

SUBSTITUTE FOR
SENATE BILL NO. 339

A bill to amend 1970 PA 169, entitled
"Local historic districts act,"
by amending sections 1a and 5 (MCL 399.201a and 399.205), as
amended by 2001 PA 67.

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) "Certificate of appropriateness" means the written
5 approval of a permit application for work that is appropriate and
6 that does not adversely affect a resource.
- 7 (c) "Commission" means a historic district commission created
8 by the legislative body of a local unit ~~pursuant to~~ **under**
9 section 4.
- 10 (d) "Committee" means a historic district study committee

1 appointed by the legislative body of a local unit ~~pursuant to~~
2 **under** section 3 or 14.

3 (e) "Demolition" means the razing or destruction, whether
4 entirely or in part, of a resource and includes, but is not
5 limited to, demolition by neglect.

6 (f) "Demolition by neglect" means neglect in maintaining,
7 repairing, or securing a resource that results in deterioration
8 of an exterior feature of the resource or the loss of structural
9 integrity of the resource.

10 (g) "Denial" means the written rejection of a permit
11 application for work that is inappropriate and that adversely
12 affects a resource.

13 (h) "Department" means the department of history, arts, and
14 libraries.

15 (i) **"Fire alarm system" means a system designed to detect and**
16 **annunciate the presence of fire or by-products of fire. Fire**
17 **alarm system includes smoke alarms.**

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

22 (k) ~~(j)~~ "Historic preservation" means the identification,
23 evaluation, establishment, and protection of resources
24 significant in history, architecture, archaeology, engineering,
25 or culture.

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

1 that is 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 **(m)** ~~—(l)—~~ "Local unit" means a county, city, village, or
5 township.

6 **(n)** ~~—(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 **(o)** ~~—(n)—~~ "Open space" means undeveloped land, a naturally
10 landscaped area, or a formal or man-made landscaped area that
11 provides a connective link or a buffer between other resources.

12 **(p)** ~~—(o)—~~ "Ordinary maintenance" means keeping a resource
13 unimpaired and in good condition through ongoing minor
14 intervention, undertaken from time to time, in its exterior
15 condition. Ordinary maintenance does not change the external
16 appearance of the resource except through the elimination of the
17 usual and expected effects of weathering. Ordinary maintenance
18 does not constitute work for purposes of this act.

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

25 **(r)** ~~—(q)—~~ "Repair" means to restore a decayed or damaged
26 resource to a good or sound condition by any process. A repair
27 that changes the external appearance of a resource constitutes

1 work for purposes of this act.

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

6 **(t)** "Smoke alarm" means a single-station or multiple-station
7 alarm responsive to smoke and not connected to a system. As used
8 in this subdivision, "single-station alarm" means an assembly
9 incorporating a detector, the control equipment, and the alarm
10 sounding device into a single unit, operated from a power supply
11 either in the unit or obtained at the point of installation.
12 "Multiple-station alarm" means 2 or more single-station alarms
13 that are capable of interconnection such that actuation of 1
14 alarm causes all integrated separate audible alarms to operate.

15 **(u)** ~~—(s)—~~ "Standing committee" means a permanent body
16 established by the legislative body of a local unit ~~—pursuant to~~
17 **under** section 14 to conduct the activities of a historic district
18 study committee on a continuing basis.

19 **(v)** ~~—(t)—~~ "Work" means construction, addition, alteration,
20 repair, moving, excavation, or demolition.

21 Sec. 5. (1) A permit shall be obtained before any work
22 affecting the exterior appearance of a resource is performed
23 within a historic district or, if required under subsection (4),
24 work affecting the interior arrangements of a resource is
25 performed within a historic district. The person, individual,
26 partnership, firm, corporation, organization, institution, or
27 agency of government proposing to do that work shall file an

1 application for a permit with the inspector of buildings, the
2 commission, or other duly delegated authority. If the inspector
3 of buildings or other authority receives the application, the
4 application shall be immediately referred together with all
5 required supporting materials that make the application complete
6 to the commission. A permit shall not be issued and proposed
7 work shall not proceed until the commission has acted on the
8 application by issuing a certificate of appropriateness or a
9 notice to proceed as prescribed in this act. **A commission shall**
10 **not issue a certificate of appropriateness unless the applicant**
11 **certifies in the application that the property where work will be**
12 **undertaken has, or will have before the proposed project**
13 **completion date, a fire alarm system or a smoke alarm complying**
14 **with the requirements of the Stille-DeRossett-Hale single state**
15 **construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. A**
16 local unit may charge a reasonable fee to process a permit
17 application.

18 (2) An applicant aggrieved by a decision of a commission
19 concerning a permit application may file an appeal with the state
20 historic preservation review board ~~of the Michigan historical~~
21 ~~commission~~ within the department. The appeal shall be filed
22 within 60 days after the decision is furnished to the applicant.
23 The appellant may submit all or part of the appellant's evidence
24 and arguments in written form. The review board shall consider
25 an appeal at its first regularly scheduled meeting after
26 receiving the appeal, but may not charge a fee for considering an
27 appeal. The review board may affirm, modify, or set aside a

1 commission's decision and may order a commission to issue a
2 certificate of appropriateness or a notice to proceed. A permit
3 applicant aggrieved by the decision of the state historic
4 preservation review board may appeal the decision to the circuit
5 court having jurisdiction over the historic district commission
6 whose decision was appealed to the state historic preservation
7 review board.

8 (3) In reviewing plans, the commission shall follow the
9 United States secretary of the interior's standards for
10 rehabilitation and guidelines for rehabilitating historic
11 buildings, as set forth in 36 C.F.R. part 67. Design review
12 standards and guidelines that address special design
13 characteristics of historic districts administered by the
14 commission may be followed if they are equivalent in guidance to
15 the secretary of interior's standards and guidelines and are
16 established or approved by the department. The commission shall
17 also consider all of the following:

18 (a) The historic or architectural value and significance of
19 the resource and its relationship to the historic value of the
20 surrounding area.

21 (b) The relationship of any architectural features of the
22 resource to the rest of the resource and to the surrounding
23 area.

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

26 (d) Other factors, such as aesthetic value, that the
27 commission finds relevant.

1 (e) Whether the applicant has certified in the application
2 that the property where work will be undertaken has, or will have
3 before the proposed project completion date, a fire alarm system
4 or a smoke alarm complying with the requirements of the
5 Stille-DeRossett-Hale single state construction code act, 1972 PA
6 230, MCL 125.1501 to 125.1531.

7 (4) The commission shall review and act upon only exterior
8 features of a resource and, **except for noting compliance with the**
9 **requirement to install a fire alarm system or a smoke alarm,**
10 shall not review and act upon interior arrangements unless
11 specifically authorized to do so by the local legislative body or
12 unless interior work will cause visible change to the exterior of
13 the resource. The commission shall not disapprove an application
14 due to considerations not prescribed in subsection (3).

15 (5) If an application is for work that will adversely affect
16 the exterior of a resource the commission considers valuable to
17 the local unit, state, or nation, and the commission determines
18 that the alteration or loss of that resource will adversely
19 affect the public purpose of the local unit, state, or nation,
20 the commission shall attempt to establish with the owner of the
21 resource an economically feasible plan for preservation of the
22 resource.

23 (6) Work within a historic district shall be permitted
24 through the issuance of a notice to proceed by the commission if
25 any of the following conditions prevail and if the proposed work
26 can be demonstrated by a finding of the commission to be
27 necessary to substantially improve or correct any of the

1 following conditions:

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

4 (b) The resource is a deterrent to a major improvement
5 program that will be of substantial benefit to the community and
6 the applicant proposing the work has obtained all necessary
7 planning and zoning approvals, financing, and environmental
8 clearances.

9 (c) Retaining the resource will cause undue financial
10 hardship to the owner when a governmental action, an act of God,
11 or other events beyond the owner's control created the hardship,
12 and all feasible alternatives to eliminate the financial
13 hardship, which may include offering the resource for sale at its
14 fair market value or moving the resource to a vacant site within
15 the historic district, have been attempted and exhausted by the
16 owner.

17 (d) Retaining the resource is not in the interest of the
18 majority of the community.

19 (7) The business that the commission may perform shall be
20 conducted at a public meeting of the commission held in
21 compliance with the open meetings act, 1976 PA 267, MCL 15.261 to
22 15.275. Public notice of the time, date, and place of the
23 meeting shall be given in the manner required by the open
24 meetings act, 1976 PA 267, MCL 15.261 to 15.275. A meeting
25 agenda shall be part of the notice and shall include a listing of
26 each permit application to be reviewed or considered by the
27 commission.

1 (8) The commission shall keep a record of its resolutions,
2 proceedings, and actions. A writing prepared, owned, used, in
3 the possession of, or retained by the commission in the
4 performance of an official function shall be made available to
5 the public in compliance with the freedom of information act,
6 1976 PA 442, MCL 15.231 to 15.246.

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

10 (10) The commission may delegate the issuance of certificates
11 of appropriateness for specified minor classes of work to its
12 staff, to the inspector of buildings, or to another delegated
13 authority. The commission shall provide to the delegated
14 authority specific written standards for issuing certificates of
15 appropriateness under this subsection. On at least a quarterly
16 basis, the commission shall review the certificates of
17 appropriateness, if any, issued for work by its staff, the
18 inspector, or another authority to determine whether or not the
19 delegated responsibilities should be continued.

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

24 (a) Require the owner of the resource to repair all
25 conditions contributing to demolition by neglect.

26 (b) If the owner does not make repairs within a reasonable
27 time, the commission or its agents may enter the property and

1 make such repairs as are necessary to prevent demolition by
2 neglect. The costs of the work shall be charged to the owner,
3 and may be levied by the local unit as a special assessment
4 against the property. The commission or its agents may enter the
5 property for purposes of this section upon obtaining an order
6 from the circuit court.

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