

**L a w**  
**for the Protection of Historic Properties in Berlin**  
**(Historic Preservation Law Berlin - DSchG Bln)**

Law and Ordinance Paper (GVBL.) pg. 274 of April 24, 1995,  
as amended per art. II no. 1 and 2 of the law of 7.4.1997 Law and Ordinance Paper  
(GVBL.) pg. 376, and art. IV of the law of 5.17.1999 Law and Ordinance Paper  
(GVBL.) pg. 178

F i r s t   P a r a g r a p h

**Functions, Object and Organization**  
**of Historic Property Protection**

§ 1  
Functions

(1) The function of historic property protection and maintenance is to protect historic properties as specified by this law, to preserve and maintain them, to scientifically research and spread historic preservation ideas and knowledge.

(2) Historic property protection and maintenance concerns shall be included in the city's structural development, rural maintenance and planning and shall be considered as appropriate in public planning and development.

§ 2  
Definitions

(1) Historic properties in the sense of this law are historic structural properties, historic property areas, historic garden properties as well as historic properties and remnants thereof below ground.

(2) A historic structural property is defined as a structural installation or a part of a structural installation, whose preservation is in the general public interest due to historic, artistic, scientific or the city's structural significance. Accessories and facilities are part of a historic

property, insofar as they represent a certain unity in relationship to the value of the historic property.

(3) A historic property area is defined as multiple structural installations or a landscaped area (ensemble; complete installation) as well as streets, sites and places of interest, as well as open areas and water surfaces thereof, whose preservation would be in the public interest, as named in the properties listed in paragraph two (2), even if every single part were not part of the historic property as such.

(4) A historic garden property is defined as a landscaped installation, a garden or park installation, a cemetery, an avenue or other element of a garden or landscaping design, whose preservation would be in the public interest, as named in the properties listed in paragraph two (2). Elements and facilities are part of a historic property, insofar as they represent a certain unity in relationship to the value of the historic property.

(5) A historic property or remnant thereof below ground is something movable or immovable that is or has been on the ground, underground, or in or underwater, and whose preservation would be in the public interest, as named in the properties listed in paragraph two (2).

### § 3

#### Historic Properties and Remnants Thereof Below Ground

(1) Anyone discovering a historic property and remnant thereof below ground is to immediately cease all work in the discovery area and is to report such discovery without delay to the historic preservation authority. The discoverer and anyone entitled to dispose of such finds are required to report the discovery; should the historic property and remnant thereof below ground be discovered during the construction process, the construction manager is also required to report the discovery. Both the find and area of discovery are to be left in unaltered condition until four working days after the date of reporting. The highest historic preservation authority may extend this waiting period in an appropriate manner if proper investigation or recovery of the historic property and remnant thereof below ground so requires. If the historic property and remnant thereof below ground were discovered during ongoing work, the required waiting period shall only be extended if the person concerned is not unreasonably economically burdened thereby.

The proper historic preservation authority is entitled, irrespective of ownership rights, to evaluate the historic property and remnant thereof below ground find, insofar as this concerns movable historic properties and remnants thereof below ground, to contain and take them into possession for scientific processing, however, for not longer than six months, basically calculated from the date of reporting.

(2) Movable historic properties and remnants thereof below ground, whose owners can no longer be ascertained, become the property of the county of Berlin at the time of discovery.

(3) Excavation of historic properties and remnants thereof below ground require authorization by the proper historic preservation authority irrespective of other permission. Authorization shall be denied when no guarantee is given that the excavation is for the purpose of protecting and maintaining historic properties and remnants thereof below ground.

(4) The appropriate senate administration can declare by way of legal ordinance areas in which historic properties and remnants thereof below ground are located, or are presumed to be located, as excavation protected sites. On excavation protected sites, all work engaged in bringing forth historic properties and remnants thereof below ground, or work, which might endanger these, requires authorization by the proper historic preservation authority. § 13 applies accordingly. Previous economic land and forest use remains permissible without authorization, provided it is compatible with historic properties and remnants thereof below ground located there.

#### § 4

#### Historic Property List

(1) Historic properties shall be recorded on a public historic property list and the rightful owner shall be notified thereof.

Movable historic properties and remnants thereof below ground, which are the property of state or local museums and collections, are to be recorded only in inventories kept there.

(2) Recording may occur either officially or at the behest of any person entitled to dispose of historic property. Entries recorded on historic property lists may be removed either officially or at the behest of any person entitled to dispose of historic property when recording requirements no longer exist. This does not apply when restoration of a historic property is

ordained. Any person entitled to dispose of historic property will be informed of entry as well as removal from the list immediately.

(3) Historic property lists will be announced in accordance with local practice. Inspection (viewing) of historic property lists is permitted to everyone.

§5  
Historic Property Experts Authority

(1) The historic property experts authority is a subordinate of the appropriate senate administration.

(2) The following responsibilities are incumbent upon the historic property experts authority:

1. Cooperation in the execution of this law and in accordance with further relevant regulations,
2. systematic recording of historic properties (inventory), creation and publication of historic property surveys,
3. informative documentation (indexing) of historic properties (historic property list) and maintenance thereof,
4. scientific investigations of historic properties and maintenance of historic property collections as a contribution to state (regional) history;
5. counsel and support of owners and proprietors of historic properties by way of care, maintenance and restoration,
6. affect consideration of historic properties in the city's physical development,
7. publication of circulars for historic property maintenance,
8. professional consultation and expert opinion in all matters pertaining to maintenance and care of historic property,
9. allocation of historic property maintenance grants (subsidies),
10. publication and spread of professional knowledge regarding historic properties,
11. representation of public concerns regarding historic property preservation and maintenance,

12. execution of ordained tasks in accordance with this law, regarding tasks of the head office,
13. decisions regarding authorization in accordance with § 6 par. 5 sec. 1.

## § 6

### Historic Property Preservation Authority

- (1) Incumbent on the historic property preservation authority as a special authority organization is the protection of historic property in the sense of § 2 par. 1.
- (2) The highest historic property preservation authority is the appropriate senate administration.
- (3) The lower historic property preservation authorities are district offices; they are responsible for all ordained tasks in accordance with this law, insofar as nothing further has been ordained.
- (4) With regard to protected historic property endowment assets, it is incumbent on the Preußische Schlösser und Gärten Berlin-Brandenburg foundation to perform the tasks of a lower historic property preservation authority, in accordance with section 3. Section 5 applies accordingly.
- (5) The lower historic property preservation authorities make decisions with mutual consent of the historic property experts authority. Mutual consent exists, if the historic property experts authority takes no position within a three-month period. If mutual consent does not exist, the highest historic property preservation authority shall decide. Should danger arise during the delay, the lower historic property preservation authorities may temporarily decide to protect historic properties without mutual consent of the historic property experts authority. In such cases, a consensual decision with the (historic property) authority of experts is to be reached immediately thereafter. Section 3 applies accordingly.

## § 7

### Regional Historic Property Council

- (1) The regional historic property council shall consult the appropriate senate member. The member shall be heard in all matters of basic importance.
- (2) Upon proposal by the appropriate senate member, the senate shall appoint twelve members to the regional historic property council for a period of four years. The regional historic

property council shall be composed of experts representing the areas of historic property maintenance, history and architecture, as well as concerned members of the community and Berlin's institutions, represented in equal numbers.

(3) Members of the regional historic property council shall hold an honorary office. As such, they are not bound to the directives.

(4) The regional historic property council shall elect a chairperson and deputy from within.

(5) Further details shall regulate regional historic property council procedure, which is to be released by the senate.

## S e c o n d   P a r a g r a p h

### **General Preservation Regulations**

#### § 8

#### Preservation of Historic Properties

(1) It is incumbent on the rightful owner to maintain or restore a historic property within reason, to treat with due care and safeguard a historic property from danger. Defective conditions, which would compromise preservation of the historic property, are to be reported to the proper historic property authority immediately.

(2) It is incumbent on the rightful owner of a historic property to execute measures for preservation as required by the proper historic property authority. Should any rightful owner of a historic property fail to meet this obligation in accordance with section 1 paragraph 1, thereby directly endangering the continued existence of a historic property, the proper historic property authority may execute preservation measures directly or have others do so at its behest. Within reason, any rightful owner of a historic property may be liable for reimbursement of the resulting costs. Renters, lessees and other use-entitled persons are to tolerate enforcement of these measures.

(3) The proper historic property authority may encumber the rightful owner of a historic property with creation of maintenance plans, provided this is required for the continued preservation of historic properties, as well as to spread historic preservation ideas and

knowledge. Within reason, historic properties are to be preserved and cared for in accordance with these historic property maintenance plans.

§ 9  
Use of Historic Property

Historic properties are to be used in such a manner as to guarantee their continued existence.

§ 10  
Protection of the Immediate Environment

(1) The immediate environment of a historic property, provided it is of significant importance to its appearance, may not be altered by construction or modification, by construction on vacant public or private areas, or in any other manner that would substantially disturb the characteristics and appearance of the historic property.

(2) The immediate environment of a historic property is the area from within which structural or other property use or public areas significantly affect the historic property.

T h i r d   P a r a g r a p h

**Historic Property Preservation Measures; Public Assistance**

**Procedural Regulations**

§11  
Measures Requiring Authorization

(1) Only with authorization of the proper historic property authority may a historic property be

1. altered in its appearance,
2. completely or partially removed,
3. moved from its location or place of safekeeping or
4. renovated, restored or modified in its use.

This also applies to building elements and equipment of a historic property. Authorization in accordance with paragraph 1 shall be granted, if no opposing grounds exist with regard to historic property preservation or when predominant public interest so demands.

(2) Furthermore, authorization is required for the construction, modification or removal of elements in the immediate environment of the historic property, when this affects the condition or appearance of the historic property. Authorization shall be granted, when the character and appearance of the historic property is not significantly affected by this measure.

(3) Authorization may be granted conditionally, as well as with reservation of revocation, or on a time limited basis. Should particular characteristics of a historic property so demand, authorization may be granted on condition that certain work be performed only by specialists or under supervision of experts appointed by the proper historic property authority.

(4) All modifications and measures taken with regard to historic properties are to be documented. Within reason, documentation is incumbent on the owner, any use-entitled person or initiator in accordance with the provisions of the proper historic property authority.

(5) The historic property authority will consider the concerns of handicapped persons.

## § 12 Authorization Procedure

(1) Applications are to be submitted to the proper historic property authority in writing together with verifiable, historic property related documentation; applications for construction permits requiring authorization for compliance with the legal building code are to be submitted to the construction supervisory authority. In case of an authorization procedure regarding compliance with the legal building code, authorization can also be applied for separately in accordance with § 11 par. 1 and 2. The applicant will receive an acknowledgement within four weeks, confirming whether the application was submitted correctly and fully completed. In rare cases, should preliminary investigations of the historic property or its immediate environment be required, the application for authorization may be suspended for up to twelve months. Paragraph 2 applies to the authorization procedure in accordance with the building code of Berlin.



(2) Authorization will expire if construction has not begun within two years from date of issue or if construction has been halted for one year. Time limits may be extended for up to one year by submitting a written application in accordance with paragraph 1.

(3) Authorization granted on the basis of this law does not eliminate the need for required authorization based on other legal provisions. In case of an authorization or approval procedure regarding compliance with the legal building code for which authorization is not applied for separately in accordance with § 11 par. 1 and 2, the building permit or approval for compliance with regard to the legal building code will include the legal historic property authorization. The decision shall be made with the consent of the proper historic property authority. The construction supervisory authority shall involve the historic property preservation authority in the construction supervisory procedure when historic properties recorded on the historic property list are affected. This ruling applies accordingly for decisions affecting the immediate environment of a historic property (§ 10 par. 1).

### § 13

#### Restoration; Closure

(1) If a historic property is modified without authorization and, therefore, its value reduced or if it is totally or in part removed or destroyed, the proper historic property authority may order the party responsible for the modification, removal or destruction, to restore it to its previous condition. The historic property authority may have the required work performed at the expense of the responsible party, when fair restoration of the historic property would otherwise appear uncertain. A reasonable cost advance may be demanded from the responsible party. The rightful owner of a historic property, renters, lessees and other use-entitled persons are to tolerate enforcement of these measures.

(2) If measures requiring authorization are taken without authorization, the proper historic property authority may order a temporary cessation. Should unauthorized construction continue despite a written or verbal cessation order, the proper historic property authority may close the construction site or take building materials, parts, equipment, machines and construction tools located there into official custody. A temporary cessation order applies no longer than one month.

§ 14  
Information and Toleration Obligations

(1) Fulfillment of obligations in accordance with the law require the rightful owner or user of a historic property to furnish required information and present documentation to the historic property authority or its representatives on demand. Notaries, other persons and organizations shall present historic property documentation to the historic property authorities and furnish information.

(2) The rightful owner or user of a historic property must grant representatives of the historic property authority, realizing their duties in accordance with this law, access on demand to real property (lots), buildings and rooms during reasonable hours of the day. Apartments may be entered against the will of use-entitled persons only to prevent urgent danger to a historic property. The fundamental right of the dwelling's inviolability (article 13 of the fundamental right, article 19 of the constitution of Berlin) is limited to that extent.

(3) The proper historic property authority and its representatives are authorized to salvage historic properties and remnants thereof below ground and take necessary measures to clarify circumstances regarding the find, as well as safeguard further below ground finds located on the property.

(4) The seller or, in case of inheritance the heir, is to immediately report a change of historic property ownership to the lower historic property preservation authority.

§ 15  
Public Assistance

(1) Loans or subsidies may be granted within the framework of Berlin's available budget for preservation (measures), maintenance and restoration of historic structural and garden properties, historic properties and remnants thereof below ground, as well as other installations with regard to historic property maintenance interests.

(2) Granting a loan or assistance may be conditional. At the request of the historic property experts authority, conditions with regard to existence and appearance of building elements are to be recorded as construction costs in the construction costs index in accordance with the building code of Berlin. Further details will be regulated by the appropriate senate administration by way of assistance directives.

## Four Paragraph

### **Restricted Title with Compensation Liability, Acquisition (Expropriation) by Power of Eminent Domain (USA)/ Compulsory Purchase (Acquisition) (GB), Right of Option**

#### § 16

#### Restricted Title with Compensation Liability

(1) Provided that due to ordained administrative measures in accordance with § 8 and § 9 particular expenditures are required, such as are founded within the characteristics of a historic property and extend beyond the economically just and reasonable, the rightful owner of a historic property may demand adequate monetary compensation for financial hardship resulting thereby. An economic burden is particularly unreasonable insofar as profits or practical value of the historic property cannot permanently sustain expenditures for preservation and management costs. The right to compensation does not exist insofar as a rightful owner of a historic property or his predecessor is responsible for the particular expenditures due to poor maintenance.

(2) Should previous, rightful economic use of a historic property or its immediate environment become unreasonably difficult due to failure of a required authorization, in accordance with § 11 par. 1 and 2 or due to other authoritative measures imposed based on this law, adequate compensation may likewise be demanded.

(3) § 254 of the civil code applies accordingly. Public assistance and government benefits are to be credited to compensation.

(4) Should compensation in accordance with paragraph 1 or 2 amount to more than 50 percent of the property's market value, the county of Berlin can demand transfer of property ownership or other right of disposal. If agreement concerning transfer cannot be reached, the county of Berlin can demand expropriation in its favor.

§ 17  
Expropriation

(1) If permanent aversion of danger for the existence, characteristics or appearance of a historic property cannot be ensured otherwise, expropriation in favor of the county of Berlin is permissible.

(2) An owner of building elements and equipment, in the sense of § 2 par. 2 sec. 2 and par. 4 sec. 2, who is not also the rightful owner of a historic structural or garden properties, can be required to maintain the unit of historic property value and to leave building elements and equipment with the historic structural or garden property even after his use entitlement has expired. Insofar as this causes him unreasonable economic hardship, he is entitled to demand reasonable monetary compensation. Expropriation in favor of the person entitled to use the historic structural or garden property is permissible, if the unit of historic property value cannot be ensured otherwise.

(3) For expropriation and compensation, even where movable objects are concerned, the regulations of Berlin's expropriation law of July 14, 1964 (GVBL. pg. 737), amended by article 1 of the law of November 30, 1984 (GVBL. pg. 1664) apply, insofar as nothing further has been ordained by this law.

§ 18  
Right of Option

(1) The county of Berlin is entitled to right of option for the acquisition of property on or within which historic structural and garden properties, as well as stationary historic properties with remnants thereof below ground, are located. Mutual consent with the historic property experts authority may only be administered when the continued existence of the historic structural or garden property or stationary historic property and remnants thereof below ground can be ensured thereby. Furthermore, determinations in §§ 24 to 28 of the building code announced in the version of December 8, 1986 (BGBl. I pg. 2253), last amended by article 2 par. 2 of the law of 04.22.1993 (BGBl. I pg. 3486) with regard to a community's legal right of option are applied accordingly.

(2) The county of Berlin can also exercise the right of option in favor of a corporate body. Right to option in favor of a corporate body can only be exercised when permanent preservation of historic structural, garden or stationary properties with remnants thereof below

ground, located within or on a property pertains to the statutory functions of the corporate body and is secured with regard to all circumstances. Paragraph 1 section 2 applies accordingly. The county of Berlin can only practice the right of option in favor of another party with the consent of the beneficiary.

## F i f t h P a r a g r a p h

### **Penalty Regulations**

#### § 19

#### Breach of Regulations

- (1) Breach of regulations has occurred when a party deliberately or negligibly
1. in accordance with § 3 par. 1 sec. 1, fails to cease all work in a find area after discovering a historic property with remnants thereof below ground or fails to report the find to the proper authority immediately,
  2. in accordance with §3 par. 1 sec. 3, fails to leave the find or find area in unaltered condition until four working days after reporting the find, insofar as the highest historic property preservation authority has not approved resuming work,
  3. in accordance with § 3 par. 3 sec. 1, digs for historic property and remnants thereof below ground without approval of the proper historic property authority,
  4. in accordance with § 8 par. 2, fails to comply with a legal order of the proper historic property authority or fails to tolerate enforcement thereof,
  5. in accordance with § 8 par. 3 sec. 2, fails to preserve or maintain (care for) a historic property and remnants thereof below ground,
  6. takes an action without the required authorization as stated in § 11 par. 1 or par. 2 sec. 1 or fails to comply with conditions in connection with an authorization in accordance with § 11 par. 3,
  7. breaches an enforceable order enacted by the proper historic property authority for the restoration of a historic property in accordance with § 13 sec. 1 or fails to tolerate enforcement of such measures in accordance with § 13 par. 1 sec. 4

8. fails to fully or properly fulfill his obligation with regard to furnishing information and documentation in accordance with § 14 par. 1 or, in accordance with § 14 par. 2, fails to allow a representative of the historic property authority access to a property or viewing of a historic property,
9. fails to immediately report change of ownership in accordance with § 14 par. 4.

(2) A breach of regulations is punishable with a monetary fine of up to 500 000 Euro.

## S i x t h P a r a g r a p h

### **Temporary and Final Regulations**

#### § 20 Administration Regulations

The appropriate senate administration shall release the required administrative regulations for the enforcement of this law.

#### § 21 Religious Communities

(1) Decisions and measures of the proper historic property authority concerning historic properties, which serve the immediate religious purposes of recognized religious communities, are to meet the agreement of the proper authorities of these religious communities and with regard for these recognized religious interests.

(2) § 16 par. 4 and § 17 list no application for historic properties, which immediately serve religious purposes.

## Transitional Regulation

Historic properties entered to date into the historic structural property book and into the book of historic property and remnants thereof below ground deemed to be recorded, are regarded as having been recorded (with notification) on the historic property list when this law goes into effect.

### § 23 Going into Effect

(1) This law goes into effect for Berlin on the day after announcement in the law and regulations papers.

(2) With this law going into effect, the Berlin historic property preservation law of December 22, 1977 (GVBl. pg. 2540), amended by article 1 of the law on November 30, 1981 (GVBl. pg. 1470) is no longer effective.

(3) The enacted statutory regulations in accordance with § 17 of the Berlin historic property law of December 22, 1977 (GVBl. pg. 2540) cease to be effective no later than five years after this law goes into effect.