



HOUSE BILL No. 6085

September 12, 1996, Introduced by Reps. LeTarte, Walberg, Gernaat, Lowe, Voorhees, DeLange, Kaza, Green, Rhead, Sikkema, Gustafson, Randall, Horton, Kukuk, Cropsey, Geiger, McBryde, Nye, Jaye, McManus, Goschka, Whyman, Ryan, Emerson, Bodem, Brackenridge, Bobier, Crissman, Middleton, Fitzgerald and Perricone and referred to the Committee on Local Government.

A bill to amend section 5 of Act No. 169 of the Public Acts of 1970, entitled as amended "Local historic districts act," as amended by Act No. 96 of the Public Acts of 1992, being section 399.205 of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 5 of Act No. 169 of the Public Acts of
2 1970, as amended by Act No. 96 of the Public Acts of 1992, being
3 section 399.205 of the Michigan Compiled Laws, is amended to read
4 as follows:

5 Sec. 5. (1) A permit shall be obtained before any work
6 affecting the exterior appearance of a resource is performed
7 within a historic district or, if required under subsection (4),
8 work affecting the interior arrangements of a resource is
9 performed within a historic district. The person, individual,

1 partnership, firm, corporation, organization, institution, or
2 agency of government proposing to do that work shall file an
3 application for a permit with the inspector of buildings, the
4 commission, or other duly delegated authority. If the inspector
5 of buildings or other authority receives the application, the
6 application shall be immediately ~~referred~~ FORWARDED TO THE
7 COMMISSION, together with all required supporting materials that
8 make the application complete. ~~to the commission.~~ A permit
9 shall not be issued and proposed work shall not proceed until the
10 commission has acted on the application by issuing a certificate
11 of appropriateness or a notice to proceed as prescribed in this
12 act. A local unit may charge a reasonable fee to process a
13 permit application.

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

1 court having jurisdiction over the historic district commission
2 whose decision was appealed to the state historic preservation
3 review board.

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

14 (a) The RESOURCE'S historic or architectural value and sig-
15 nificance of the resource and ~~its~~ THE RESOURCE'S relationship
16 to the historic value of the surrounding area.

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

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

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

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

1 change to the exterior of the resource. The commission shall not
2 disapprove an application due to considerations not prescribed in
3 subsection (3).

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

12 (6) 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 THE proposed work ~~can be demonstrated by a finding of the~~
16 ~~commission~~ to be necessary to substantially improve or correct
17 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. Public notice of the time, date, and
12 place of the meeting shall be given in the manner required by Act
13 No. 267 of the Public Acts of 1976. ~~, as amended.~~ A meeting
14 agenda shall be part of the notice and shall include a listing of
15 each permit application to be reviewed or considered by the
16 commission.

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

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

1 (10) The commission may delegate the issuance of
2 certificates of appropriateness for specified minor classes of
3 work to its staff, to the inspector of buildings, or to another
4 delegated authority. The commission shall provide to the dele-
5 gated authority specific written standards for issuing certifi-
6 cates of appropriateness under this subsection. On at least a
7 quarterly basis, the commission shall review the certificates of
8 appropriateness, if any, issued for work by its staff, the
9 inspector, or another authority to determine whether or not the
10 delegated responsibilities should be continued.

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

15 (a) Require the owner of the resource to repair all condi-
16 tions contributing to demolition by neglect. FOR REPAIRS MADE
17 UNDER THIS SUBDIVISION AFTER THE EFFECTIVE DATE OF THE AMENDATORY
18 ACT THAT ADDED SUBSECTION (13), THE OWNER MAY CHARGE THE COMMIS-
19 SION AND THE COMMISSION SHALL REIMBURSE THE OWNER FOR COSTS REA-
20 SONABLY INCURRED UNDER THIS SUBDIVISION EXCEPT TO THE EXTENT THAT
21 THE COSTS ARE ATTRIBUTABLE TO REPAIRS OTHERWISE REQUIRED FOR COM-
22 PLIANCE WITH AN APPLICABLE BUILDING CODE OR HOUSING CODE.

23 (b) If the owner does not make repairs within a reasonable
24 time, the commission or its agents may enter the property and
25 make such repairs as are necessary to prevent demolition by
26 neglect. ~~The costs of the work~~ FOR REPAIRS MADE UNDER THIS
27 SUBDIVISION AFTER THE EFFECTIVE DATE OF THE AMENDATORY ACT THAT

1 ADDED SUBSECTION (13), THE COMMISSION SHALL ASSUME THE COSTS OF
2 THE REPAIRS EXCEPT TO THE EXTENT THAT THE COSTS ARE ATTRIBUTABLE
3 TO REPAIRS OTHERWISE REQUIRED FOR COMPLIANCE WITH AN APPLICABLE
4 BUILDING CODE OR HOUSING CODE. COSTS ATTRIBUTABLE TO REPAIRS
5 REQUIRED FOR COMPLIANCE WITH AN APPLICABLE BUILDING CODE OR HOUS-
6 ING CODE shall be charged to the owner, and may be levied by the
7 local unit as a special assessment against the property. ~~The~~
8 ~~commission or its agents may enter the property for purposes of~~
9 ~~this section upon obtaining an order from the circuit court.~~

10 (12) ~~When~~ IF work has been done upon a resource without a
11 permit, and the commission finds that the work does not qualify
12 for a certificate of appropriateness, the commission may require
13 an owner to restore the resource to the condition the resource
14 was in before the inappropriate work WAS DONE or to modify the
15 work so that it qualifies for a certificate of appropriateness.
16 If the owner does not comply with the restoration or modification
17 requirement within a reasonable time, the commission may seek an
18 order from the circuit court to require the owner to restore the
19 resource to its former condition or to modify the work so that it
20 qualifies for a certificate of appropriateness. If the owner
21 does not comply or cannot comply with the order of the court, the
22 commission or its agents may enter the property and conduct work
23 necessary to restore the resource to its former condition or
24 modify the work so that it qualifies for a certificate of appro-
25 priateness in accordance with the court's order. The REASONABLE
26 costs of the work shall be charged to the owner, and may be

1 levied by the local unit as a special assessment against the
2 property. ~~When acting pursuant~~

3 (13) PURSUANT to an order of the circuit court, a commission
4 or its agents may enter a property for purposes of ~~this section~~
5 SUBSECTION (11) OR (12), INCLUDING, BUT NOT LIMITED TO, THE PUR-
6 POSE OF MAKING AN APPRAISAL.