

REPRINT

SUBSTITUTE FOR

HOUSE BILL NO. 4945

(As passed the House, June 28, 2001)

A bill to amend 1970 PA 169, entitled  
"Local historic districts act,"  
by amending sections 1a, 3, 5, and 9 (MCL 399.201a, 399.203,  
399.205, and 399.209), section 1a as added and sections 3, 5, and  
9 as amended by 1992 PA 96.

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

1       Sec. 1a. As used in this act:

2       (a) "Alteration" means work that changes the detail of a  
3 resource but does not change its basic size or shape.

4       ~~-(b) "Bureau" means the bureau of history of the Michigan~~  
5 ~~department of state.~~

6       (B) ~~-(c)-~~ "Certificate of appropriateness" means the written  
7 approval of a permit application for work that is appropriate and  
8 that does not adversely affect a resource.

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1       (C) ~~-(d)-~~ "Commission" means a historic district commission  
2 created by the legislative body of a local unit pursuant to  
3 section 4.

4       (D) ~~-(e)-~~ "Committee" means a historic district study com-  
5 mittee appointed by the legislative body of a local unit pursuant  
6 to section 3 or 14.

7       (E) ~~-(f)-~~ "Demolition" means the razing or destruction,  
8 whether entirely or in part, of a resource and includes, but is  
9 not limited to, demolition by neglect.

10       (F) ~~-(g)-~~ "Demolition by neglect" means neglect in maintain-  
11 ing, repairing, or securing a resource that results in deteriora-  
12 tion of an exterior feature of the resource or the loss of struc-  
13 tural integrity of the resource.

14       (G) ~~-(h)-~~ "Denial" means the written rejection of a permit  
15 application for work that is inappropriate and that adversely  
16 affects a resource.

17       (H) "DEPARTMENT" MEANS THE DEPARTMENT OF HISTORY, ARTS, AND  
18 LIBRARIES.

19       (i) "Historic district" means an area, or group of areas not  
20 necessarily having contiguous boundaries, that contains 1  
21 resource or a group of resources that are related by history,  
22 architecture, archaeology, engineering, or culture.

23       (j) "Historic preservation" means the identification, evalu-  
24 ation, establishment, and protection of resources significant in  
25 history, architecture, archaeology, engineering, or culture.

26       (k) "Historic resource" means a publicly or privately owned  
27 building, structure, site, object, feature, or open space that is

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1 significant in the history, architecture, archaeology,  
2 engineering, or culture of this state or a community within this  
3 state, or of the United States.

4 (l) "Local unit" means a county, city, village, or  
5 township.

6 (m) "Notice to proceed" means the written permission to  
7 issue a permit for work that is inappropriate and that adversely  
8 affects a resource, pursuant to a finding under section 5(6).

9 (n) "Open space" means undeveloped land, a naturally land-  
10 scaped area, or a formal or man-made landscaped area that pro-  
11 vides a connective link or a buffer between other resources.

12 (o) "Ordinary maintenance" means keeping a resource unim-  
13 paired and in good condition through ongoing minor intervention,  
14 undertaken from time to time, in its exterior condition.

15 Ordinary maintenance does not change the external appearance of  
16 the resource except through the elimination of the usual and  
17 expected effects of weathering. Ordinary maintenance does not  
18 constitute work for purposes of this act.

19 (p) "Proposed historic district" means an area, or group of  
20 areas not necessarily having contiguous boundaries, that has  
21 delineated boundaries and that is under review by a committee or  
22 a standing committee for the purpose of making a recommendation  
23 as to whether it should be established as a historic district or  
24 added to an established historic district.

25 (q) "Repair" means to restore a decayed or damaged resource  
26 to a good or sound condition by any process. A repair that

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1 changes the external appearance of a resource constitutes work  
2 for purposes of this act.

3 (r) "Resource" means 1 or more publicly or privately owned  
4 historic or nonhistoric buildings, structures, sites, objects,  
5 features, or open spaces located within a historic district.

6 (s) "Standing committee" means a permanent body established  
7 by the legislative body of a local unit pursuant to section 14 to  
8 conduct the activities of a historic district study committee on  
9 a continuing basis.

10 (t) "Work" means construction, addition, alteration, repair,  
11 moving, excavation, or demolition.

12 Sec. 3. (1) A local unit may, by ordinance, establish 1 or  
13 more historic districts. The historic districts shall be admin-  
14 istered by a commission established pursuant to section 4.  
15 Before establishing a historic district, the legislative body of  
16 the local unit shall appoint a historic district study  
17 committee. The committee shall contain a majority of persons who  
18 have a clearly demonstrated interest in or knowledge of historic  
19 preservation, and shall contain representation from 1 or more  
20 duly organized local historic preservation organizations. The  
21 committee shall do all of the following:

22 (a) Conduct a photographic inventory of resources within  
23 each proposed historic district following procedures established  
24 or approved by the ~~bureau~~ DEPARTMENT.

25 (b) Conduct basic research of each proposed historic dis-  
26 trict and the historic resources located within that district.

1       (c) Determine the total number of historic and nonhistoric  
2 resources within a proposed historic district and the percentage  
3 of historic resources of that total. In evaluating the signifi-  
4 cance of historic resources, the committee shall be guided by the  
5 selection criteria for evaluation issued by the United States  
6 secretary of the interior for inclusion of resources in the  
7 national register of historic places, as set forth in  
8 36 C.F.R. part 60, and criteria established or approved by the  
9 ~~bureau~~ DEPARTMENT, if any.

10       (d) Prepare a preliminary historic district study committee  
11 report that addresses at a minimum all of the following:

12       (i) The charge of the committee.

13       (ii) The composition of the committee membership.

14       (iii) The historic district or districts studied.

15       (iv) The boundaries for each proposed historic district in  
16 writing and on maps.

17       (v) The history of each proposed historic district.

18       (vi) The significance of each district as a whole, as well  
19 as a sufficient number of its individual resources to fully rep-  
20 resent the variety of resources found within the district, rela-  
21 tive to the evaluation criteria.

22       (e) Transmit copies of the preliminary report for review and  
23 recommendations to the local planning body, to the ~~bureau~~  
24 DEPARTMENT, to the Michigan historical commission, and to the  
25 state historic preservation review board.

26       (f) Make copies of the preliminary report available to the  
27 public pursuant to subsection (4).

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1       (2) Not less than 60 calendar days after the transmittal of  
2 the preliminary report, the committee shall hold a public hearing  
3 in compliance with ~~Act No. 267 of the Public Acts of 1976, as~~  
4 ~~amended, being sections 15.261 to 15.275 of the Michigan Compiled~~  
5 ~~Laws~~ THE OPEN MEETINGS ACT, 1976 PA 267, MCL 15.261 TO 15.275.  
6 Public notice of the time, date, and place of the hearing shall  
7 be given in the manner required by ~~Act No. 267 of the Public~~  
8 ~~Acts of 1976, as amended~~ THE OPEN MEETINGS ACT, 1976 PA 267,  
9 MCL 15.261 TO 15.275. Written notice shall be mailed by  
10 first-class mail not less than 14 calendar days before the hear-  
11 ing to the owners of properties within the proposed historic dis-  
12 trict, as listed on the tax rolls of the local unit.

13       (3) After the date of the public hearing, the committee and  
14 the legislative body of the local unit shall have not more than 1  
15 year, unless otherwise authorized by the legislative body of the  
16 local unit, to take the following actions:

17       (a) The committee shall prepare and submit a final report  
18 with its recommendations and the recommendations, if any, of the  
19 local planning body to the legislative body of the local unit.  
20 If the recommendation is to establish a historic district or dis-  
21 tricts, the final report shall include a draft of a proposed  
22 ordinance or ordinances.

23       (b) After receiving a final report that recommends the  
24 establishment of a historic district or districts, the legisla-  
25 tive body of the local unit, at its discretion, may introduce and  
26 pass or reject an ordinance or ordinances. If the local unit  
27 passes an ordinance or ordinances establishing 1 or more historic

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1 districts, the local unit shall file a copy of that ordinance or  
2 those ordinances, including a legal description of the property  
3 or properties located within the historic district or districts,  
4 with the register of deeds. A local unit shall not pass an ordi-  
5 nance establishing a contiguous historic district less than 60  
6 days after a majority of the property owners within the proposed  
7 historic district, as listed on the tax rolls of the local unit,  
8 have approved the establishment of the historic district pursuant  
9 to a written petition.

10 (4) A writing prepared, owned, used, in the possession of,  
11 or retained by a committee in the performance of an official  
12 function shall be made available to the public in compliance with  
13 ~~Act No. 442 of the Public Acts of 1976, as amended, being~~  
14 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws~~ THE  
15 FREEDOM OF INFORMATION ACT, 1976 PA 442, MCL 15.231 TO 15.246.

16 Sec. 5. (1) A permit shall be obtained before any work  
17 affecting the exterior appearance of a resource is performed  
18 within a historic district or, if required under subsection (4),  
19 work affecting the interior arrangements of a resource is per-  
20 formed within a historic district. The person, individual, part-  
21 nership, firm, corporation, organization, institution, or agency  
22 of government proposing to do that work shall file an application  
23 for a permit with the inspector of buildings, the commission, or  
24 other duly delegated authority. If the inspector of buildings or  
25 other authority receives the application, the application shall  
26 be immediately referred together with all required supporting  
27 materials that make the application complete to the commission.

1 A permit shall not be issued and proposed work shall not proceed  
2 until the commission has acted on the application by issuing a  
3 certificate of appropriateness or a notice to proceed as pre-  
4 scribed in this act. A local unit may charge a reasonable fee to  
5 process a permit application.

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

23 (3) In reviewing plans, the commission shall follow the  
24 ~~U.S.~~ UNITED STATES secretary of the interior's standards for  
25 rehabilitation and guidelines for rehabilitating historic build-  
26 ings, as set forth in 36 C.F.R. part 67. Design review standards  
27 and guidelines that address special design characteristics of



1 historic districts administered by the commission may be followed  
2 if they are equivalent in guidance to the secretary of interior's  
3 standards and guidelines and are established or approved by the  
4 ~~bureau~~ DEPARTMENT. The commission shall also consider all of  
5 the following:

6 (a) The historic or architectural value and significance of  
7 the resource and its relationship to the historic value of the  
8 surrounding area.

9 (b) The relationship of any architectural features of the  
10 resource to the rest of the resource and to the surrounding  
11 area.

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

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

16 (4) The commission shall review and act upon only exterior  
17 features of a resource and shall not review and act upon interior  
18 arrangements unless specifically authorized to do so by the local  
19 legislative body or unless interior work will cause visible  
20 change to the exterior of the resource. The commission shall not  
21 disapprove an application due to considerations not prescribed in  
22 subsection (3).

23 (5) If an application is for work that will adversely affect  
24 the exterior of a resource the commission considers valuable to  
25 the local unit, state, or nation, and the commission determines  
26 that the alteration or loss of that resource will adversely  
27 affect the public purpose of the local unit, state, or nation,

1 the commission shall attempt to establish with the owner of the  
2 resource an economically feasible plan for preservation of the  
3 resource.

4 (6) Work within a historic district shall be permitted  
5 through the issuance of a notice to proceed by the commission if  
6 any of the following conditions prevail and if the proposed work  
7 can be demonstrated by a finding of the commission to be neces-  
8 sary to substantially improve or correct any of the following  
9 conditions:

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

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

16 (c) Retaining the resource will cause undue financial hard-  
17 ship to the owner when a governmental action, an act of God, or  
18 other events beyond the owner's control created the hardship, and  
19 all feasible alternatives to eliminate the financial hardship,  
20 which may include offering the resource for sale at its fair  
21 market value or moving the resource to a vacant site within the  
22 historic district, have been attempted and exhausted by the  
23 owner.

24 (d) Retaining the resource is not in the interest of the  
25 majority of the community.

26 (7) The business that the commission may perform shall be  
27 conducted at a public meeting of the commission held in

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1 compliance with the open meetings act, ~~Act No. 267 of the Public~~  
2 ~~Acts of 1976, as amended, being sections 15.261 to 15.275 of the~~  
3 ~~Michigan Compiled Laws~~ 1976 PA 267, MCL 15.261 TO 15.275.

4 Public notice of the time, date, and place of the meeting shall  
5 be given in the manner required by ~~Act No. 267 of the Public~~  
6 ~~Acts of 1976, as amended~~ THE OPEN MEETINGS ACT, 1976 PA 267,  
7 MCL 15.261 TO 15.275. A meeting agenda shall be part of the  
8 notice and shall include a listing of each permit application to  
9 be reviewed or considered by the commission.

10 (8) The commission shall keep a record of its resolutions,  
11 proceedings, and actions. A writing prepared, owned, used, in  
12 the possession of, or retained by the commission in the per-  
13 formance of an official function shall be made available to the  
14 public in compliance with the freedom of information act, ~~Act~~  
15 ~~No. 442 of the Public Acts of 1976, as amended, being~~  
16 ~~sections 15.231 to 15.246 of the Michigan Compiled Laws~~ 1976  
17 PA 442, MCL 15.231 TO 15.246.

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

21 (10) The commission may delegate the issuance of certifi-  
22 cates of appropriateness for specified minor classes of work to  
23 its staff, to the inspector of buildings, or to another delegated  
24 authority. The commission shall provide to the delegated author-  
25 ity specific written standards for issuing certificates of appro-  
26 priateness under this subsection. On at least a quarterly basis,  
27 the commission shall review the certificates of appropriateness,

1 if any, issued for work by its staff, the inspector, or another  
2 authority to determine whether or not the delegated responsibili-  
3 ties should be continued.

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

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

10 (b) If the owner does not make repairs within a reasonable  
11 time, the commission or its agents may enter the property and  
12 make such repairs as are necessary to prevent demolition by  
13 neglect. The costs of the work shall be charged to the owner,  
14 and may be levied by the local unit as a special assessment  
15 against the property. The commission or its agents may enter the  
16 property for purposes of this section upon obtaining an order  
17 from the circuit court.

18 (12) When work has been done upon a resource without a  
19 permit, and the commission finds that the work does not qualify  
20 for a certificate of appropriateness, the commission may require  
21 an owner to restore the resource to the condition the resource  
22 was in before the inappropriate work or to modify the work so  
23 that it qualifies for a certificate of appropriateness. If the  
24 owner does not comply with the restoration or modification  
25 requirement within a reasonable time, the commission may seek an  
26 order from the circuit court to require the owner to restore the  
27 resource to its former condition or to modify the work so that it

1 qualifies for a certificate of appropriateness. If the owner  
2 does not comply or cannot comply with the order of the court, the  
3 commission or its agents may enter the property and conduct work  
4 necessary to restore the resource to its former condition or  
5 modify the work so that it qualifies for a certificate of appro-  
6 priateness in accordance with the court's order. The costs of  
7 the work shall be charged to the owner, and may be levied by the  
8 local unit as a special assessment against the property. When  
9 acting pursuant to an order of the circuit court, a commission or  
10 its agents may enter a property for purposes of this section.

11       Sec. 9. (1) The commission shall file certificates of  
12 appropriateness, notices to proceed, and denials of applications  
13 for permits with the inspector of buildings or other delegated  
14 authority. A permit shall not be issued until the commission has  
15 acted as prescribed by this act. If a permit application is  
16 denied, the decision shall be binding on the inspector or other  
17 authority. A denial shall be accompanied with a written explana-  
18 tion by the commission of the reasons for denial and, if appro-  
19 priate, a notice that an application may be resubmitted for com-  
20 mission review when suggested changes have been made. The denial  
21 shall also include notification of the applicant's rights of  
22 appeal to the state historic preservation review board and to the  
23 circuit court. The failure of the commission to act within 60  
24 calendar days after the date a complete application is filed with  
25 the commission, unless an extension is agreed upon in writing by  
26 the applicant and the commission, shall be considered to  
27 constitute approval.

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1       (2) Local public officials and employees shall provide  
2 information and records to committees, commissions, and standing  
3 committees, and shall meet with those bodies upon request to  
4 assist with their activities.

5       (3) The ~~bureau~~ DEPARTMENT shall cooperate with and assist  
6 local units, committees, commissions, and standing committees in  
7 carrying out the purposes of this act and may establish or  
8 approve standards, guidelines, and procedures that encourage uni-  
9 form administration of this act in this state but that are not  
10 legally binding on any individual or other legal entity.

11       Enacting section 1. This amendatory act does not take  
12 effect unless House Bill No. 4941 of the 91st Legislature is  
13 enacted into law.