HOUSE BILL No. 5232
January 26, 2016, Introduced by Reps. Afendoulis, Chatfield, Theis, Lucido, Poleski, Lyons, Cox, Sheppard, Hughes, Hooker, Smiley, Price, LaFontaine, Callton, Yonker, Garcia, Victory, Cole, Johnson, Kivela, Jenkins, Bumstead, Kelly and Glenn and referred to the Committee on Local Government.

A bill to amend 1970 PA 169, entitled "Local historic districts act," by amending sections 1a, 3, 5, 9, and 14 (MCL 399.201a, 399.203, 399.205, 399.209, and 399.214), sections 1a and 5 as amended by 2004 PA 67, sections 3 and 9 as amended by 2001 PA 67, and section 14 as added by 1992 PA 96.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

Sec. 1a. As used in this act:

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

(B) "AUTHORITY" MEANS THE MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY CREATED BY SECTION 21 OF THE STATE HOUSING DEVELOPMENT AUTHORITY ACT OF 1966, 1966 PA 346, MCL 125.1421.

(C) "Certificate of appropriateness" means the written
approval of a permit application for work that is appropriate and that does not adversely affect a resource.

(D) (e) "Commission" means a historic district commission created by the legislative body of a local unit under section 4.

(E) (d) "Committee" means a historic district study committee appointed by the legislative body of a local unit under section 3 or 14.

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

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

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

(i) "Department" means the department of history, arts, and libraries.

"Fire alarm system" means a system designed to detect and annunciate the presence of fire or by-products of fire. Fire alarm system includes smoke alarms.

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

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

(l) "Historic resource" means a publicly or privately owned
building, structure, site, object, feature, or open space that is
significant in the history, architecture, archaeology, engineering,
or culture of this state or a community within this state, or of
the United States.

(m) "Local unit" means a county, city, village, or township.

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

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

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

(q) "Proposed historic district" means an area, or group of
areas not necessarily having contiguous boundaries, that has
delineated boundaries and that is under review by a committee or a
standing committee—subject to the review process set forth in
section 3(1)(A) to (D)(iii) or 14(1) for the purpose of making a
recommendation as to—DECIDING whether it should be established as a
(r) "Repair" means to restore a decayed or damaged resource to a good or sound condition by any process. A repair that changes the external appearance of a resource constitutes work for purposes of this act.

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

(t) "Smoke alarm" means a single-station or multiple-station alarm responsive to smoke and not connected to a system. As used in this subdivision, "single-station alarm" means an assembly incorporating a detector, the control equipment, and the alarm sounding device into a single unit, operated from a power supply either in the unit or obtained at the point of installation.

"Multiple-station alarm" means 2 or more single-station alarms that are capable of interconnection such that actuation of 1 alarm causes all integrated separate audible alarms to operate.

(u) "Standing committee" means a permanent body established by the legislative body of a local unit under section 14 to conduct the activities of a historic district study committee on a continuing basis.

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

Sec. 3. (1) A local unit may, by ordinance, establish 1 or more historic districts. The historic districts, WHICH shall be administered by a commission established pursuant to UNDER section 4, Before establishing a historic district, SUBJECT TO ALL OF THE
FOLLOWING:

(A) THE LOCAL UNIT SHALL OBTAIN PRELIMINARY APPROVAL OF A
PROPOSED HISTORIC DISTRICT FROM AT LEAST 2/3 OF THE PROPERTY OWNERS
WITHIN THE PROPOSED HISTORIC DISTRICT, AS LISTED ON THE TAX ROLLS
OF THE LOCAL UNIT, PURSUANT TO A WRITTEN PETITION THAT INCLUDES A
PRECISE DESCRIPTION OF THE BOUNDARIES OF THE PROPOSED HISTORIC
DISTRICT.

(B) FOR PURPOSES OF FURTHER CONSIDERING 1 OR MORE PROPOSED
HISTORIC DISTRICTS APPROVED UNDER SUBDIVISION (A), the legislative
body of the local unit shall appoint a historic district study
committee. The committee shall contain a majority of persons who
have a clearly demonstrated interest in or knowledge of historic
preservation, and shall contain representation from 1 or more
CONSIST OF 4 TO 7 INDIVIDUALS, 1 OF WHOM IS AN ELECTED MEMBER OF
THE LEGISLATIVE BODY OF THE LOCAL UNIT, 1 OF WHOM IS A
REPRESENTATIVE OF A duly organized local historic preservation
organization, and at least 1 of whom is engaged in
THE BUSINESS OF RESIDENTIAL OR COMMERCIAL CONSTRUCTION. The
committee shall do all of the following:

(i) (a) Conduct a photographic inventory of resources within
each proposed historic district following procedures established
or approved by the department.

(ii) (b) Conduct basic research of each proposed historic
district and the historic resources located within that district.

(iii) (c) Determine the total number of historic and
nonhistoric resources within a proposed historic district and the
percentage of historic resources of that total. In evaluating the
significance of historic resources, the committee shall be guided by the selection criteria for evaluation issued by the United States secretary of the interior—SECRETARY OF THE INTERIOR—for inclusion of resources in the national register of historic places, as set forth in 36 C.F.R.—CFR part 60., and criteria established or approved by the department, if any.

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

(A) (i) The charge of the committee.

(B) (ii) The composition of the committee membership.

(C) (iii) The historic district or districts studied.

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

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

(F) (vi) The significance of each district as a whole, as well as a sufficient number of its individual resources to fully represent the variety of resources found within the district, relative to the evaluation criteria.

(v) (e) Transmit copies of the preliminary report for review and recommendations to the local planning body, to the department, AUTHORITY, AND to the Michigan historical commission. and to the state historic preservation review board.

(vi) (f) Make copies of the preliminary report available to the public pursuant to subsection (4)—(2).

(C) (2) Not less than 60 calendar days after the transmittal of the preliminary report, the committee shall hold a public hearing in compliance with the open meetings act, 1976 PA 267, MCL
15.261 to 15.275. Public notice of the time, date, and place of the hearing shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Written notice shall be mailed by first-class mail not less than AT LEAST 14 calendar days before the hearing to the owners of properties within the proposed historic district, as listed on the tax rolls of the local unit.

(D) (3) After ALL OF THE FOLLOWING MUST OCCUR WITHIN 1 YEAR AFTERTHE date of the public hearing, the committee and the legislative body of the local unit shall have not more than 1 year, unless otherwise SOME OTHER TIME FRAME IS authorized by the legislative body of the local unit, to take the following actions:

(i) (a) The committee shall prepare and submit a final report with its recommendations and the recommendations, if any, of the local planning body to the legislative body of the local unit. If the recommendation is to establish a historic district or districts, the final report MAY include a draft of a proposed ordinance or ordinances.

(ii) (b) After receiving a final report that recommends the establishment of a historic district or districts, the legislative body of the local unit, at its discretion, may introduce and pass or reject a CONDITIONALLY EFFECTIVE ordinance or ordinances THAT WILL ESTABLISH A HISTORIC DISTRICT OR DISTRICTS ONLY IF APPROVED UNDER SUBPARAGRAPH (iii).

(iii) A CONDITIONALLY EFFECTIVE ORDINANCE OR ORDINANCES PASSED UNDER SUBPARAGRAPH (ii) ESTABLISHES A HISTORIC DISTRICT OR DISTRICTS ONLY IF A MAJORITY OF THE ELECTORS IN THE LOCAL UNIT
VOTING AT AN ELECTION APPROVE THAT ESTABLISHMENT OF THE HISTORIC
DISTRICT OR DISTRICTS. THIS VOTE SHALL BE TAKEN AT THE NEXT REGULAR
ELECTION HELD IN THE LOCAL UNIT THAT OCCURS AT LEAST 70 DAYS AFTER
THE PASSAGE OF THE CONDITIONALLY EFFECTIVE ORDINANCE OR ORDINANCES
DESCRIBED IN SUBPARAGRAPH (ii).

(iv) If the local unit passes ACTIONS TAKEN UNDER
SUBPARAGRAPHS (ii) AND (iii) RESULT IN THE PASSAGE OF an ordinance
or ordinances establishing 1 or more historic districts, the local
unit shall file a copy of that ordinance or those ordinances,
including a legal description of the property or properties located
within the historic district or districts, with the register of
deeds. A local unit shall not pass an ordinance establishing a
contiguous historic district less than 60 days after a majority of
the property owners within the proposed historic district, as
listed on the tax rolls of the local unit, have approved the
establishment of the historic district pursuant to a written
petition.

(2) (4) A writing prepared, owned, used, in the possession of,
or retained by a committee in the performance of an official
function shall be made available to the public in compliance with
the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

Sec. 5. (1) A permit shall be obtained before any work
affecting the exterior appearance of a resource is performed within
a historic district or, if required under subsection (4), work
affecting the interior arrangements of a resource is performed
within a historic district. The person, individual, partnership,
firm, corporation, organization, institution, or agency of
government proposing to do that work shall file an application for a permit with the inspector of buildings, the commission, or other duly delegated authority. If the inspector of buildings or other authority receives the application, the application shall be immediately referred together with all required supporting materials that make the application complete to the commission. A permit shall not be issued and proposed work shall not proceed until the commission has acted on the application by issuing a certificate of appropriateness or a notice to proceed as prescribed in this act. A commission shall not issue a certificate of appropriateness unless the applicant certifies in the application that the property where work will be undertaken has, or will have before the proposed project completion date, a fire alarm system or a smoke alarm complying with the requirements of the Stille-DeRossett-Hale single state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531. A local unit may charge a reasonable fee to process a permit application.

(2) An applicant aggrieved by a decision of a commission concerning a permit application may file an appeal with the state historic preservation review board within the department. The appeal shall be filed within 60 days after the decision is furnished to the applicant. The appellant may submit all or part of the appellant's evidence and arguments in written form. The review board of the local unit shall consider an appeal at its first regularly scheduled meeting after receiving the appeal, but may not charge a fee for considering an appeal. The review board of the local unit shall consider an appeal at its first regularly scheduled meeting after receiving the appeal, but may not charge a
THE LOCAL UNIT may affirm, modify, or set aside a commission's decision and may order a commission to issue a certificate of appropriateness or a notice to proceed. A permit applicant aggrieved by the decision of the state historic preservation review board LEGISLATIVE BODY OF THE LOCAL UNIT may appeal the decision to the circuit court having jurisdiction over the historic district commission whose decision was appealed to the state historic preservation review board LEGISLATIVE BODY OF THE LOCAL UNIT.

(3) In reviewing plans, the commission shall follow the United States secretary SECRETARY of the interior's INTERIOR'S standards for rehabilitation and guidelines for rehabilitating historic buildings, as set forth in 36 C.F.R. CFR part 67, UNLESS THE COMMISSION FINDS THAT A DIFFERENT STANDARD IS IN THE BEST INTEREST OF THE COMMUNITY. Design review standards and guidelines that address special design characteristics of historic districts administered by the commission may be followed if they are equivalent in guidance to the secretary of interior's standards and guidelines and are established or approved by the department. THE COMMISSION FINDS THAT THEY ARE IN THE BEST INTEREST OF THE COMMUNITY. The commission shall also consider all of the following:

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

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

(c) The general compatibility of the design, arrangement, texture, and materials proposed to be used.
(d) Other factors THAT THE COMMISSION FINDS RELEVANT, such as aesthetic value, that the commission finds relevant AND THE REASONABLENESS OF THE ADDITIONAL COSTS REQUIRED TO COMPLETE A HISTORICALLY ACCURATE REHABILITATION.

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

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

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

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

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

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

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

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

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

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

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

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

(11) Upon a finding by a commission that a historic resource
within a historic district or a proposed historic district subject
to its review and approval is threatened with demolition by
neglect, the commission may do either of the following WITH THE
APPROVAL OF THE LEGISLATIVE BODY OF THE LOCAL UNIT:

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

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

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

Sec. 9. (1) The commission shall file certificates of appropriateness, notices to proceed, and denials of applications
for permits with the inspector of buildings or other delegated authority. A permit shall not be issued until the commission has acted as prescribed by this act. If a permit application is denied, the decision shall be binding on the inspector or other authority. A denial shall be accompanied with a written explanation by the commission of the reasons for denial and, if appropriate, a notice that an application may be resubmitted for commission review when suggested changes have been made. The denial shall also include notification of the applicant's rights of appeal to the state historic preservation review board—LEGISLATIVE BODY OF THE LOCAL UNIT and to the circuit court. The failure of the commission to act within 60 calendar days after the date a complete application is filed with the commission, unless an extension is agreed upon in writing by the applicant and the commission, shall be considered to constitute approval.

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

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

Sec. 14. (1) A—EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION, A local unit may at any time establish by ordinance
additional historic districts, including proposed districts previously considered and rejected, may modify boundaries of an existing historic district, or may eliminate an existing historic district. Before establishing, modifying, or eliminating a historic district, a historic district study committee appointed by the legislative body of the local unit—when considering the establishment of an additional historic district or the modification of the boundaries of an existing one, the local unit shall first obtain the petition described in section 3(1)(a) before the legislative body of the local unit may appoint a historic district study committee or authorize the services of a retained initial committee, a standing committee, or a committee established to consider only specific proposed districts and then be dissolved. If a committee is appointed or its services are authorized by the legislative body of the local unit, further consideration of the establishment of an additional historic district or modification of the boundaries of an existing one shall follow the procedures set forth in section 3(1)(b) to (d) and the committee shall also consider any previously written committee reports pertinent to the proposed action. When considering the elimination of a historic district, the legislative body of the local unit may appoint a historic district study committee and may do so without the petition described in section 3(1)(a) first being obtained; that committee shall, except as provided in subsection (2), comply with the procedures set forth in section 3–3(1)(b) to (d) and shall consider any previously written committee reports pertinent to the proposed action; and any ordinance that the legislative body of the local unit may adopt to modify the boundaries of an existing historic district shall not go into effect until sixty days after notice of the hearing has been given and a hearing has been held.
LOCAL UNIT PASSES FOR PURPOSES OF ELIMINATING THE HISTORIC DISTRICT
IS EFFECTIVE WITHOUT THE ELECTORS' APPROVAL DESCRIBED IN SECTION 3 (1) (D) (ii) TO (iii) SUBSEQUENTLY BEING OBTAINED. To conduct these activities DESCRIBED IN THIS SUBSECTION, local units may,

SUBJECT TO THE PETITION PROCEDURE REFERENCED IN THIS SUBSECTION,

retain the initial committee, establish a standing committee, or establish a committee to consider only specific proposed districts and then be dissolved.

(2) If considering elimination of a historic district, a committee shall follow the procedures set forth in section 3 for issuing a preliminary report, holding a public hearing, and issuing a final report but with the intent of showing 1 or more of the following:

(i) The historic district has lost those physical characteristics that enabled establishment of the district.

(ii) The historic district was not significant in the way previously defined.

(iii) The historic district was established pursuant to defective procedures.

(3) Upon receipt of substantial evidence showing the presence of historic, architectural, archaeological, engineering, or cultural significance of a proposed historic district, the legislative body of a local unit may, at its discretion, adopt a resolution requiring that all applications for permits within the proposed historic district be referred to the commission as prescribed in sections 5 and 9. The commission shall review permit applications with the same powers that would apply if the proposed
historic district was an established historic district. The review
may continue in the proposed historic district for not more than 1
year, or until such time as the local unit approves or rejects the
establishment of the historic district by ordinance, is approved or
rejected pursuant to the procedures set forth in section 3 or 14,
whichever occurs first.

(3) If the legislative body of a local unit determines
that pending work will cause irreparable harm to resources located
within an established historic district or a proposed historic
district, the legislative body may by resolution declare an
emergency moratorium of all such work for a period not to exceed 6
months. The legislative body may extend the emergency moratorium
for an additional period not to exceed 6 months upon finding that
the threat of irreparable harm to resources is still present. Any
pending permit application concerning a resource subject to an
emergency moratorium may be summarily denied.

(4) A historic district in existence on the effective date of
the amendatory act that added this subsection shall dissolve 10
years after the effective date of the amendatory act that added
this subsection unless the question of its renewal is submitted to
the electors in the local unit at the regular election immediately
preceding the date that the historic district would otherwise
dissolve and a majority of those electors voting at the election
approve the renewal of the historic district. A historic district
established under this act or renewed under this subsection after
the effective date of the amendatory act that added this subsection
shall dissolve 10 years after the date of that establishment or
RENEWAL UNLESS THE QUESTION OF ITS RENEWAL IS SUBMITTED TO THE
ELECTORS IN THE LOCAL UNIT AT THE REGULAR ELECTION IMMEDIATELY
PRECEDING THE DATE THAT THE HISTORIC DISTRICT WOULD OTHERWISE
DISSOLVE AND A MAJORITY OF THOSE ELECTORS VOTING AT THE ELECTION
APPROVE THE RENEWAL OF THE HISTORIC DISTRICT. A RENEWAL APPROVED
UNDER THIS SUBSECTION IS EFFECTIVE ON THE DATE THAT THE HISTORIC
DISTRICT WOULD HAVE OTHERWISE DISSOLVED.