

HOUSE BILL No. 6304

June 28, 2008, Introduced by Reps. Robert Jones, Cushingberry, Leland, Polidori, Scott, Alma Smith and Kathleen Law and referred to the Committee on Intergovernmental, Urban and Regional Affairs.

A bill to amend 1970 PA 169, entitled "Local historic districts act," by amending sections 1a, 5, 9, 10, 11, 14, and 15 (MCL 399.201a, 399.205, 399.209, 399.210, 399.211, 399.214, and 399.215), sections 1a and 5 as amended by 2004 PA 67, section 9 as amended by 2001 PA 67, and sections 10 and 11 as amended and sections 14 and 15 as added by 1992 PA 96, and by adding sections 14a and 14b.

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~~ **AN** application for work that is appropriate

1 and that does not adversely affect a resource.

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

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

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

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

14 (g) "Denial" means the written rejection of ~~a permit~~ **AN**
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) "DULY ORGANIZED HISTORIC PRESERVATION ORGANIZATION" MEANS**
20 **AN ORGANIZATION THAT IS 1 OF THE FOLLOWING:**

21 **(i) INCORPORATED UNDER THE NONPROFIT CORPORATION ACT, 1982 PA**
22 **162, MCL 450.2101 TO 450.3192, FOR THE PURPOSE OF PRESERVING, OR**
23 **PROMOTING THE PRESERVATION OF, 1 OR MORE HISTORIC RESOURCES AND IS**
24 **EXEMPT FROM TAXATION UNDER SECTION 501(C)(3) OF THE INTERNAL**
25 **REVENUE CODE, 26 USC 501.**

26 **(ii) ESTABLISHED BY CONGRESSIONAL CHARTER UNDER 16 USC 469 FOR**
27 **HISTORIC PRESERVATION PURPOSES.**

1 (J) ~~(i)~~—"Fire alarm system" means a system designed to detect
2 and announce the presence of fire or by-products of fire. Fire
3 alarm system includes smoke alarms.

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

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

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

16 (N) ~~(m)~~—"Local unit" means a county, city, village, or
17 township.

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

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

24 (Q) ~~(p)~~—"Ordinary maintenance" means keeping a resource
25 unimpaired and in good condition through ongoing minor
26 intervention, undertaken from time to time, in its exterior
27 condition. Ordinary maintenance does not change the external

1 appearance of the resource except through the elimination of the
2 usual and expected effects of weathering. Ordinary maintenance does
3 not constitute work for purposes of this act.

4 (R) ~~(q)~~—"Proposed historic district" means an area, or group
5 of areas not necessarily having contiguous boundaries, that has
6 delineated boundaries and that is under review by a committee or a
7 standing committee for the purpose of making a recommendation as to
8 whether it should be established as a historic district or added to
9 an established historic district.

10 (S) ~~(r)~~—"Repair" means to restore a decayed or damaged
11 resource to a good or sound condition by any process. A repair that
12 changes the external appearance of a resource constitutes work for
13 purposes of this act.

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

17 (U) **"REVIEW BOARD" MEANS THE STATE HISTORIC PRESERVATION**
18 **REVIEW BOARD CREATED BY EXECUTIVE ORDER NO. 2007-53 AND HOUSED IN**
19 **THE DEPARTMENT.**

20 (V) ~~(t)~~—"Smoke alarm" means a single-station or multiple-
21 station alarm responsive to smoke and not connected to a system. As
22 used in this subdivision, "single-station alarm" means an assembly
23 incorporating a detector, the control equipment, and the alarm
24 sounding device into a single unit, operated from a power supply
25 either in the unit or obtained at the point of installation.
26 "Multiple-station alarm" means 2 or more single-station alarms that
27 are capable of interconnection such that actuation of 1 alarm

1 causes all integrated separate audible alarms to operate.

2 (W) ~~(u)~~ "Standing committee" means a permanent body
3 established by the legislative body of a local unit under section
4 14 to conduct the activities of a historic district study committee
5 on a continuing basis.

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

8 Sec. 5. (1) ~~A permit~~ **APPROVAL OF A COMMISSION** shall be
9 obtained before any work affecting the exterior appearance of a
10 resource is performed within a historic district or, if required
11 under subsection (4), work affecting the interior arrangements of a
12 resource is performed within a historic district. The person,
13 individual, partnership, firm, corporation, organization,
14 institution, or **GOVERNMENTAL** agency ~~of government~~ proposing to do
15 that work shall file an application ~~for a permit~~ with the inspector
16 of buildings, the commission, or other duly delegated authority. If
17 the inspector of buildings or other authority receives the
18 application, the application shall be immediately referred together
19 with all required supporting materials that make the application
20 complete to the commission. ~~A permit shall not be issued and~~
21 ~~proposed~~ **PROPOSED** work shall not proceed until the commission has
22 acted on the application by issuing a certificate of
23 appropriateness or a notice to proceed as prescribed in this act. A
24 commission shall not issue a certificate of appropriateness unless
25 the applicant certifies in the application that the property where
26 work will be undertaken has, or will have before the proposed
27 project completion date, a fire alarm system or a smoke alarm

1 complying with the requirements of the Stille-DeRossett-Hale single
2 state construction code act, 1972 PA 230, MCL 125.1501 to 125.1531.
3 A local unit may charge a reasonable fee to process a ~~permit~~**AN**
4 application.

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

21 (3) In reviewing plans, the commission shall follow the United
22 States secretary of the interior's standards for rehabilitation and
23 guidelines for rehabilitating historic buildings, as set forth in
24 ~~36 C.F.R.~~**CFR** part 67. Design review standards and guidelines that
25 address special design characteristics of historic districts
26 administered by the commission may be followed if they are
27 equivalent in guidance to the secretary of **THE** interior's standards

1 and guidelines and are established or approved by the department.
2 The commission shall also consider all of the following:

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

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

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

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

12 (e) Whether the applicant has certified in the application
13 that the property where work will be undertaken has, or will have
14 before the proposed project completion date, a fire alarm system or
15 a smoke alarm complying with the requirements of the Stille-
16 DeRossett-Hale single state construction code act, 1972 PA 230, MCL
17 125.1501 to 125.1531.

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

26 (5) If an application is for work that will adversely affect
27 the exterior of a resource the commission considers valuable to the

1 local unit, state, or nation, and the commission determines that
2 the alteration or loss of that resource will adversely affect the
3 public purpose of the local unit, state, or nation, the commission
4 shall attempt to establish with the owner of the resource an
5 economically feasible plan for preservation of the resource.

6 (6) ~~Work~~ **THE COMMISSION SHALL ISSUE A NOTICE TO PROCEED TO**
7 **PERMIT WORK** within a historic district ~~shall be permitted through~~
8 ~~the issuance of a notice to proceed by the commission~~ if any of the
9 following conditions prevail and if ~~the proposed work can be~~
10 ~~demonstrated by a finding of the commission to be~~ **FINDS THE WORK**
11 necessary to substantially improve or correct any of the following
12 conditions:

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

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

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

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

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

9 (8) The commission shall keep a record of its resolutions,
10 proceedings, and actions. A writing prepared, owned, used, in the
11 possession of, or retained by the commission in the performance of
12 an official function shall be made available to the public in
13 compliance with the freedom of information act, 1976 PA 442, MCL
14 15.231 to 15.246.

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

18 (10) The commission may delegate the issuance of certificates
19 of appropriateness for specified minor classes of work to its
20 staff, to the inspector of buildings, or to another delegated
21 authority. The commission shall provide to the delegated authority
22 specific written standards for issuing certificates of
23 appropriateness under this subsection. ~~On a~~**AT** ~~least a~~quarterly,
24 ~~basis,~~the commission shall review ~~the~~**ANY** certificates of
25 appropriateness ~~, if any,~~issued for work by its staff, the
26 ~~inspector, or another~~**UNDER DELEGATED** authority to determine
27 whether or not the delegated responsibilities should be continued.

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

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

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

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

1 property and conduct work necessary to restore the resource to its
2 former condition or modify the work so that it qualifies for a
3 certificate of appropriateness in accordance with the court's
4 order. The costs of the work shall be charged to the owner ~~—~~and
5 may be levied by the local unit as a special assessment against the
6 property. When acting pursuant to an order of the circuit court, a
7 commission or its agents may enter a property for purposes of this
8 section.

9 Sec. 9. (1) The commission shall file certificates of
10 appropriateness, notices to proceed, and denials of applications
11 ~~for permits~~ with the inspector of buildings or other delegated
12 authority. A **BUILDING** permit shall not be issued until the
13 commission has acted as prescribed by this act. **TABLING IS NOT**
14 **CONSIDERED A COMMISSION ACTION FOR PURPOSES OF THIS SUBSECTION. IF**
15 **AN APPLICATION IS TABLED, THE COMMISSION SHALL FURNISH THE**
16 **APPLICANT WITH A WRITTEN EXPLANATION OF THE REASONS FOR TABLING THE**
17 **APPLICATION.** If a ~~permit~~ **AN** application is denied, the decision
18 shall be binding on the inspector or other authority. A denial
19 shall be accompanied with a written explanation by the commission
20 of the reasons for denial and, if appropriate, a notice that an
21 application may be resubmitted for commission review when suggested
22 changes have been made. The denial shall also include notification
23 of the applicant's rights of appeal to the ~~state historie~~
24 ~~preservation~~ review board and to the circuit court. The failure of
25 the commission to act within 60 calendar days after the date a
26 complete application is filed with the commission, unless an
27 extension is agreed upon in writing by the applicant and the

1 commission, shall be considered to constitute approval. **AN**
2 **APPLICATION IS COMPLETE WHEN THE COMMISSION HAS RECEIVED ALL THE**
3 **INFORMATION REQUIRED IN THE APPLICATION FORM, PRESCRIBED BY THE**
4 **APPLICABLE LOCAL ORDINANCE, AND OTHERWISE REQUIRED BY THE**
5 **COMMISSION TO ENSURE COMPLIANCE WITH THIS ACT OR A LOCAL ORDINANCE.**

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

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

16 Sec. 10. Nothing in this act shall be construed to prevent
17 ordinary maintenance or repair of a resource within a historic
18 district ~~—~~or to prevent work on any resource under a permit issued
19 by the inspector of buildings or other duly delegated authority
20 before the **HISTORIC DISTRICT** ordinance was enacted.

21 Sec. 11. (1) Any ~~citizen or~~ **RESIDENT OF THE LOCAL UNIT, A** duly
22 organized historic preservation organization, ~~in the local unit, as~~
23 ~~well as resource property owners, jointly or severally~~ **THE**
24 **DEPARTMENT, OR A RESOURCE PROPERTY OWNER, THAT IS** aggrieved by a
25 decision of ~~the historic district~~ **A** commission may appeal the
26 decision to the circuit court, except that a ~~permit~~ **AN** applicant
27 aggrieved by a decision rendered under section 5(1) may not appeal

1 to the court without first exhausting the right to appeal to the
2 ~~state historic preservation~~ review board under section 5(2).

3 **(2) IF AN AGGRIEVED APPLICANT APPEALS A DECISION TO THE REVIEW**
4 **BOARD UNDER SECTION 5(2) AND ANY OTHER PERSON APPEALS A DECISION**
5 **CONCERNING THE MATTER TO THE CIRCUIT COURT UNDER SUBSECTION (1),**
6 **THE CIRCUIT COURT SHALL STAY ITS PROCEEDINGS UNTIL THE REVIEW BOARD**
7 **ISSUES A FINAL DECISION AND ORDER IN THE ADMINISTRATIVE APPEAL.**

8 Sec. 14. (1) A local unit may at any time establish by
9 ordinance additional historic districts, including proposed
10 districts previously considered and rejected; ~~may~~ modify
11 boundaries of an existing historic district; ~~or may~~ eliminate an
12 existing historic district. Before establishing, modifying, or
13 eliminating a historic district, a historic district study
14 committee appointed by the legislative body of the local unit
15 shall, except as provided in subsection (2), comply with the
16 procedures set forth in section 3 and shall consider any previously
17 written committee reports pertinent to the proposed action. To
18 conduct these activities, local units may retain the initial
19 committee, establish a standing committee, or establish a committee
20 to consider only specific proposed districts and then be dissolved.

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

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

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

3 (iii) The historic district was established ~~pursuant to~~ **BY**
4 defective procedures.

5 (3) Upon receipt of substantial evidence showing the presence
6 of historic, architectural, archaeological, engineering, or
7 cultural significance of a proposed historic district, the
8 legislative body of a local unit may, at its discretion, adopt a
9 resolution requiring that all applications for **BUILDING** permits
10 **THAT WOULD AFFECT THE EXTERIOR APPEARANCE OF AN EXISTING STRUCTURE**
11 within the proposed historic district be referred to the commission
12 as prescribed in sections 5 and 9. The commission shall review
13 ~~permit~~ **THOSE** applications with the same powers that would apply if
14 the proposed historic district was an established historic
15 district. The review may continue in the proposed historic district
16 for not more than 1 year, or until ~~such time as~~ the local unit
17 approves or rejects the establishment of the historic district by
18 ordinance, whichever occurs first.

19 (4) If the legislative body of a local unit determines that
20 pending work will cause irreparable harm to resources located
21 within an established historic district or a proposed historic
22 district, the legislative body may by resolution declare an
23 emergency moratorium of all such work for ~~a period not to exceed~~
24 **NOT MORE THAN** 6 months. The legislative body may extend the
25 emergency moratorium for **UP TO** an additional ~~period not to exceed~~ 6
26 months upon finding that the threat of irreparable harm to
27 resources is still present. Any pending ~~permit~~ application

1 concerning a resource subject to an emergency moratorium may be
2 summarily denied.

3 SEC. 14A. (1) NOTWITHSTANDING ANY LOCAL ORDINANCE OR CHARTER,
4 DEMOLITION OF A RESOURCE OR WORK AFFECTING THE EXTERIOR OF A
5 RESOURCE SHALL NOT BE PERFORMED UNLESS THE COMMISSION HAS BEEN
6 NOTIFIED AND A CERTIFICATE OF APPROPRIATENESS OR NOTICE TO PROCEED
7 HAS BEEN ISSUED AS REQUIRED UNDER SECTION 5. ANY OTHER FEDERAL,
8 STATE, OR LOCAL GOVERNMENTAL AGENCY APPROVAL THAT THE APPLICANT
9 RECEIVES DOES NOT ELIMINATE THE APPLICANT'S NEED TO OBTAIN A
10 CERTIFICATE OF APPROPRIATENESS OR A NOTICE TO PROCEED FROM THE
11 COMMISSION.

12 (2) THE REQUIREMENTS OF THIS ACT APPLY IN THE ABSENCE OF A
13 SPECIFICALLY DESCRIBED STATUTORY EXEMPTION FROM COMPLIANCE.

14 SEC. 14B. (1) THE STATE HISTORIC PRESERVATION TRUST FUND IS
15 CREATED WITHIN THE STATE TREASURY.

16 (2) THE STATE TREASURER MAY RECEIVE MONEY OR OTHER ASSETS FROM
17 ANY SOURCE FOR DEPOSIT INTO THE FUND. THE STATE TREASURER SHALL
18 DIRECT THE INVESTMENT OF THE FUND. THE STATE TREASURER SHALL CREDIT
19 TO THE FUND INTEREST AND EARNINGS FROM FUND INVESTMENTS.

20 (3) MONEY IN THE FUND AT THE CLOSE OF THE FISCAL YEAR SHALL
21 REMAIN IN THE FUND AND SHALL NOT LAPSE TO THE GENERAL FUND.

22 (4) THE DEPARTMENT SHALL BE THE ADMINISTRATOR OF THE FUND FOR
23 AUDITING PURPOSES.

24 (5) THE DEPARTMENT SHALL EXPEND MONEY FROM THE FUND, UPON
25 APPROPRIATION, ONLY FOR HISTORIC PRESERVATION PURPOSES.

26 Sec. 15. (1) A GOVERNMENTAL AGENCY OR A DULY ORGANIZED
27 HISTORIC PRESERVATION ORGANIZATION MAY BRING AN ACTION IN CIRCUIT

1 COURT TO ENJOIN A VIOLATION OF THIS ACT OR A LOCAL ORDINANCE
2 SUBSTANTIALLY CORRESPONDING TO THIS ACT. THE COURT MAY AWARD A
3 PREVAILING PLAINTIFF IN AN ACTION UNDER THIS SECTION EXPERT WITNESS
4 FEES AND OTHER COSTS OF BRINGING THE ACTION THAT THE COURT FINDS
5 APPROPRIATE.

6 (2) A PERSON, INDIVIDUAL, PARTNERSHIP, FIRM, CORPORATION,
7 ORGANIZATION, INSTITUTION, OR GOVERNMENTAL AGENCY THAT PERFORMS
8 WORK ON A RESOURCE IN VIOLATION OF AN INJUNCTION ISSUED UNDER THIS
9 SECTION IS GUILTY OF A MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR
10 NOT MORE THAN 90 DAYS OR A FINE OF NOT MORE THAN \$500.00, OR BOTH.

11 (3) A GOVERNMENTAL AGENCY, INCLUDING, BUT NOT LIMITED TO, THE
12 DEPARTMENT AND THE ATTORNEY GENERAL, MAY INITIATE PROCEEDINGS TO
13 ENFORCE THIS ACT OR A LOCAL ORDINANCE SUBSTANTIALLY CORRESPONDING
14 TO THIS ACT.

15 (4) ~~(1)~~—A person, individual, partnership, firm, corporation,
16 organization, institution, or **GOVERNMENTAL** agency ~~of government~~
17 that violates this act is responsible for a **STATE** civil ~~violation~~
18 **INFRACTION** and may be fined not more than ~~\$5,000.00~~ **\$50,000.00**. **IF**
19 **THE INFRACTION INVOLVES DEMOLITION OF A RESOURCE, THE COURT MAY**
20 **IMPOSE A FINE OF NOT MORE THAN \$150,000.00. IN DETERMINING THE FINE**
21 **TO BE IMPOSED UNDER THIS SUBSECTION, THE COURT SHALL CONSIDER THE**
22 **NATURE AND EXTENT OF THE INFRACTION, THE LENGTH OF TIME OVER WHICH**
23 **THE INFRACTION OCCURRED, THE FREQUENCY OF PAST VIOLATIONS, AND ANY**
24 **VOLUNTARY CORRECTIVE ACTION TAKEN. TO THE EXTENT PERMITTED BY LAW,**
25 **THE CIVIL FINES COLLECTED UNDER THIS SECTION SHALL BE PLACED IN THE**
26 **STATE HISTORIC PRESERVATION TRUST FUND CREATED IN SECTION 14B. A**
27 **COMMISSION MAY RECOMMEND EXPENDITURES FROM THE FUND FOR ANY**

1 **PRESERVATION PURPOSE.**

2 (5) ~~(2) A THE COURT MAY ORDER A~~ person, individual,
3 partnership, firm, corporation, organization, institution, or
4 **GOVERNMENTAL** agency ~~of government~~ that violates this act ~~may be~~
5 ~~ordered by the court~~ **OR A LOCAL ORDINANCE SUBSTANTIALLY**
6 **CORRESPONDING TO THIS ACT** to pay the costs to restore or replicate
7 a resource unlawfully ~~constructed,~~ added to, altered, repaired,
8 moved, ~~excavated,~~ or demolished.

9 (6) **A COURT THAT FINDS AN AGENCY OF A LOCAL UNIT RESPONSIBLE**
10 **FOR VIOLATING THIS ACT MAY BAR THE LOCAL UNIT FROM RECEIVING OR**
11 **USING STATE FUNDS AT THE SITE WHERE THE VIOLATION OCCURRED FOR NOT**
12 **LONGER THAN 5 YEARS. IF A VIOLATION BY AN AGENCY OF A LOCAL UNIT OF**
13 **GOVERNMENT INVOLVES DEMOLITION OF A RESOURCE, THE COURT MAY ALSO**
14 **ORDER THAT A BUILDING PERMIT, CERTIFICATE OF APPROPRIATENESS, OR**
15 **NOTICE TO PROCEED SHALL NOT BE ISSUED BY ANY LOCAL AUTHORITY WITH**
16 **RESPECT TO THE DEMOLITION SITE FOR NOT LONGER THAN 5 YEARS FROM THE**
17 **DATE OF DEMOLITION.**

18 (7) **THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED**
19 **WITH, CONVICTED OF, OR PUNISHED FOR ANY OTHER VIOLATION OF LAW**
20 **ARISING OUT OF THE SAME TRANSACTION AS THE VIOLATION OF THIS**
21 **SECTION.**