Fifty Years of Heritage
So Rich: The National Historic Preservation Act
“Now that the Slums Are Fashionable”: Origins of Section 104 of the National Historic Preservation Act

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The development of the American historic preservation movement over the last two generations can be measured not only by its success stories but also by its lost opportunities. Added to the National Historic Preservation Act (NHPA) with the 1980 amendments, Section 104 directs the Secretary of the Interior to establish a loan guarantee program for historic properties.¹ The origins of this nearly forgotten and never implemented legislative directive reveal a constellation of factors that were part of the national debate over gentrification, known at the time as “displacement,” and the application of the National Register of Historic Places criteria within the context of urban renewal programs during the 1970s.

AN ADEQUATE LOAN PROGRAM FOR HISTORIC RESOURCES: PREDECESSOR TO SECTION 104

In his 1971 environmental message to Congress, President Richard Nixon proposed “new legislation to permit Federal insurance of home improvement loans for historic residential properties to a maximum of $15,000 per dwelling unit.”² This proposal was included as part of the Emergency Home Purchase Assistance Act, a bill signed by President Gerald Ford in 1974 that was designed to address a substantial decline of housing starts and increased unemployment in the construction industry.³ Over the next several years, the Department of Housing and Urban Development (HUD) did not issue regulations to initiate the program. This failure took center stage during a series of congressional oversight hearings and studies sponsored by District of Columbia Delegate Walter Fauntroy on HUD’s role within historic preservation.⁴

Historic preservation advocates saw significant value in the creation of a loan program targeted at the rehabilitation of historic...
properties. By the late 1970s, Ernest Connally, the head of the National Park Service’s (NPS) Office of Archaeology and Historic Preservation (OAHP), and other representatives from the federal-state partnership had concluded that, especially within historic districts, loan programs were more economically effective, administratively efficient, and locally desirable for “brick and mortar” projects than direct federal grants to state historic preservation offices (SHPOs). The $35 million appropriated in 1977 through the newly established Historic Preservation Fund (HPF) was, in fact, equal to less than 10 percent of the $400 million that the OAHP had estimated as the actual need of the various state programs. The president of Preservation Action, Nellie Longsworth, augmented that estimate, forecasting $53 billion in commercial and residential rehabilitation work (with $45 billion spent on 1.5 million homes) over the next two decades. Connally noted that in 1977 there were some 13,000 listings on the National Register, of which perhaps 10 percent were historic districts containing about 450,000 individual buildings. Even if it were to be fully funded, the HPF grants-in-aid program could never reach the majority of properties listed on the National Register. It was clear that, despite its bureaucratic reluctance to support many historic preservation activities, HUD, with its much greater appropriations, had the potential to affect many more historic neighborhoods than the Department of the Interior.

Over the course of the hearings, Fauntroy chastised HUD leadership for failing to initiate this service, especially since the agency saw substantial value in the assistance:

Here is a program designed to promote neighborhood stabilization, broaden existing housing stock, forestall deterioration, revitalize substandard housing, improve urban environments, increase the tax base, help people and communities and assist the reclamation and revitalization of residential neighborhoods.

Fauntroy called the delay “grossly indefensible.” Texas Congressman Jim Mattox was also blunt in his criticism: the unexplained regulatory delay was “symbolic” of HUD’s general approach of “tearing out old slums and building new slums in their places, without much regard for maintaining the old structures in the community.”
Meanwhile, the preservation community put forward numerous recommendations for improving the program prior to its implementation. There was general agreement that, due to inflation, the $15,000 loan limit suggested by President Nixon in 1971 warranted expansion to $30,000 or even $45,000. Offering as an example a mixed-use building—with first floor retail and rental apartments in the upper stories—located in a small-town business district, preservationists further recommended that loans be extended to income-producing properties, or at least to buildings with up to 49 percent commercial use, even though the program was originally designed to be secured as a second trust on a residential asset, assisting “home improvement” types of rehabilitation. The National Trust for Historic Preservation asked that Congress consider expanding the mandate to create a first mortgage loan program for historic properties.10

Although HUD finally published regulations for the loan program on July 1, 1977, its impact on the rehabilitation of historic properties was minimal due to its narrow definition of preservation activities and loan ceiling of just $15,000.11 Longsworth noted that certain preservationists considered this implementation “final proof” that HUD’s programs were designed to “frustrate, rather than expedite, historic preservation.”12

“NOW THAT THE SLUMS ARE FASHIONABLE”
During the same 1977 congressional hearings, Vincent DeForest, head of the Afro-American Institution for Historic Preservation and Community Development, reflected that the “problem of displacement of long-time residents” by higher-income groups was “just as important” a consideration as any benefits of the historic preservation loan program. Although he was encouraged by a new generation of younger, “more innovative” preservationists, he cautioned that few had “bothered to question the degree to which preservation programs” had contributed to the gentrification of urban neighborhoods such as Capitol Hill or Georgetown in Washington, D.C.13 New York Congressman Edward Pattison also wondered about the impact historic preservation was having on low- and
moderate-income urban neighborhoods. “And how do you resolve that problem now that the slums are fashionable?” he asked.14

Delegate Fauntroy, too, was concerned about how the rehabilitation of historic neighborhoods fostered the displacement of low-income and long-term residents—a problem that was exacerbated by the reluctance of absentee landlords to make provisions for tenants during and after rehabilitation projects. One way to address this inequity, suggested Douglas Wheeler, then executive director of the National Trust, would be to grant tenants the right of first refusal to acquire homes undergoing federally supported rehabilitation. The “best prescription” to ensure “the greatest degree of community participation by all income levels,” concluded DeForest, was to adopt “length of residency” as a factor in evaluating the need for government assistance programs. After an informal survey within Preservation Action, Longsworth proposed a sliding scale on loan interest rates—one tied to the income level of the property owner.15

Congressman Mattox and others also saw the proposed loan program as a possible deterrent to “redlining”—the practice whereby banks would not offer financial assistance in certain districts, generally those housing low-income residents. The program could incentivize banks to offer services in urban areas that they had formerly abandoned—often areas full of neglected historic properties. From the Advisory Council on Historic Preservation’s (ACHP) perspective, HUD’s “overly burdensome” approach to the proposed administration of the loan program was a disincentive for lower-income applicants. First-term Congressman Jim Leach of Iowa concluded that historic preservation was an upper-middle-class movement that had “ignored minorities, by and large.”16

CONCERNS OVER NATIONAL REGISTER CRITERIA
Since 1966 the National Register had encouraged the nomination of historic districts in addition to individual structures, sites, and buildings—a move that reflected the consideration of the “total environment” that was in vogue during the 1970s. In fact, the NPS had only adopted “historic districts” as a property type in 1965 in
response to growing concerns over the plight of historic neighborhoods in urban areas. Using the term “historic” in the broadest sense, the Keeper of the National Register, William Murtagh, confirmed during the 1977 hearings that all properties located within a listed historic district were eligible for the loan program—the concepts of “contributing” and “noncontributing” resources were only just entering into the historic preservation taxonomy in 1977. Russell Keune, a National Trust official, recalled that a comprehensive review of the National Register criteria conducted during 1976 had included discussions of adopting “neighborhood” as a property type. Despite this inclusive interpretation, Delegate Fauntroy wanted to know whether the requirement that properties meet the National Register criteria had the potential to limit access to the proposed loan program. James Biddle, the president of the National Trust, concluded that the current National Register criteria were not “too restrictive” and that any limitation in the registration process was the result of inadequate funding to the SHPOs, who had the “fantastic burden of keeping up the National Register.”

Lack of funding aside, DeForest described “past inequities” within federal historic preservation programs, focusing on the subjectivity of historical studies, which made it possible to “overlook the views or achievements of … groups” that were not included in efforts to identify, evaluate, and recognize historic properties. He noted that any attempt to address the “inherent deficiency” within SHPO efforts to identify historic places—in other words, to balance the discrepancy seen in registration and official recognition—must include programs to inform African American and other minority communities of historic preservation’s multiple benefits. Representing the historic preservation professionals who had crafted the National Register criteria between 1966 and 1969, the ACHP’s deputy executive director, Robert Utley, highlighted the inherent flexibility of the guidelines:

There is virtually nothing that the professional community, that is, history, architecture, archaeology, and allied disciplines judge to be of value that cannot be put on the National Register. ...Those criteria are designed so that all in this Nation that is deemed to be worthy of preservation for its historic, architec-
tural, archaeological, or cultural value are included in this National Register. And that means what a community may perceive as valuable to it is qualified for the National Register.\textsuperscript{19}

With a neighborhood approach to historic recognition—one that focused on the social aspects of a community rather than on its physical characteristics—substantial sections of American cities, regardless of the economic class or ethnicity of current residents, might be placed on the National Register and be eligible for an expanding quiver of federal preservation assistance programs.

\textbf{SECTION 104}

The late 1970s were an exciting time for American historic preservation. In 1976 alone, Congress enacted provisions for the historic rehabilitation tax credit, expanded Section 106 to include properties eligible for listing in the National Register, set up the HPF, and separated the ACHP from the Department of the Interior. The period witnessed a growing consensus about the characteristics of the “new preservation” that countered traditional “house museum” limitations of the movement and recognized “urban conservation” as a core mission.\textsuperscript{20}

Section 104, introduced with the 1980 amendments to the NHPA, appears to be the legislative descendant of the original HUD loan program.\textsuperscript{21} The loan guarantee program was designed to assist lower-income residents and small-business owners in qualifying for assistance by providing the Department of the Interior with the greatest flexibility in implementation.\textsuperscript{22} By allowing private-sector banks to handle most of the paperwork, a loan guarantee program (as opposed to direct federal loans) was simpler to administer and had a wider sphere of potential impact. After several years of legislative gestation, President Jimmy Carter executed a significant batch of amendments to the NHPA in December 1980. At that time the ceiling for the loan guarantee program was set at $365 million—the unappropriated balance of the HPF.\textsuperscript{23}

The advent of the Reagan administration presented numerous challenges for the historic preservation movement, not the least of which was the proposed defunding of the HPF. Although more
analysis is warranted, it is probable that the promise of Section 104 was initially lost during the constant battle to secure continued funding for the federal, state, and local government preservation partnership during the 1980s. The Department of the Interior expressed “serious reservations” regarding the cost-benefit of a federally administered loan guarantee program, suggesting instead that the states might execute the program.24 Other programs launched during the early 1980s, such as the National Trust’s Inner City Ventures Fund and James Rouse’s Enterprise Foundation, tried to address continuing problems encountered by urban rehabilitation efforts in historic neighborhoods.25

Many of the questions raised during the legislative debates of the 1970s remain relevant today. Are the benefits of the federal historic preservation program as accessible to lower-income citizens as they are to those of moderate or upper incomes? Does the present bureaucratic structure of the federal preservation partnership programs and the application of their administrative criteria retard the expansion the National Register throughout all communities across the country—regardless of class or color? And finally, would the enactment of the Section 104 historic preservation loan guarantee program present an opportunity to address a generation of unmet fiscal needs to finally support a more inclusive historic preservation community?

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1 Section 104 of the National Historic Preservation Act of 1966 states: “The Secretary shall establish and maintain a program by which the Secretary may, on application of a private lender, insure loans (including loans made in accordance with a mortgage) made by the lender to finance any project for the preservation of a property included on the National Register.”
3 Public Law 93-449 was approved on October 18, 1974. Housing starts had fallen from 2.51 million units in 1972 to 1.12 million in 1974. As a result unemployment in the construction industry had risen to 12.4 percent.
7 “Preservation Programs of the Federal Government in the Area of Housing and Community Development,” p. 6. HUD estimated that only 1 percent of its grants (approximately $15 million) went toward historic preservation.
8 “An Adequate Loan Program for Historic Resources,” p. 5.
9 Ibid, pp. 34, 48.
12 “An Adequate Loan Program for Historic Resources,” pp. 117, 121.
13 Ibid, p. 60.
17 Ibid, pp. 15, 32, 57, 122.
25 Established in 1981 the Inner City Ventures Fund (ICVF) helped nonprofit, community-based organizations rehabilitate historic buildings. Initial seed money came from a special $400,000 grant from the Department of the Interior that was matched by a variety of private-sector grants totaling $4 million. In its first six years of operation the ICVF provide $2.7 million in funding for 42 projects in 29 cities. See “Neighborhood Transfusion: National Trust Initiates Inner-City Ventures Fund,” Preservation News, 21, no. 5 (May 1, 1981) and Sandra Evans Teeley, “New Foundation Seeks to Renovate Slums,” The Washington Post, December 22, 1981.