



Department of Archives and History

House Legislative Oversight Committee

April 25, 2017

Laws and Recommendations for Changes



- **Laws-Administration, Archives and Records Management, Historical Services (SHPO)**
 - SC Code of Laws, Title 60, Chapter 11 (Archives Act and Civil War Sesquicentennial Advisory Board)
 - **Article 1-Archives Act**
 - 60-11-30: Statutorily required to preserve and administer public records in other states or counties dealing with South Carolina history; edit and publish documents relating to the history of South Carolina; stimulate the research and study of South Carolina history; approve inscriptions for historical markers; and improve the standards for the making, care, and administration of public records.
 - 60-11-40 to 60-11-60: Establish Archives and History Commission and guidelines for administration of the department
 - 60-11-70: Establishes Authority to Accept Private Records
 - 60-11-80: Establishes SCDAH's authority to publish information regarding public records
 - 60-11-100: Establishes authority of SCDAH to accept county and municipal funds to microfilm public records
 - 60-11-120: Establishes authority of SCDAH to dispose of duplicative archival materials

- **Laws-Archives and Records Management**

- **SC Code of Laws, Title 30, Public Records, Chapter 1-Public Records, Reports, and Official Documents**

- 30-1-40 Establishes a process whereby agencies convey public records to SCDAH
 - 30-1-50 Establishes penalties for agencies refusing to convey records to SCDAH
 - 30-1-70 Grants SCDAH agency director to secure endangered records for microfilming
 - 30-1-80 Requires SCDAH to establish and administer a public records program
 - 30-1-90 Requires SCDAH to assist in the creation, filing, and preserving of records, inventories, and schedules
 - 30-1-100 Outlines additional powers and duties of SCDAH relating to the public records of South Carolina, including the creation of preservation duplicates
 - 30-1-110 Gives SCDAH director authority to approve the destruction or disposition of the accessioned records of any agency that are determined to not be of archival value
 - 30-1-120 Establishes the authority for SCDAH to inventory, repair, or microfilm records

- **Title 30, Public Records, Chapter 4-Freedom of Information Act**

- 30-4-20 (c) Defines Public Records

- **Laws-Historical Services (State Historic Preservation Office)**
 - **United States Code of Laws, National Historic Preservation Act (1966)**
 - 54 U.S.C. § 302301: Establishes the State Historic Preservation Office and defines its authority
 - 54 U.S.C. § 302501: Establishes the Certified Local Government program to be administered by the State Historic Preservation Office
 - 54 U.S.C. § 302901 and 303101: Establishes guidelines for the Historic Preservation Fund and grant program



DuPre Building, West Gervais Street Historic District



23 Pinckney Street, Greenville

- Recommendations for Change-
 - 1) Amend SC Code Section 60-11-90. State Archives Building.

The name of the State Archives Building shall be "The South Carolina Archives." It shall be occupied by the Commission of Archives and History and shall be operated by them in fulfilling the duties now assigned, or which may in the future be assigned, by the General Assembly. ~~The Archives Building shall also provide space for the Confederate relics of the State.~~

ARCHIVES
• HISTORY

- Recommendations for Change-Addition, Historic Preservation Grant Fund Language

2) Amend SC Code Section 12-6-3535. Income tax credit for making qualified rehabilitation expenditures for a certified historic structure.

(E) The South Carolina Department of Archives and History shall develop an application and may promulgate regulations, ~~including the establishment of fees,~~ needed to administer the certification process. The Department of Revenue may promulgate regulations, including the establishment of fees, to administer the tax credit.

(G) A taxpayer claiming a credit pursuant to this Section must pay a fee to the Department of Archives and History for the State Historic Preservation Grant Fund. The preliminary fee is 0.5% (.005) of the estimated "qualified rehabilitation expenses" and/or the "rehabilitation expenses", to be paid prior to review of a Historic Preservation Certification Application, Part 2 and/or a Certified Rehabilitation Application, S2. The final fee is 1% (.01) of the actual "qualified rehabilitation expenses" and/or the "rehabilitation expenses", to be paid prior to review of a Historic Preservation Certification Application, Part 3 and/or a Certified Rehabilitation Application, S3, less any amount paid as a preliminary fee.

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- Recommendations for Change-Codify Proviso 26.1

3) Amend SC Code Section 60-11-120. Disposition of certain duplicative archival material; use of funds realized; annual report.

Upon approval by the commission, the agency may remove certain record and nonrecord materials from its collections by gift to another public or nonprofit institution or by sale ~~at public auction~~. This is a supplemental form of disposition beyond that recognized in the Public Records Act for the retention, copying, and destruction of public records, and it pertains only to those accessioned archive materials having a market value and which duplicate existing archival material, fall outside the scope of the archives collection policy, or have no further possible research value. All funds realized through sale ~~by public auction~~ must be placed in a special account to be used for improved access to and preservation of the state archives collections. The commission shall annually report to the State Department of Administration regarding these dispositions.

- Recommendations for Change-Codify Proviso 26.2-Use of Proceeds

4) Amend SC Code Section 60-11-100.

(2)“The proceeds of facilities rentals, gift shop operations, training sessions, sales of publications, reproductions of documents, repair of documents, research fees, handling charges, and the proceeds of sales of National Register of Historic Places certificates and plaques by the Archives Department shall be deposited in a special account in the State Treasury, and may be used by this department to cover the cost of facility operations and maintenance, gift shop inventory, additional training sessions, publication, reproduction expenses, repair expenses, and National Register of Historic Places certificates and plaques, and selected Historic Preservation Grants.”

- Recommendations for Change

- 5) In lieu of changing 30-1 (Public Records Act) to strengthen language regarding the transferal of digital records, use the following:

- 1) Continue to consult with agencies regarding following transferal schedules of digital records;

- 2) Use 30-1-100, "Within the limits of available funds, the Archives shall require preservation duplicates to be made of essential or historical records including those retained on electronic or optical disc systems....

- 3) Use 30-1-70, "If public records of long term or archival value are in danger of loss due to negligence, deterioration, theft, or unauthorized disposal or destruction, the director may order that the records be transferred to suitable storage for the purpose of security microfilming or other necessary preservation measures."

- 4) 30-1-50, sets criminal penalties for not delivering the record, and "In addition, the legal custodian of the public records or the Director of the Archives may apply by verified petition to the court of common pleas in the county of residence of the person withholding the records and the court shall upon proper showing issue orders for the return of the records to the lawful custodian or the Director of the Archives."