

Act No. 488
Public Acts of 2002
Approved by the Governor
June 27, 2002
Filed with the Secretary of State
June 28, 2002
EFFECTIVE DATE: June 28, 2002

STATE OF MICHIGAN
91ST LEGISLATURE
REGULAR SESSION OF 2002

Introduced by Reps. Julian, Vander Roest, Spade, Zelenko, Anderson, Lockwood, Neumann, George and Richardville

ENROLLED HOUSE BILL No. 5889

AN ACT to amend 1955 PA 10, entitled "An act to provide for the registration of historic sites," by amending the title and sections 1 and 2 (MCL 399.151 and 399.152) and by adding sections 3, 4, 5, 6, 7, 8, 9, and 10.

The People of the State of Michigan enact:

TITLE

An act to provide for the registration of historic sites; to authorize certain fees; to prescribe powers, duties, and responsibilities for certain state officers; and to prescribe penalties and civil remedies for violations of this act.

Sec. 1. This act shall be known and may be cited as the "Michigan historical markers act".

Sec. 2. As used in this act:

(a) "Application" means applying for the placement of an official Michigan historical marker at the location of a historic resource or site and for the resource's or site's listing in the state register of historic sites.

(b) "Center" means the Michigan historical center established in the department.

(c) "Commission" means the Michigan historical commission created in section 1 of 1913 PA 271, MCL 399.1.

(d) "Department" means the department of history, arts, and libraries created in section 3 of the history, arts, and libraries act, 2001 PA 63, MCL 399.703.

(e) "Historic resource" means a publicly or privately owned building, structure, site, object, or open space of historic significance to Michigan.

(f) "Historic significance" means value in relation to historical, architectural, archaeological, engineering, or cultural disciplines.

(g) "Person" means an individual, partnership, corporation, association, or other private legal entity.

(h) "Work" means construction, addition, alteration, repair, moving, excavation, or demolition.

Sec. 3. Historic preservation and related public education are declared to be public purposes. In fulfillment of these purposes, the department may administer a Michigan historical marker program with the following goals:

(a) Identify and locate historic sites and subjects having historic significance to this state.

(b) Educate the public about significant people, places, and things in Michigan history and thereby develop the public's knowledge of the importance of Michigan history.

(c) Encourage the public to preserve historic resources indicative of Michigan history and to develop a sense of identity as Michiganians.

(d) Enhance cultural tourism in this state by encouraging residents and visitors to investigate Michigan history and the state's historic sites.

(e) Unite people from various regions of this state through improved dissemination of information about historic resources and places.

Sec. 4. The department may list a historic resource or site in the state register of historic sites and commemorate the resource or site with the placement of an official Michigan historical marker if the historic resource or site meets written criteria adopted by the department upon recommendation of the commission.

Sec. 5. (1) An application may be filed by 1 of the following persons or agencies:

(a) A person owning or in possession of a historic resource or site or a person having written consent from the owner or person in possession of a historic resource or site.

(b) A department or agency of this state or of a political subdivision of the state owning, controlling, or in possession of a historic resource or site.

(2) A person or agency may submit application to the center only on a form prescribed by and obtained from the center. The form shall include all requested information and be accompanied by the following attachments:

(a) Current images, as prescribed by the center.

(b) Documentation from a recognized and authoritative source acceptable to the center, supporting the historic significance of the historic resource. This documentation shall demonstrate the historic significance of the historic resource.

(c) Any additional documents required by the center.

(3) An application and all attachments submitted to the center under subsection (2) become the property of the state.

(4) An applicant other than an agency shall pay the center an application fee of \$250.00 at the time an application is submitted. The center may not process an application without this fee. The center shall deposit the fee in the historical marker fund created in section 9. The center shall refund the fee if the center decides the historic resource is not eligible for a historical marker.

(5) The center shall review each application for completeness and accuracy. The center's review may include verification of the accuracy of furnished information and the location of the historic resource or site. The center may require the applicant to furnish additional information considered necessary to complete the center's review of the application and attachments. Center representatives may visit the site if necessary.

(6) Submission of an application does not guarantee that a historic resource or site will receive an official Michigan historical marker. If the center concludes that the application meets the criteria for the placement of an official Michigan historical marker, the center shall endorse the application and prepare marker text for presentation to the commission. However, if the center concludes that the application fails to meet a criterion or another requirement for placement of a marker, the center shall notify the applicant of that decision in writing and shall specify the reason or reasons why the application is denied.

Sec. 6. (1) Upon receipt of an application and proposed marker text from the center, the commission shall review, modify if necessary, and approve the text, and review and approve the location for each requested historical marker. The commission shall exercise its judgment and discretion in revising and approving proposed marker text and may advise the department on matters pertaining to applications and related decisions. The department shall issue an official site number for each historic resource or site designated for placement of an official Michigan historical marker.

(2) An official Michigan historical marker shall not include or mention the name of a living commissioner or any other living state official.

(3) An official Michigan historical marker shall include the words "Michigan historical center, department of history, arts, and libraries". The department may retrofit a marker that does not include these words.

(4) An official Michigan historical marker shall have a logo or seal with a wolverine emblem in its upper area or crest and include the words "registered Michigan historic site".

(5) The department may enter into a written agreement with another state, local, or federal agency regarding the placement of an official Michigan historical marker on property under the jurisdiction of the agency. The agreement may address security, payment for the marker, and other appropriate matters.

Sec. 7. (1) An official Michigan historical marker approved by the department and the commission is the property of the state of Michigan and is subject to the exclusive control of the department, whether erected on public or private property. In addition to other text on the marker, each marker shall include the conspicuous statement "property of the state of Michigan".

(2) The department shall not abandon an official Michigan historical marker. In all legal proceedings, in this state or elsewhere, there shall be an irrebuttable presumption against abandonment of the state of Michigan's ownership of an official Michigan historical marker.

(3) A person or agency in possession of a historic resource or site where an official Michigan historical marker is displayed shall not attempt to convey, sell, or otherwise transfer the marker. A conveyance, sale, or transfer is void unless made pursuant to written permission from the department.

(4) Upon discovering that an official Michigan historical marker may have been stolen or otherwise improperly or unlawfully removed from the historic resource or site where it was placed, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the marker.

(5) Upon discovering that an official Michigan historical marker has been marred, vandalized, or otherwise damaged, the department, with advice and assistance from the attorney general, may commence an action, in this state or elsewhere, to recover the actual replacement cost of the marker, plus taxable costs, reasonable attorney fees, and interest calculated under section 6013 of the revised judicature act of 1961, 1961 PA 236, MCL 600.6013. Revenue received under this subsection shall be deposited in the historical marker fund created in section 9.

Sec. 8. (1) A person or agency shall not exhibit, display, or use an official Michigan historical marker's distinctive design, configuration, pattern, or color combination, including a facsimile of an official Michigan historical marker, for any purpose without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$1,000.00, or both.

(2) A person or agency shall not use for advertising, retail sales, or any other commercial purpose without the department's written permission any portion of the seal, emblem, and logo that appear in the crest of an official Michigan historical marker. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$5,000.00, or both.

(3) A person or agency shall not exhibit, display, or use a marker's seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, to represent his or her property as a registered Michigan historic site. A person or agency shall not exhibit, display, or use the seal, emblem, or logo or a marker's distinctive design, configuration, pattern, or color combination, including an official Michigan historical marker's facsimile, in a manner designed to lead another person to believe that the person's property is an official state historic site. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than \$2,000.00 or more than \$10,000.00, or both. If a person allegedly in violation of this subsection receives written notice from the department that the person is in apparent violation of the subsection and the person within 60 days of mailing of the notice ceases the violation by removing or no longer using the seal, pattern, design, or color combination, or facsimile, prosecution under this subsection is barred.

(4) A person or agency shall not damage, destroy, deface, remove, tamper with, alter, or possess an official Michigan historical marker displayed at a historic resource or site without the department's written permission. A person or agency that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not less than \$500.00 or more than \$5,000.00, or both. A person who pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state in an amount double the cost of repair, replacement, and restoration of the official state historic site and official Michigan historical marker.

(5) A person, including a salvage company, commercial business, or a collector, shall not knowingly accept in trade or possess an official Michigan historical marker. A person that violates this subsection is guilty of a misdemeanor punishable by imprisonment for not more than 6 months or a fine of not less than \$1,000.00 or more than \$10,000.00, or both. A person that pleads guilty or nolo contendere or is determined guilty under this subsection is liable to this state in an amount 3 times the cost of the repair, restoration, or replacement of the official Michigan historical marker.

(6) Within the first 90 days after the effective date of the amendatory act that added this subsection, a person possessing an official Michigan historical marker may return the marker to the department or to the sheriff of the person's county of residence without penalty for larceny or violating this act. However, this immunity shall not apply to a person that removed the marker if the removal of the marker resulted in death or personal injury. A sheriff shall hold a returned marker and shall notify the department that a marker has been returned. The department shall determine the disposition of the returned marker.

(7) The amounts received under the liability provisions of subsections (4) and (5) shall be deposited in the historical marker fund created in section 9.

Sec. 9. (1) The department may accept gifts, grants, bequests, and appropriations for the purpose of administering the Michigan historical marker program, including, but not limited to, the manufacture and placement of an official Michigan historical marker, repair and maintenance of a marker, program administration, application reviews, marker restoration, marker recovery, and enforcement of this act.

(2) The amounts received under subsection (1) shall be credited to a fund, which is created and shall be known as the historical marker fund. The state treasurer shall direct the investment of the historical marker fund and shall credit to the fund all interest and earnings earned from fund investments. Money in the historical marker fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund. Notwithstanding any balance in the historical marker fund, nothing in this subsection shall obligate the department to pay for the maintenance, repair, or replacement of an official Michigan historical marker.

(3) The department may copyright the text on an official Michigan historical marker and may register as a trademark or service mark the logo, seal, and emblem associated with official Michigan historical markers. The department may license or sell rights to publish or otherwise use copyrighted marker text and to use the registered logo, seal, or emblem and shall deposit amounts received from sales and licensing in the historical marker fund created in subsection (2).

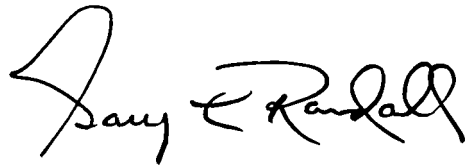
Sec. 10. (1) An official Michigan historical marker placed to recognize a particular historic resource may be moved to and placed at another nearby site if the commission has been asked to give, and has given, written permission for the move.

(2) When making alterations to the exterior of a historic resource which has been commemorated by an official Michigan historical marker, the owner or other person in possession of the historic resource shall follow the United States secretary of the interior's standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. part 67, when developing plans for and performing work on this historic resource. The owner or other person in possession of the historic resource may ask the center to review work plans prior to commencement of work.

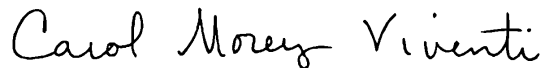
(3) The center may withdraw a marker designation and may request the return of or may repossess an official Michigan historical marker from a historic resource or site if the center determines that the historic resource or site has lost its historic significance or integrity.

(4) If the center withdraws a marker designation, the person or agency in possession of the historic resource or site shall immediately return the marker to the center.

This act is ordered to take immediate effect.



Clerk of the House of Representatives.



Secretary of the Senate.

Approved _____

Governor.