject to the preservation interest by adequate legal description or by reference to a recorded plan showing the subject property's boundaries. [PL 1979, c. 389 (NEW).]

#### SECTION HISTORY

PL 1979, c. 389 (NEW).

### §1555. Limitation

This chapter shall not be construed to imply that any restriction, easement, covenant or condition which does not have the benefit of this chapter shall be unenforceable. Nothing in this chapter shall diminish the powers granted by any general or special law to any governmental body to acquire by purchase, gift or eminent domain or otherwise property for public purposes. [PL 1979, c. 389 (NEW).]

#### SECTION HISTORY

PL 1979, c. 389 (NEW).

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