

**SENATE BILL NO. 733**

September 22, 1999, Introduced by Senators SIKKEMA, DUNASKISS,  
JOHNSON, BULLARD and GOSCHKA and referred to the Committee  
on Local, Urban and State Affairs.

A bill to amend 1970 PA 169, entitled  
"Local historic districts act,"  
by amending sections 5, 9, and 11 (MCL 399.205, 399.209, and  
399.211), as amended by 1992 PA 96.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1       Sec. 5. (1) A permit shall be obtained before any work  
2 affecting the exterior appearance of a resource is performed  
3 within a historic district or, if required under subsection (4),  
4 work affecting the interior arrangements of a resource is per-  
5 formed within a historic district. The person, individual, part-  
6 nership, firm, corporation, organization, institution, or agency  
7 of government proposing to do that work shall file an application  
8 for a permit with the inspector of buildings, the commission, or  
9 other ~~duly~~ delegated authority. If the inspector of buildings  
10 or other DELEGATED authority receives the application, the

1 application shall be immediately referred TO THE COMMISSION,  
2 together with all required supporting materials that make the  
3 application complete. ~~to the commission.~~ A permit shall not be  
4 issued and proposed work shall not proceed until the commission  
5 has acted on the application by issuing a certificate of appro-  
6 priateness or a notice to proceed as prescribed in this act. A  
7 local unit may charge a reasonable fee to process a permit  
8 application.

9       (2) An applicant aggrieved by a decision of a commission  
10 concerning a permit application may file an appeal with the  
11 ~~state historic preservation review board of the Michigan histor-~~  
12 ~~ical commission within the department of state~~ LEGISLATIVE BODY  
13 OF THE LOCAL UNIT. The appeal shall be filed within 60 days  
14 after the decision is furnished to the applicant. The appellant  
15 may submit all or part of the appellant's evidence and arguments  
16 in written form. The ~~review board~~ LEGISLATIVE BODY OF THE  
17 LOCAL UNIT shall consider an appeal at its first regularly sched-  
18 uled meeting after receiving the appeal, but may not charge a fee  
19 for considering an appeal. The ~~review board~~ LEGISLATIVE BODY  
20 OF THE LOCAL UNIT may affirm, modify, or set aside ~~a~~ THE  
21 commission's decision and may order ~~a~~ THE commission to issue a  
22 certificate of appropriateness or a notice to proceed. A permit  
23 applicant aggrieved by the decision of the ~~state historic pre-~~  
24 ~~servation review board~~ LEGISLATIVE BODY OF THE LOCAL UNIT may  
25 appeal the decision to the circuit court having jurisdiction over  
26 the historic district commission whose decision was appealed to

1 the ~~state historic preservation review board~~ LEGISLATIVE BODY  
2 OF THE LOCAL UNIT.

3       (3) In reviewing plans, the commission shall follow the  
4 U.S. secretary of the interior's standards for rehabilitation  
5 and guidelines for rehabilitating historic buildings, as set  
6 forth in 36 C.F.R. part 67. Design review standards and guide-  
7 lines that address special design characteristics of historic  
8 districts administered by the commission may be followed if they  
9 are equivalent in guidance to the secretary of interior's stan-  
10 dards and guidelines and are established or approved by the  
11 bureau. The commission shall also consider all of the  
12 following:

13       (a) The historic or architectural value and significance of  
14 the resource and its relationship to the historic value of the  
15 surrounding area.

16       (b) The relationship of any architectural features of the  
17 resource to the rest of the resource and to the surrounding  
18 area.

19       (c) The general compatibility of the design, arrangement,  
20 texture, and materials proposed to be used.

21       (d) Other factors, such as aesthetic value, that the commis-  
22 sion finds relevant.

23       (4) The commission shall review and act upon only exterior  
24 features of a resource and shall not review and act upon interior  
25 arrangements unless specifically authorized to do so by the  
26 ~~local~~ legislative body OF THE LOCAL UNIT or unless interior  
27 work will cause visible change to the exterior of the resource.

1 The commission shall not disapprove an application due to  
2 considerations not prescribed in subsection (3).

3 (5) If an application is for work that will adversely affect  
4 the exterior of a resource the commission considers valuable to  
5 the local unit, state, or nation, and the commission determines  
6 that the alteration or loss of that resource will adversely  
7 affect the public purpose of the local unit, state, or nation,  
8 the commission shall attempt to establish with the owner of the  
9 resource an economically feasible plan for preservation of the  
10 resource.

11 (6) ~~Work~~ THE COMMISSION SHALL ISSUE A NOTICE TO PROCEED  
12 AUTHORIZING WORK within a historic district ~~shall be permitted~~  
13 ~~through the issuance of a notice to proceed by the commission~~ if  
14 any of the following conditions prevail and if the COMMISSION  
15 FINDS THAT THE proposed work ~~can be demonstrated by a finding of~~  
16 ~~the commission to be~~ IS necessary to substantially improve or  
17 correct any of the following conditions:

18 (a) The resource constitutes a hazard to the safety of the  
19 public or to the structure's occupants.

20 (b) The resource is a deterrent to a major improvement pro-  
21 gram that will be of substantial benefit to the community and the  
22 applicant proposing the work has obtained all necessary planning  
23 and zoning approvals, financing, and environmental clearances.

24 (c) Retaining the resource will cause undue financial hard-  
25 ship to the owner when a governmental action, an act of God, or  
26 other events beyond the owner's control created the hardship, and  
27 all feasible alternatives to eliminate the financial hardship,

1 which may include offering the resource for sale at its fair  
2 market value or moving the resource to a vacant site within the  
3 historic district, have been attempted and exhausted by the  
4 owner.

5 (d) Retaining the resource is not in the interest of the  
6 majority of the community.

7 (7) The business that the commission may perform shall be  
8 conducted at a public meeting of the commission held in compli-  
9 ance with the open meetings act, ~~Act No. 267 of the Public Acts~~  
10 ~~of 1976, as amended, being sections 15.261 to 15.275 of the~~  
11 ~~Michigan Compiled Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.  
12 Public notice of the time, date, and place of the meeting shall  
13 be given in the manner required by ~~Act No. 267 of the Public~~  
14 ~~Acts of 1976, as amended~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL  
15 15.261 TO 15.275. A meeting agenda shall be part of the notice  
16 and shall ~~include a listing of~~ LIST each permit application to  
17 be reviewed or considered by the commission.

18 (8) The commission shall keep a record of its resolutions,  
19 proceedings, and actions. A writing prepared, owned, used, in  
20 the possession of, or retained by the commission in the per-  
21 formance of an official function shall be made available to the  
22 public in compliance with the freedom of information act, ~~Act~~  
23 ~~No. 442 of the Public Acts of 1976, as amended, being~~  
24 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws~~ 1976 PA  
25 442, MCL 15.231 TO 15.246.

1 (9) The commission shall adopt its own rules of procedure  
2 and shall adopt design review standards and guidelines for  
3 resource treatment to carry out its duties under this act.

4 (10) The commission may delegate the issuance of certifi-  
5 cates of appropriateness for specified minor classes of work to  
6 its staff, ~~to~~ the inspector of buildings, or ~~to another~~ OTHER  
7 delegated authority. The commission shall provide to ~~the~~ ITS,  
8 STAFF, THE INSPECTOR OF BUILDINGS, OR OTHER delegated authority  
9 specific written standards for issuing certificates of appropri-  
10 ateness under this subsection. On at least a quarterly basis,  
11 the commission shall review the certificates of appropriateness,  
12 if any, issued for work by its staff, the inspector, or ~~another~~  
13 OTHER DELEGATED authority to determine whether or not the dele-  
14 gated responsibilities should be continued.

15 (11) Upon a finding by a commission that a historic resource  
16 within a historic district or a proposed historic district  
17 subject to its review and approval is threatened with demolition  
18 by neglect, the commission may do either of the following:

19 (a) Require the owner of the resource to repair all condi-  
20 tions contributing to demolition by neglect.

21 (b) If the owner does not make repairs within a reasonable  
22 time, the commission or its agents may enter the property and  
23 make ~~such~~ THE repairs ~~as are~~ necessary to prevent demolition  
24 by neglect. The costs of the work shall be charged to the owner  
25 ~~—~~ and may be levied by the local unit as a special assessment  
26 against the property. The commission or its agents may enter the

1 property for purposes of this section upon obtaining an order  
2 from the circuit court.

3       (12) ~~When~~ IF work has been done upon a resource without a  
4 permit ~~—~~, and the commission finds that the work does not qual-  
5 ify for a certificate of appropriateness, the commission may  
6 require an owner to restore the resource to the condition the  
7 resource was in before the inappropriate work or to modify the  
8 work so that it qualifies for a certificate of appropriateness.  
9 If the owner does not comply with the restoration or modification  
10 requirement within a reasonable time, the commission may seek an  
11 order from the circuit court to require the owner to restore the  
12 resource to its former condition or to modify the work so that it  
13 qualifies for a certificate of appropriateness. If the owner  
14 does not comply or cannot comply with the order of the CIRCUIT  
15 court, the commission or its agents may enter the property and  
16 conduct work necessary to restore the resource to its former con-  
17 dition or modify the work so that it qualifies for a certificate  
18 of appropriateness in accordance with the CIRCUIT court's order.  
19 The costs of the work shall be charged to the owner ~~—~~, and may  
20 be levied by the local unit as a special assessment against the  
21 property. ~~When~~ IF acting pursuant to an order of the circuit  
22 court, a commission or its agents may enter a property for pur-  
23 poses of this section.

24       Sec. 9. (1) The commission shall file certificates of  
25 appropriateness, notices to proceed, and denials of applications  
26 for permits with the inspector of buildings or other delegated  
27 authority. A permit shall not be issued until the commission has

1 acted as prescribed ~~by~~ UNDER this act. If a permit application  
 2 is denied, the decision ~~shall be~~ IS binding on the inspector OF  
 3 BUILDINGS or other DELEGATED authority. A denial shall be accom-  
 4 panied with a written explanation by the commission of the rea-  
 5 sons for denial and, if appropriate, a notice that an application  
 6 may be resubmitted for commission review ~~when~~ IF suggested  
 7 changes ~~have been~~ ARE made. The denial shall also include  
 8 notification of the applicant's rights of appeal to the ~~state~~  
 9 ~~historic preservation review board~~ LEGISLATIVE BODY OF THE LOCAL  
 10 UNIT and to the circuit court. ~~The failure of~~ IF the commis-  
 11 sion FAILS to act within 60 calendar days after the date a com-  
 12 plete application is filed with the commission, unless an exten-  
 13 sion is agreed upon in writing by the applicant and the commis-  
 14 sion, THE PERMIT APPLICATION shall be considered ~~to constitute~~  
 15 ~~approval~~ APPROVED.

16 (2) Local public officials and employees shall provide  
 17 information and records to committees, commissions, and standing  
 18 committees, and shall meet with those bodies upon request to  
 19 assist with their activities.

20 (3) The bureau shall cooperate with and assist local units,  
 21 committees, commissions, and standing committees in carrying out  
 22 the purposes of this act and may establish or approve standards,  
 23 guidelines, and procedures that encourage uniform administration  
 24 of this act in this state, but that are not legally binding on  
 25 any individual or other legal entity.

26 Sec. 11. (1) ~~Any~~ EXCEPT AS OTHERWISE PROVIDED IN  
 27 SUBSECTION (2), A citizen ~~or~~ IN THE LOCAL UNIT, A duly



1 organized historic preservation organization in the local unit,  
2 ~~as well as~~ OR 1 OR MORE resource property owners, jointly or  
3 severally aggrieved by a decision of the historic district  
4 commission, may appeal the decision to the circuit court. —  
5 ~~except that a~~

6 (2) A permit applicant aggrieved by a decision rendered  
7 under section 5(1) may not appeal to the CIRCUIT court without  
8 first exhausting the right to appeal to the ~~state historic pre-~~  
9 ~~servation review board~~ LEGISLATIVE BODY OF THE LOCAL UNIT under  
10 section 5(2).