

2001 DRAFTING REQUEST

Bill

Received: 12/06/2000

Received By: grantpr

Wanted: As time permits

Identical to LRB:

For: Legislative Council - JLC 6-9280

By/Representing: Mark Patronsky

This file may be shown to any legislator: NO

Drafter: grantpr

May Contact:

Addl. Drafters: rmarchan
jkreye

Subject: Higher Education - miscellaneous
Tax Credits - miscellaneous
Munis - miscellaneous

Extra Copies: MJL
MES

Pre Topic:

No specific pre topic given

Topic:

Regulation of historic buildings

Instructions:

1999 SB 371, updated

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	grantpr 12/07/2000	gilfokm 12/07/2000		_____			S&L
/P1	rmarchan 02/21/2001 grantpr 02/26/2001	gilfokm 02/28/2001	rschlue 12/12/2000	_____	lrb_docadmin 12/12/2000		S&L
/1			jfrantze 03/01/2001	_____	lrb_docadmin 03/01/2001	lrb_docadmin 03/22/2001	

FE Sent For:

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<END>

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/1			jfrantze 03/01/2001		lrb_docadmin 03/01/2001		

Handwritten note: An arrow points from the "Jacketed" column header to the text "For Assm per PG".

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/P1		1-2/Kmg 127-01	rschluet 12/12/2000		lrb_docadmin 12/12/2000		

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[Handwritten signatures and dates]
2/28
3/1
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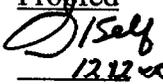
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1?	grantpr	1/1-12/7 King	 12-12-00	 12-12-00			

FE Sent For:

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12/6/03 TC for Mark Patroskiy

'99 SB 371

redraft

w/ notes, etc.

for Jt. by-council

DN

PG, RSM, JK:R

1999 SENATE BILL 371

February 8, 2000 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Economic Development, Housing and Government Operations.

regenerate

1 AN ACT to renumber 101.121 (4) (a); to renumber and amend 101.63 (1) and
 2 254.61 (1) (f); to consolidate, renumber and amend 66.05 (10) (a) and (b); to
 3 amend 59.69 (4m), 60.64, 62.23 (7) (em), 66.05 (1m) (a), 66.05 (3), 66.05 (9) (c),
 4 71.07 (9m) (c), 71.28 (6) (c), 71.47 (6) (c), 101.05 (2), 101.122 (4) (b) 1., 101.19 (1)
 5 (intro.), 101.63 (1m) and 823.21; and to create 20.245 (3) (f), 44.46, 66.038,
 6 71.21 (6), 101.121 (3) (c), 101.121 (4) (a) 2., 101.121 (5), 101.121 (7), 101.132
 7 (1m), 101.132 (2) (b) 3m., 101.19 (1m), 101.63 (1) (a) and (b), 101.975 (4) and
 8 254.61 (1) (f) 2. of the statutes; relating to ^{the} regulation of historic buildings, ^{the}
 9 historic building code, requiring a liberal interpretation of local regulations
 10 applicable to historic buildings and structures and making appropriations.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the joint legislative council in the bill.

attached

awarding grants to owners of historic agricultural buildings

the income and franchise tax credit that supplements the federal historic rehabilitation tax credit

SENATE BILL 371

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

~~PREFATORY NOTE: This bill was prepared for the joint legislative council's special committee on the historic building code. The bill has the following key provisions:~~

Historic Building Code

Requires the department of commerce, in cooperation with the state historical society, to develop a pamphlet to inform owners of historic buildings about the scope and applicability of the historic building code.

Requires the department of commerce to interpret the historic building code liberally to facilitate the preservation and restoration of historic buildings.

Creates a process for the department of commerce to review decisions by local governments regarding compliance with a local ordinance or regulation, to determine if the local ordinance or regulation is in conflict with the historic building code. Also, this bill provides an informal process for the state historical society to review decisions of the department of commerce and local units of government regarding historic buildings and to negotiate possible changes in those decisions.

Allows local governments by ordinance to establish alternate standards for handrails and guardrails of historic buildings that are converted from single-family to multi-family use.

Requires the department of commerce to waive plan review and inspection fees for a preservation or restoration project affecting a building that is more than 100 years old and is listed or eligible for listing on the national or state register of historic places.

Other Structural Regulations

~~Modifies the current bed and breakfast statutes to allow structural additions, in buildings at least 50 years old, that would otherwise be prohibited by current statutes.~~

Requires consistency under state law with current federal law for certain housing accessibility requirements for physically disabled persons in certain historic buildings.

Requires local units of government to interpret liberally the local regulations that apply to historic structures in order to facilitate the preservation and restoration of historic buildings and structures.

Demolition of Historic Buildings

Provides that a municipal order to raze a historic building may be appealed by representatives of a local historical society or by the owner of a historic building that is within 200 yards of the building subject to the order.

Requires additional notice and the opportunity to request a public hearing with respect to municipal orders, permits or actions to raze historic buildings or buildings that are more than 50 years old.

Income Tax Credits for Historic Buildings

Makes the state income tax credit that supplements the federal income tax credit for renovation of historic buildings available earlier in the renovation process, by making it available when the state historic preservation officer approves the application, rather than upon final approval by the U.S. secretary of the interior.

Allows partners who share in the costs of renovating historic buildings to allocate among themselves the state supplemental income tax credit for the renovation costs.

Rural Historic Preservation

Requests a joint legislative council study, commencing in 2000, of methods to promote rural historic preservation.

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~~Creates a grant program for the costs of renovating historic agricultural buildings or structures, with a 50% match requirement, funded in the amount of \$75,000 in each year of the biennium, to be administered by the state historical society.~~

~~Makes an appropriation to the state historical society for the purpose of entering into a contract to conduct a survey to identify and document historic properties in rural areas.~~

~~For further information regarding the provisions in this bill, see the notes throughout the bill.~~

1 **SECTION 1.** 20.005 (3) (schedule) of the statutes: at the appropriate place, insert
 2 the following amounts for the purposes indicated:

~~2001-02~~ ~~2002-03~~
~~1998-00~~ ~~2000-01~~

3 **20.245 Historical society**

4 (3) **HISTORIC AND BURIAL SITES PRESERVATION**

5 (f) **Historic agricultural building**

6 grant program	GPR	A	75,000	75,000
---------------------------	-----	---	--------	--------

7 **SECTION 2.** 20.245 (3) (f) of the statutes is created to read:

8 20.245 (3) (f) *Historic agricultural building grant program.* The amounts in
 9 the schedule for the historic agricultural building grant program under s. 44.46. ✓

10 **SECTION 3.** 44.46 of the statutes is created to read:

11 **44.46 Historic agricultural building grant program.** (1) In this section,
 12 "historic agricultural building" means any building or structure that is designed for
 13 agricultural purposes and that is significant in the history, architecture or culture
 14 of this state.

15 (2) From the appropriation under s. 20.245 (3) (f), the historical society shall
 16 award grants to owners of historic agricultural buildings to assist in the restoration
 17 of the buildings. To receive a grant, the owner shall match the amount of the grant,
 18 shall agree to use the total amount of funds to restore the historic agricultural

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SECTION 3

1 building, and shall agree to use the restored historic agricultural building in a
2 manner consistent with the public policy expressed in s. 44.30.

NOTE: Under current law, the state historical society is assigned numerous responsibilities related to the preservation of historic and archeological resources in this state.

This bill creates a historic agricultural building grant program to be administered by the state historical society. Under the program, the state historical society is required to award grants to owners of historic agricultural buildings to fund the restoration of such buildings. Each grantee is required to make a matching contribution equalling the amount of the grant and to agree to use the restored building in a manner that is consistent with the state public policy on historic preservation.

The "public policy expressed in s. 44.30", as referenced in the new grant program, is as follows:

"The legislature finds that the historic, architectural, archaeological and cultural heritage of the state is among the most important assets of the state and furthermore that the social, economic and physical development of contemporary society threatens to destroy the remaining vestiges of this heritage. It is therefore declared to be the public policy and in the public interest of this state to engage in a comprehensive program of historic preservation to promote the use and conservation of such property representative of both the rural and urban heritage of the state for education, inspiration, pleasure and enrichment of the citizens of this state."

3 SECTION 4. 59.69 (4m) of the statutes is amended to read:

4 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
5 police powers for the purpose of promoting the health, safety, and general welfare of
6 the community and of the state, may regulate by ordinance any place, structure, or
7 object with a special character, historic interest, aesthetic interest, or other
8 significant value, for the purpose of preserving the place, structure, or object and its
9 significant characteristics. The county may create a landmarks commission to
10 designate historic landmarks and establish historic districts. The county may
11 regulate all historic landmarks and all property within each historic district to
12 preserve the historic landmarks and property within the district and the character
13 of the district, and shall interpret the county's regulations liberally to facilitate the
14 preservation and restoration of historic buildings and structures.

NOTE: This provision requires a county to interpret liberally its regulations that apply to historic structures in order to facilitate the preservation and restoration of historic buildings and structures.

P.W.F.

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1 SECTION 5. 60.64 of the statutes is amended to read:

2 60.64 Historic preservation. The town board, in the exercise of its zoning
 3 and police powers for the purpose of promoting the health, safety and general welfare
 4 of the community and of the state, may regulate any place, structure or object with
 5 a special character, historic interest, aesthetic interest or other significant value for
 6 the purpose of preserving the place, structure or object and its significant
 7 characteristics. The town board may create a landmarks commission to designate
 8 historic landmarks and establish historic districts. The board may regulate all
 9 historic landmarks and all property within each historic district to preserve the
 10 historic landmarks and property within the district and the character of the district,
 11 and shall interpret the board's regulations liberally to facilitate the preservation and
 12 restoration of historic buildings and structures.

NOTE. This provision requires a town board to interpret liberally its regulations
 that apply to historic structures in order to facilitate the preservation and restoration of
 historic buildings and structures.

13 SECTION 6. 62.23 (7) (em) of the statutes is amended to read:

14 62.23 (7) (em) Historic preservation. A city, as an exercise of its zoning and
 15 police powers for the purpose of promoting the health, safety and general welfare of
 16 the community and of the state, may regulate by ordinance, or if a city contains any
 17 property that is listed on the national register of historic places in Wisconsin or the
 18 state register of historic places shall, not later than 1995, enact an ordinance to
 19 regulate, any place, structure or object with a special character, historic,
 20 archaeological or aesthetic interest, or other significant value, for the purpose of
 21 preserving the place, structure or object and its significant characteristics. A city
 22 may create a landmarks commission to designate historic or archaeological
 23 landmarks and establish historic districts. The city may regulate, or if the city

P.W.F.

SENATE BILL 371

SECTION 6

P.W.F.

1 contains any property that is listed on the national register of historic places in
 2 Wisconsin or the state register of historic places shall regulate, all historic or
 3 archaeological landmarks and all property within each historic district to preserve
 4 the historic or archaeological landmarks and property within the district and the
 5 character of the district, and shall interpret the city's regulations liberally to
 6 facilitate the preservation and restoration of historic buildings and structures.

NOTE: This provision requires a city to interpret liberally its regulations that apply to historic structures in order to facilitate the preservation and restoration of historic buildings and structures.

7 SECTION 7. ⁴¹⁴ 66.0~~2~~ of the statutes is created to read:

8 ⁴¹⁴ 66.0~~2~~ **Razing historic buildings and buildings that are more than 50**
 9 **years old.** (1) DEFINITIONS. In this section:

10 (a) "Authority" means a housing authority under ~~ss. 66.40 to 66.49~~, a
 11 redevelopment authority under s. ^{66.1333,} ~~66.481~~ or a housing and community development
 12 authority under s. ^{66.1335} ~~66.482~~.

13 (b) "Historic building" has the meaning given in s. ^{66.0413(3)} ~~66.0219~~ (a) 1m.

14 (c) "Local governmental unit" means a city, village, town or county, and includes
 15 an authority acting on behalf of or at the direction of a city, village or town.

16 (d) "Resident" in the case of a local governmental unit that is an authority,
 17 means a resident of the city, village or town on whose behalf or at whose direction the
 18 authority is acting.

19 (2) NOTICE TO STATE HISTORICAL SOCIETY. If a local governmental unit issues an
 20 order or permit or other similar directive or authorization to raze a building, or if a
 21 local governmental unit intends to raze a building that is owned by the local
 22 governmental unit, and the building is either a historic building or more than 50

subch. ~~XII~~

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1 years old, the local governmental unit shall notify the state historical society of the
2 order, permit, directive, or authorization or of its intent.

3 (3) DELAY IN RAZING. (a) Except as provided in sub. (4) (a) 3. and (b), a local
4 governmental unit may not raze a building subject to sub. (2) during the following
5 period after the notice is given to the state historical society:

6 1. For a historic building, 60 days.

7 2. For a building more than 50 years old that is not a historic building, 30 days.

8 (b) Upon request by the state historical society, the local governmental unit
9 may extend the period of delay in razing under par. (a).

10 (c) During the period of delay in razing under par. (a) and during any extension
11 of a period of delay, the state historical society shall have access to the building to
12 create or preserve a historic record and access to the building shall be a condition of
13 the order, permit, directive, or authorization issued by the local governmental unit.

14 (4) OPPORTUNITY TO REQUEST PUBLIC HEARING; WRITTEN FINDINGS. (a) 1. For a
15 building subject to sub. (2), the state historical society may direct the local
16 governmental unit to provide notice and the opportunity to request a public hearing.

17 2. If the state historical society directs the local governmental unit to provide
18 notice and the opportunity to request a public hearing under subd. 1., the local
19 governmental unit shall provide notice to any person who requests notice by mail and
20 by publishing a class 1 notice, under ch. 985. Within 30 days after the local
21 governmental unit publishes the notice, if 5 or more residents of the local
22 governmental unit submit a request for a hearing on the matter, the local
23 governmental unit shall either hold a public hearing or make written findings
24 setting forth the reasons for denying the request for a hearing and responding to
25 issues raised in the request for a hearing.

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SECTION 7

1 3. If 5 or more residents of the local governmental unit submit a request for a
2 hearing under subd. 2., the period of delay in razing under sub. (3) (a) does not end
3 until the local governmental unit holds the public hearing or makes written findings,
4 as required under subd. 2.

5 (b) If the state historical society does not direct the local governmental unit to
6 provide notice and the opportunity to request a public hearing, the state historical
7 society may waive the period of delay in razing under sub. (3) (a) if the state historical
8 society determines that the delay is not necessary to accomplish the purpose of sub.
9 (3) (c).

10 (5) REUSE OF BUILDING MATERIALS. The owner of the building that is razed shall
11 reuse the building materials or contract with a demolition contractor who will reuse
12 the building materials, to the maximum extent feasible.

13 (6) APPLICABILITY. This section does not apply to part of a building that is not
14 a historic building if that part of the building is 50 years old or less.

NOTE: This provision creates a new requirement related to an order or permit issued by a local governmental unit to raze a building, or a decision by a local governmental unit to raze a building that it owns, if the building is a historic building or is more than 50 years old. "Local governmental unit" is defined to mean a city, village, town or county, and includes a housing, redevelopment or housing and community development authority acting on behalf of, or at the direction of, a city, village or town. This provision expands a provision in current s. 66.05 (9) (c), which is a statute relating to demolition orders. This provision also applies to housing authorities.

This provision requires a local governmental unit to notify the state historical society of the order or permit or of its intent. The bill requires a delay in razing the property to allow time for the state historical society to document the property and create a suitable historic record of it. Also, this delay will give time for public review of the decision to raze the building.

If the state historical society does not waive further review, the local governmental unit must provide notice to any person who requests notice by mail and by publishing a class 1 notice (a one-time newspaper notice) under ch. 985, stats. Thereafter, 5 or more residents of the local governmental unit may request a hearing and the local governmental unit is required either to hold a public hearing or to make written findings setting forth the reasons for denying the request for a hearing and responding to issues raised in the request for a hearing.

The time periods specified in this provision do not affect the provisions for judicial review. Under s. 68.13, stats., any party to a proceeding that results in a final

SENATE BILL 371

determination may seek review by a court within 30 days of receipt of the final determination

Also, the new statute requires reuse of building materials, to the maximum extent feasible, following demolition of the building.

SECTION 8. 66.05 (1m) (a) of the statutes is amended to read:

66.05 (1m) (a) The governing body or the inspector of buildings or other designated officer in every municipality may order the owner of premises upon which is located any building or part thereof within such municipality, which in its judgment is so old, dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, to raze and remove such building or part thereof and restore the site to a dust-free and erosion-free condition, or if it can be made safe by repairs to repair and make safe and sanitary or to raze, remove and restore the site to a dust-free and erosion-free condition at the owner's option; or where there has been a cessation of normal construction of any building for a period of more than 2 years, to raze and remove such building or part thereof and restore the site to a dust-free and erosion-free condition. The order shall specify a time in which the owner shall comply therewith and specify repairs, if any. It shall be served on the owner of record or the owner's agent where an agent is in charge of the building in the manner provided for service of a summons in the circuit court. If the owner and the owner's agent cannot be found, or if the owner is deceased and an estate has not been opened, the order may be served by posting it on the main entrance of the building and by publishing it as a class 1 notice, under ch. 985, before the time limited in the order commences to run. The time limited in the order commences to run from the date of service upon the owner or the agent in the manner of a summons or, if the owner and agent cannot be found, from the date that the order was posted on the building. The order shall also be served on the holder of any

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SECTION 8

1 encumbrance of record by 1st class mail at the last-known address and by
2 publication as a class 1 notice under ch. 985.

NOTE: This amendment deletes "old" as one of the conditions that may lead to a municipal decision to order the razing of a building. The age of a building does not determine the condition of the building. Municipal decisions to order the razing of a building are appropriately based on the other conditions addressed in the statute, such as "dilapidated" and "out of repair".

3 SECTION 9. ~~66.0513~~ ^{66-0413 (1)(c)} of the statutes is amended to read:

4 66.05 (3) Anyone affected by any such order shall within the time provided by
5 s. 893.76 apply to the circuit court for an order restraining the inspector of buildings
6 or other designated officer from razing and removing the building or part thereof and
7 restoring the site to a dust-free and erosion-free condition or forever be barred. The
8 hearing shall be held within 20 days and shall be given preference. The court shall
9 determine whether the order of the inspector of buildings is reasonable, and if found
10 reasonable the court shall dissolve the restraining order, and if found not reasonable
11 the court shall continue the restraining order or modify it as the circumstances
12 require. Costs shall be in the discretion of the court. If the court finds that the order
13 of the inspector of buildings is unreasonable, the inspector of buildings or other
14 designated officer shall issue no other order under this section in regard to the same
15 building or part thereof until its condition is substantially changed. The remedies
16 provided in this subsection are exclusive remedies and anyone affected by such an
17 order of the inspector shall not be entitled to recover any damages for the razing and
18 removal of any such building and the restoration of the site to a dust-free and
19 erosion-free condition. For the purposes of this subsection, if the order requires the
20 razing of a historic building, as defined in sub. (9) (a) 1m., persons affected by the
21 order include representatives of a local historical society and the owner of a historic

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1 building, as defined in sub. (9) (a) 1m., that is located within 200 yards of the historic
2 building that is subject to the order.

NOTE: Section 66.05, stats., relates to local orders to repair or raze dilapidated buildings. The current statute includes provisions related to historic buildings that require a delay in implementation of the order and a different presumption regarding the reasonableness of the cost of repairs.

Any order under s. 66.05, stats., may be appealed to circuit court by an "affected person". The issue in the appeal is the reasonableness of the order. The current statute does not define who may be an affected person. This is a matter for the court to decide, and there have not been any appellate court decisions on this issue. It is possible that a court would allow a person with a demonstrated interest in historic preservation to appeal a local order requiring demolition of a historic building, although there is no assurance of this under the current statute.

The bill does not define "affected person", but rather provides that the term "affected person" includes representatives of a local historical society and owners of historic buildings located within 200 yards of the historic building that is subject to the order.

The definition of "historic building" that is cross-referenced in this provision is "any building or object listed on, or any building or object within and contributing to a historic district listed on, the national register of historic places in Wisconsin, the state register of historic places or a list of historic places maintained by a municipality".

3 SECTION 10. 66.05 (9) (c) of the statutes is amended to read:

4 66.05 (9) (c) If an order is issued under this section to raze and remove a historic
5 building and restore the site to a dust-free and erosion-free condition, an application
6 is made for a permit to raze and remove a historic building and restore the site to a
7 dust-free and erosion-free condition or a municipality intends to raze and remove
8 a municipally owned historic building and restore the site to a dust-free and
9 erosion-free condition, the municipality in which the historic building is located
10 shall notify the state historical society of the order, application or intent. No historic
11 building may be razed and removed nor the site restored to a dust-free and
12 erosion-free condition for 30 days after the notice is given. During the 30-day period,
13 the state historical society shall have access to the historic building to create or
14 preserve a historic record or a building that is more than 50 years old, s. 66.038
15 applies.

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SECTION 10

NOTE: The material deleted from s. 66.05 (9) (c) is recreated and expanded in s. 66.038 as created by this bill.

1 SECTION 11. 66.05 (10) (a) and (b) of the statutes are consolidated, renumbered
2 66.05 (10) and amended to read:

3 66.05 (10) First class cities may adopt by ordinance alternate or additional
4 provisions governing the placarding, closing, razing and removal of a building and
5 the restoration of the site to a dust-free and erosion-free condition. (b) This
6 subsection shall be liberally construed to provide 1st class cities with the largest
7 possible power and leeway of action, except that any alternate or additional provision
8 adopted shall be no less stringent than the corresponding provision in s. 66.038.

NOTE: Under the current statute, a 1st class city (the city of Milwaukee) may adopt alternate or additional provisions regarding orders to demolish buildings. This provision creates an exception to that broad authority by requiring a 1st class city to comply with the requirements in the cross-referenced statute, as affected by this bill.

SECTION 12. 71.07 (9m) (c) of the statutes is amended to read:

10 71.07 (9m) (c) No person may claim the credit under this subsection unless the
11 claimant includes with the claimant's return evidence that the rehabilitation was
12 approved recommended by the state historic preservation officer for approval by the
13 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
14 or destruction in preparation for construction, began.

NOTE: Under the U.S. Internal Revenue Code, the owner of an income producing historic building is eligible for a federal income tax credit equal to 20% of certain specified costs of rehabilitating the historic building. The building must be listed on the national register of historic places or eligible for listing or located in certain national, state or local historic districts. The rehabilitation work must comply with standards that have been established by the U.S. Secretary of the Interior.

Wisconsin provides a supplement to the federal income tax credit equal to 5% of the eligible costs of rehabilitation. This SECTION amends s. 71.07 (9m) (c), stats., which provides the supplemental state income tax credit for historic rehabilitation.

Under the current statutes, the state income tax credit is only available if the state tax return includes evidence that the rehabilitation was approved by the secretary of the interior before the physical work of rehabilitation was commenced. As the federal program has been implemented by the secretary of the interior, the state historic preservation officer must first recommend approval of the project before the application is considered by the secretary of interior. This bill makes the state supplement available upon recommendation of the state historic preservation officer, rather than final approval

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SPECIF.

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by the secretary of the interior, which will allow owners to commence projects sooner. If, for any reason, the owner is determined not to be eligible for the federal tax credit, the owner will still be eligible for the 5% state supplement based on the approval by the state historic preservation officer.

1 SECTION 13. 71.21 (6) of the statutes is created to read:

2 71.21 (6) Credits computed by a partnership under s. 71.07 (9m), 71.28 (6) or
3 71.47 (6) may be allocated to partners either as provided under this chapter or
4 pursuant to an agreement among the partners establishing an alternate allocation
5 method. The partners shall notify the department of an agreement within 30 days
6 after the agreement is executed and shall provide any additional information
7 requested by the department regarding the agreement.

NOTE: This SECTION relates to the state supplement to the federal historic rehabilitation income tax credit. The supplement is equal to 5% of the eligible costs of historic preservation.
Under current law, each partner in a partnership is allocated a portion of any tax credit for which the partnership is eligible based on the partnership agreement. The partnership agreement must have economic substance.
This bill creates s. 71.21 (6) to provide that a tax credit for historic preservation claimed by a partnership may be allocated to the partners either as permitted under current law or pursuant to an agreement executed by the partners that establishes an alternate distribution method. This will allow partners who do not have a Wisconsin income tax liability (e.g., out-of-state investors) to transfer the credit to partners who do. The bill requires the partners to notify the department of revenue of the agreement within 30 days of executing such an agreement and also requires the partners to provide any additional information requested by the department of revenue.

8 SECTION 14. 71.28 (6) (c) of the statutes is amended to read:

P.W.F. }
9 71.28 (6) (c) No person may claim the credit under this subsection unless the
10 claimant includes with the claimant's return evidence that the rehabilitation was
11 approved recommended by the state historic preservation officer for approval by the
12 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
13 or destruction in preparation for construction, began.

NOTE: This amendment corresponds with the amendment in this bill to s. 71.07 (9m) (c), stats., which includes an explanatory note.

14 SECTION 15. 71.47 (6) (c) of the statutes is amended to read:

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1 71.47 (6) (c) No person may claim the credit under this subsection unless the
2 claimant includes with the claimant's return evidence that the rehabilitation was
3 approved recommended by the state historic preservation officer for approval by the
4 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
5 or destruction in preparation for construction, began.

Note: This amendment corresponds with the amendment in this bill to s. 71.07
(9m) (c), stats., which includes an explanatory note.

6 SECTION 16. 101.05 (2) of the statutes is amended to read:

7 101.05 (2) A bed and breakfast establishment, as defined under s. 254.61 (1),
8 is not subject to ~~rules of residential occupancy or to other building codes adopted by~~
9 the department under this subchapter, ~~except that the uniform dwelling code~~
10 ~~adopted in rules promulgated under s. 101.63 (1) applies to the 3rd floor level of a bed~~
11 ~~and breakfast establishment that uses, other than as storage, the 3rd floor level of~~
12 ~~the bed and breakfast establishment structure.~~

NOTE: The current statutes provide that the 3rd floor of a bed and breakfast
establishment is subject to the uniform dwelling code if the 3rd floor is used for purposes
other than storage. The bill moves the provision related to the 3rd floor of a bed and
breakfast establishment so that it appears in the statutes related to the uniform dwelling
code. [See SECTION 28.] This change is solely for the purpose of better statutory
organization and is not intended to make any change in the current building code
provisions applicable to bed and breakfast establishments.

13 SECTION 17. 101.121 (3) (c) of the statutes is created to read:

14 101.121 (3) (c) The historic building code shall be liberally interpreted to
15 facilitate the preservation and restoration of qualified historic buildings.

Note: The department of commerce is authorized to promulgate the historic
building code under s. 101.121, stats. The statute includes a statement of legislative
purpose, as follows:

"101.121 (1) PURPOSE. It is the purpose of this section to provide alternative
standards, when necessary, for the preservation or restoration of buildings or structures
designated as historic buildings. The development and application of these alternative
standards is a matter of statewide concern. These alternative standards are intended to
facilitate the restoration of historic buildings so as to preserve their original or restored
architectural elements and features, to encourage energy conservation, to permit a
cost-effective approach to preservation and restoration and to provide for the health,
safety and welfare of occupants and visitors in historic buildings."

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The legislature incorporated additional guidance regarding the purpose of the statute into the substantive provisions of s. 101.121 (3) (a), stats., as follows:

~~"101.121 (3) (a) For any rule under this chapter or ch. 145 which applies to buildings, the department may provide an alternative rule which accomplishes the same general purpose and applies only to qualified historic buildings. These alternative rules shall permit, to the maximum extent possible, the use of original or duplicates of original materials, the maintenance of the original appearance of all components of a historic building and the use of original construction techniques...."~~

The special committee determined that some decisions regarding the implementation of the historic building code may be unnecessarily restrictive. The additional statutory language proposed in this SECTION creates an express statement of the legislature's intent that the statute is to be interpreted liberally to facilitate the preservation and restoration of historic buildings.

The intent is not to shift the balance in the historic building code between preservation and restoration of historic buildings on one hand, and public health, safety and welfare on the other hand. The intent is to favor the preservation and restoration of historic buildings in questions involving close judgments.

1 SECTION 18. 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

2 SECTION 19. 101.121 (4) (a) 2. of the statutes is created to read: *who elects under subd. to be subject to the historic building code.*

3 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building,

4 the department shall review any decision of a city, village, town, or county that

5 requires the owner to comply with a provision of a county or municipal building code,

6 or of any other local ordinance or regulation, to determine if the provision concerns

7 a matter dealt with in the historic building code. The procedures in s. 101.02 (7)

8 apply to any review conducted by the department under this subdivision.

NOTE: Section 101.121 (4) (a), stats., authorizes the owner of a "qualified historic building" to elect to be subject to the historic building code. A qualified historic building is a building that is listed on the national or state register of historic places or a certified local register of historic property, or is within a historic district on one of those lists and has been determined to contribute to the historic significance of the district. Under the historic building code, the owner of the historic building may use alternative standards that allow preservation of the historic aspects of the building while still providing for the health, safety and welfare of occupants and visitors in the building.

One of the consequences of the election to use the historic building code is that the owner of the historic building is not required to comply with any provision of a county or municipal building code or other local ordinance or regulation that concerns a "matter dealt with" in the historic building code (the phrase used in the statute). In the rules creating the historic building code, the department of commerce has elaborated on this statutory provision by providing explicitly that local regulations pertaining to land use, zoning, fire districts or "other similar requirements" are not affected by the historic building code. [s. Comm 70.04 (2), Wis. adm. code.]

The statutes contain a general procedure, in s. 101.02 (7), stats., to resolve conflicts between local standards, decisions and ordinances and the statutes and rules enforced by the department of commerce. The statute provides that local units of government

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SECTION 19

~~continue to have authority to enact and enforce regulations for the protection of public health and safety. However, rules and decisions of the department of commerce are deemed by the statute to amend or modify conflicting local regulations. Any person who is affected by a local regulation that is in conflict with a state regulation or an order of the department may petition for a hearing by the department on whether there is a conflict, and the department may nullify a local regulation that conflicts with state regulations.~~

~~The appeal process in s. 101.02 (7), stats., focuses on conflicts between state and local safety or health regulations. This provision of the bill makes it clear that the department may determine the proper scope of local regulation with respect to buildings that are subject to the historic building code, including issues related to historic preservation and restoration.~~

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SECTION 20. 101.121 (5) of the statutes is created to read:

101.121 (5) ADVISORY OPINION OF STATE HISTORICAL SOCIETY. (a) The owner of a qualified historic building may submit to the state historical society a request for an advisory opinion with respect to any decision of the department, or of a city, village, town or county that is an agent of the department, if the decision pertains to any of the following:

- 1. This section or a rule promulgated under this section, except for a decision of the department under sub. (4) (a) 2.
- 2. A variance to a rule promulgated under this section.
- 3. The inspection of a qualified historic building for compliance with a rule promulgated under this section.

(b) Upon receiving a request under par. (a), the state historical society shall review all information related to the decision and shall render a written opinion on

the following: *each of*

- 1. Whether the decision is consistent with this section and the rules promulgated under this section.
- 2. Whether the alternative decision requested by the owner of the qualified historic building, or any other alternative decision, is consistent with this section and the rules promulgated under this section.

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1 (c) The state historical society may negotiate with the department or the city,
 2 village, town, or county and the owner of the qualified historic building to seek
 3 agreement on an alternative decision that will allow the greatest possible degree of
 4 restoration and preservation of the qualified historic building, while continuing to
 5 meet the standards for the health, safety and welfare of occupants of and visitors to
 6 the qualified historic building.

7 (d) The department or a city, village, town, or county may modify any decision
 8 described under par. (a) based on negotiations with the state historical society.

9 (e) This subsection does not modify any procedures for appeal of a decision of
 10 the department or of a city, village, town, or county under this section.

~~NOTE: Current s. 101.02 (7) provides a formal appeals process for decisions of the department of commerce and local units of government acting as agents of the department with respect to building code issues. The review process involves a review within the department, followed by judicial review. The standards for judicial review require the court to uphold the decision of the department or the local unit of government if there is "substantial evidence" to support the decision, a difficult standard for a building owner to overcome. Also, judicial review is time-consuming and expensive.~~

~~This provision of the bill creates a new, informal process for review of a decision of the department or the local unit of government. The request for review must be submitted to the state historical society. The state historical society reviews all information related to the decision and renders an opinion on whether the decision of the department or the local unit of government is consistent with the historic building code and whether there are other ways to meet the requirements and objectives of the historic building code. The bill authorizes the historical society to negotiate with the department, the local unit of government and the historic building owner. The department or local unit of government may modify its decision based on the negotiations.~~

~~This new procedure does not change any time limits or procedures for formal review of any decisions.~~

11 SECTION 21. 101.121 (1) of the statutes is created to read:

12 101.121 (1) INFORMATIONAL PAMPHLET. (a) In cooperation with the state
 13 historical society, the department shall develop an informational pamphlet designed
 14 to increase awareness and use of the historic building code. The pamphlet shall be
 15 updated as statutes and rules relating to the historic building code are amended. The
 16 pamphlet shall include the following information:

department, in cooperation with the state historical society,

update the pamphlet

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SECTION 21

- 1 1. A description of the historic building code.
- 2 2. A description of the types and qualities of buildings that are subject to the
- 3 historic building code.
- 4 3. An explanation of how the owner of a qualified historic building may elect
- 5 to be subject to the historic building code and a description of the consequences of that
- 6 election. the owner of
- 7 4. A description of other alternative building codes that a historic building
- 8 ~~owner~~ may be eligible to use. a person may obtain
- 9 5. A description of where further information regarding historic buildings and
- 10 the historic building code ~~may be obtained~~.

11 (b) The department and the state historical society shall distribute the

12 pamphlets as they consider necessary to increase awareness of the historic building

13 code.

~~NOTE: This SECTION creates s. 101.121 (7), stats., which requires the department of commerce, in cooperation with the state historical society, to develop a pamphlet designed to inform owners of historic buildings of the scope and applicability of the historic building code and alternatives to using the historic building code. The pamphlet is also intended to increase awareness of the historic building code. The department of commerce must update the pamphlet as statutes and rules relating to the historic building code are amended. The provision requires the department of commerce and the state historical society to distribute the pamphlets as they consider necessary to increase awareness of the historic building code.~~

14 SECTION 22. 101.122 (4) (b) 1. of the statutes is amended to read:

15 101.122 (4) (b) 1. Order ⁴¹⁴ ~~Subject to s. 66.033~~, order demolition of the rental unit

16 no sooner than 90 days after the order.

~~NOTE: This provision applies the requirements of s. 66.038, as created by this bill, to decisions of the department of commerce or a city, village or town to require demolition of a property that does not comply with the rental unit energy efficiency requirements of s. 101.122, stats.~~

(17)

SECTION 23. 101.132 ~~(1)(a)~~ ^{(2)(e) 3.} of the statutes is created to read:

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(2)(e)3.

1 101.132 ~~MINI~~ COMPLIANCE WITH FEDERAL STANDARDS. All rules promulgated by
 2 the department under this section relating to qualified historic buildings, as defined
 3 in s. 101.121 (2) (c), shall comply with and not exceed the requirements of the Fair
 4 Housing Act under 42 USC 3601 to ~~42 USC 3601~~ ~~the~~ ~~Americans~~ ~~with~~ ~~Disabilities~~ ~~Act~~
 5 under 42 USC 12181 ~~and~~ ~~regulations~~ ~~adopted~~ ~~under~~ ~~those~~ ~~acts~~.

NOTE: This SECTION provides that all rules promulgated by the department of commerce relating to requirements that housing be accessible to physically disabled persons, as they relate to qualified historic buildings, must comply with and not exceed the requirements of the federal Fair Housing Law and the Americans with Disabilities Act and any regulations adopted under those acts. Under this requirement, the department of commerce would be required to amend its rules so that: (1) if an existing qualified historic building with mixed occupancies is remodeled or added to and the gross interior area of the building after the remodeling or addition is greater than 20,000 square feet, interior circulation between floor levels would not be required; and (2) the state fair housing law would not be applicable to existing qualified historic buildings undergoing a change of use if the building is changed to a covered multi-family housing use and the building is remodeled or added to.

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SECTION 24. 101.132 (2) (b) 3m. of the statutes is created to read:

7 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to
 8 qualified historic buildings, as defined in s. 101.121 (2) (c).

NOTE: This SECTION provides that s. 101.132 (2) (b), stats., relating to making housing accessible to physically disabled persons when the housing is remodeled, does not apply to qualified historic buildings. Current s. 101.132 (2) (b), stats., provides as follows:

"101.132 (2) (b) *Remodeling*. 1. If more than 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the entire housing shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

2. If 25% to 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, that part of the housing that is to be remodeled shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

3. If less than 25% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the remodeling is not subject to the standards in par. (a) unless the alteration involves work on doors, entrances, exits or toilet rooms, in which case the doors, entrances, exits or toilet rooms shall conform to the standards in par. (a) regardless of when the housing was first intended for occupancy.

4. The department may grant a variance or waiver from the requirements under this paragraph relating to exterior accessibility using the standards and procedures under par. (c)."

The intent of this change is to make Wisconsin statutes relating to qualified historic buildings consistent with the federal fair housing law. The federal Fair Housing Law applies only to buildings which are first occupied after March 31, 1991.

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SECTION 25

SECTION 25. 101.19 (1) (intro.) of the statutes is amended to read:

101.19 (1) (intro.) ~~The Except as provided in sub. (1m), the department, by rule promulgated under ch. 227, shall fix and collect~~ promulgate rules establishing and providing for the collection of fees which shall, as closely as possible, equal the cost of providing the following services:

SECTION 26. 101.19 (1m) of the statutes is created to read:

101.19 (1m) The department shall waive the fees under sub. (1) (a), (am), (b), (d) and (i) for ^{services relating to} any preservation or restoration of a building or structure that is more than 100 years old if the state historic preservation officer certifies to the department all of the following:

(a) That the plan for the preservation or restoration of the building or structure complies with the standards promulgated under s. 44.02 (24).

(b) That the building or structure is listed on the national register of historic places in Wisconsin or the state register of historic places, is determined by the state historical society to be eligible for listing on the national register of historic places in Wisconsin or the state register of historic places, or is located in a historic district ^{that} ~~which~~ is listed ^{on} ~~in~~ the national register of historic places in Wisconsin or the state register of historic places and is certified by the state historic preservation officer as being of historic significance to the district.

NOTE: Under current s. 101.19, stats., the department of commerce is required to charge fees to recover the costs of services it provides related to plan review and inspection of construction projects that are subject to regulation by the department. The fees include fees for plan review, inspections, variances and copying.

This bill requires the department of commerce to waive those fees for a preservation or restoration project affecting a building or structure that is more than 100 years old. To qualify for the waiver of fees, the state historic preservation officer must certify to the department of commerce that the building or structure is listed on or eligible for listing on the national or state register of historic places and the plans for the preservation or restoration comply with the standards that are applicable to projects that qualify for the income tax credit for historic property renovations.

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1 **SECTION 27.** 101.63 (1) of the statutes is renumbered 101.63 (1) (intro.) and
2 amended to read:

3 101.63 (1) (intro.) Adopt rules which establish standards for the construction
4 and inspection of one- and 2-family dwellings and components thereof. Where
5 feasible, the standards used shall be those nationally recognized and shall apply to
6 the dwelling and to its electrical, heating, ventilating, air conditioning and other
7 systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be
8 adopted which has not taken into account the conservation of energy in construction
9 and maintenance of dwellings and the costs of specific code provisions to home buyers
10 in relationship to the benefits derived from the provisions. Rules promulgated under
11 this subsection do not apply to a bed and breakfast establishment, as defined in s.
12 254.61 (1), except that the rules apply to all of the following:

13 **SECTION 28.** 101.63 (1) (a) and (b) of the statutes are created to read:

14 101.63 (1) (a) The 3rd floor level of a bed and breakfast establishment that uses
15 that level other than as storage.

16 (b) A structural addition that is specified under s. 254.61 (1) (f) 2.

17 **SECTION 29.** 101.63 (1m) of the statutes is amended to read:

18 101.63 (1m) Adopt a rule which requires any one- and 2-family dwelling which
19 uses electricity for space heating to be superinsulated. A rule promulgated under
20 this subsection does not apply to a bed and breakfast establishment, as defined in s.
21 254.61 (1), except as specified in sub. (1) (a) and (b).

NOTE: The provision in SECTION 28 regarding structural additions to bed and breakfast establishments is new and relates to the new provision in SECTION 32 that allows a structural addition to a bed and breakfast establishment that is more than 50 years old if the addition complies with the uniform one- and 2-family dwelling code. The other provisions of SECTIONS 16, 27 and 28 and this SECTION merely reorganize the statutes that exempt certain bed and breakfast establishments from various building codes.

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SECTION 30. 101.975 (4) of the statutes is created to read:

the political subdivision

101.975 (4) A political subdivision may adopt an ordinance that permits ~~it~~ to grant a variance to the uniform multifamily dwelling code relating to handrails and guardrails of qualified historic buildings, as defined in s. 101.121 (2) (c), that are converted from single-family dwellings to multifamily dwellings. The ordinance shall require the owner of a qualified historic building who seeks a variance to provide the political subdivision with evidence that the type, height, and design of the handrail or guardrail proposed for installation is historically appropriate for the owner's building. Upon the provision of such evidence, the political subdivision may grant a variance to the uniform multifamily dwelling code that permits the owner to install a handrail or guardrail that is at least as protective of public safety as the historically appropriate handrail or guardrail that would otherwise have been required.

located the political subdivision and the area

NOTE: Under current law, the uniform multifamily dwelling code [ch. Comm 66] applies to any building or portion of a building which is converted to a multifamily dwelling after April 1, 1995 unless the building is a qualified historic building and the owner elects to be subject to the historic building code. Under s. 101.971 (2), stats., a multifamily dwelling is defined as an apartment building, row house, town house, condominium or manufactured building that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units.

This SECTION creates s. 101.975 (4) to permit a political subdivision to adopt an ordinance that allows it to grant a variance to the uniform multifamily dwelling code relating to handrails and guardrails of qualified historic buildings that are converted from single-family dwellings to multifamily dwellings. Under the uniform multifamily dwelling code, the top of a handrail must be mounted between 34 and 38 inches above the nosing of the treads on stairways or above the surface of ramps. Guardrails in dwelling units must extend to at least 36 inches above the upper surface of the floor. In nondwelling unit portions, the guardrails must extend at least 42 inches above the upper surface of the floor.

Under the bill, the ordinance must require the owner of the building who is seeking the variance to provide the political subdivision with evidence that the type, height and design of the handrail or guardrail proposed for installation is historically appropriate for the building. Upon the provision of that evidence, the bill provides that the political subdivision may grant a variance to the uniform multifamily dwelling code that permits the owner to install a handrail or guardrail that is at least as protective of public safety as the historically appropriate handrail or guardrail.

SECTION 31. 254.61 (1) (f) of the statutes is renumbered 254.61 (1) (f) (intro.)

and amended to read:

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- 14

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1 ~~254.61 (1) (f) (intro.) Has had completed, before May 11, 1990, any structural~~
2 ~~additions to the dimensions of the original structure, including by renovation, except~~
3 ~~that a this limit does not apply to any of the following:~~

4 ~~1. A structural addition, including a renovation, that is made to the structure~~
5 ~~may, after May 11, 1990, be made and that is within the dimensions of the original~~
6 ~~structure.~~

7 ~~SECTION 32. 254.61 (1) (f) 2. of the statutes is created to read:~~

8 ~~254.61 (1) (f) 2. A structural addition, including a renovation, that complies~~
9 ~~with the uniform dwelling code adopted in rules promulgated under s. 101.63 (1) and~~
10 ~~(1m) and that is made to a structure that was originally constructed at least 50 years~~
11 ~~before an application for a permit is made under s. 254.64 (1) (b) and for which no use~~
12 ~~other than as a bed and breakfast establishment is proposed by the owner.~~

NOTE: The current statutes define "bed and breakfast establishment" for the purposes of determining the applicability of environmental health regulations, building code requirements and other regulatory provisions. The basic purpose of this definition is to set limits on the kinds of establishments that are deemed to be bed and breakfast establishments and thus are subject to those specific regulations. Establishments that provide food and lodging beyond the scope of the definition of a bed and breakfast establishment are subject to regulation as hotels, restaurants or other similar types of establishments, which in general means that the establishments are subject to the commercial building code and the commercial restaurant regulations.

The definition of bed and breakfast establishment has 6 elements. The first 5 elements of the definition provide that a bed and breakfast establishment is any place of lodging that:

(a) Provides 8 or fewer rooms for rent to no more than a total of 20 tourists or transients.

(b) Provides no meals other than breakfast and provides the breakfast only to renters of the place.

(c) Is the owner's personal residence.

(d) Is occupied by the owner at the time of rental.

(e) Was originally built and occupied as a single-family residence, or, prior to use as a place of lodging, was converted to use and occupied as a single-family residence."

The special committee focused its attention on the 6th element of the definition, which is modified by this bill. The current definition of bed and breakfast establishment in s. 254.61 (1) (f), stats., provides that a bed and breakfast establishment is a place of lodging that:

"Has had completed, before May 11, 1990, any structural additions to the dimensions of the original structure, including by renovation, except that a structural addition, including a renovation, to the structure may, after May 11, 1990, be made within the dimensions of the original structure."

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The May 11, 1990 date is the date that this provision first took effect. At that time, when this restriction was created, the intent was to avoid situations in which a one- or 2-family home is constructed and shortly thereafter is substantially expanded as a bed and breakfast establishment. The restriction allows structural additions or renovations within the "dimensions" of the original structure, but does not allow additions to a structure after May 11, 1990, if that structure is to be used as a bed and breakfast establishment.

A consequence of this restriction is that older buildings, which often have attractive historic features and are desirable as bed and breakfast establishments, cannot be expanded to provide suitable facilities for the bed and breakfast establishment. This bill authorizes structural additions or renovation to the structure if the structure is more than 50 years old, if no other use than as a bed and breakfast establishment is proposed and if the structural addition complies with the uniform one- and 2-family dwelling code.

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SECTION 33. 823.21 of the statutes is amended to read:

823.21 Dilapidated buildings declared nuisances. Any building which, under s. ~~66.05(1)(a)~~ ^{66.0413 (1) (b) 1.}, has been declared so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has been determined to be unreasonable to repair under s. ~~66.05(1)(a)~~ ^{66.0413 (1) (b) 1.} is a public nuisance and may be proceeded against under this chapter.

P.W.F.

NOTE: The amendment corresponds with the amendment in this bill to s. 66.05 (1a), which includes an explanatory note

SECTION 34. Nonstatutory provisions; legislature.

(1) STUDY OF RURAL HISTORIC PRESERVATION. The joint legislative council is requested to study methods to promote rural historic preservation. If the council undertakes such a study, the council shall report its findings, conclusions, and recommendations to the ~~2002~~ ²⁰⁰³ legislature when it convenes.

SECTION 35. Appropriation changes; historical society.

(1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005 (3) of the statutes for the appropriation to the state historical society under section 20.245 (3) (a) of the statutes, as affected by the acts of ~~1999~~ ²⁰⁰¹, the dollar amount is increased by \$75,000 for fiscal year ~~1999-00~~ ²⁰⁰¹⁻⁰² and the dollar amount is increased by \$75,000 for fiscal year ~~2000-01~~ ²⁰⁰²⁻⁰³ for the purpose of entering into a contract for a survey

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1 under section 44.34 (1) of the statutes to identify and document historic properties
2 in rural areas of the state.

~~NOTE: Under current law, the state historical society is required to conduct an ongoing statewide survey to identify and document historic properties. This bill increases the appropriation to the state historical society to provide funding to contract for a survey to identify and document historic properties in rural areas of Wisconsin.~~

~~Under current s. 44.31 (3), stats., "historic property" is defined as "any building, structure, object, district, area or site, whether on or beneath the surface of the land or water, that is significant in the history, prehistory, architecture, archeology or culture of this state, its rural and urban communities or the nation"~~

SECTION 36. Initial applicability.

(1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. The treatment of sections 71.07 (9m) (c), 71.21 (6), 71.28 (6) (c), and 71.47 (6) (c) of the statutes first applies to taxable years beginning on January 1, 2000.

NOTE: Creates a nonstatutory provision that provides that SECTIONS 12, 13, 14 and 15 of the bill, relating to eligibility for and distribution of the state supplement to the federal historic rehabilitation income tax credit, first apply to taxable years beginning on January 1, 2000.

SECTION 37. Effective dates. This act takes effect on the day after publication, except as follows:

(1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. The treatment of section 71.21 (6) of the statutes takes effect on the first day of the 3rd month beginning after publication.

NOTE: Creates a nonstatutory provision that provides that s. 71.21 (6) (c), stats., created in this bill, takes effect for partnership agreements for the allocation of the state tax credit for historic preservation executed on the first day of the 3rd month beginning after the date on which this bill takes effect.

(END)

of the year in which this subsection takes effect, except that if this subsection takes effect after July 1, the treatment of sections 71.07(9m)(c), 71.21(6), 71.28(6)(c), and 71.47(6)(c) of the statutes first applies to taxable years beginning on January 1 of the year following the year in which this subsection takes effect.

or on the first day of the 3rd month beginning after publication of the 2001-03 biennial budget act, whichever is later

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or on the day after publication of the 2001-03 biennial budget act, whichever is later,

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Razing of historic buildings

This bill prohibits a local governmental unit (city, village, town, or county) from razing a building that is a historic building or ^{that is} more than 50 years old unless the local governmental unit notifies the state historical society and allows the historical society ^{time} to create or preserve a historic record ^{of the building.} Upon request of the historical society, the local governmental unit must ^{provide an opportunity for} residents to request ~~hold~~ a public hearing on the decision to raze the building. The bill also requires the owner of the building to reuse the building materials or to contract ~~with~~ with a demolition contractor who ~~will~~ will reuse the building materials.

~~The bill~~

Current law authorizes a municipality to order the owner of ~~any~~ any old, ~~disrepair~~ dilapidated, or unsafe building to raze the building. Any ^{person affected by} such an order ~~may be~~ ^{the order} appealed to circuit court, ~~where~~ where the ^{is} issue ^{is} the reasonableness of the order.

This bill eliminates ^{the} ^{is} age of the building from the criteria that may lead to an order to raze the building. The bill also provides that, if the order relates to a historic building, ~~persons affected by the order (i.e., persons who may appeal the order)~~ ^{representatives of a local historical society and the owner of a historic building located within 200 yards of the historic building that is subject to the order} may appeal the order to circuit court.

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"DM"

sub sub
Historic agricultural grant program

This bill directs the state historical society to award grants to owners of historic agricultural buildings to assist in the restoration of the buildings.

sub-sub
Historic preservation in ~~counties, towns, and cities~~ local governmental units

This bill directs ~~counties, towns, and cities~~ local governmental units to interpret liberally their regulations that apply to historic structures in order to facilitate the preservation and restoration of historic buildings and structures.

sub-sub
Study of rural historic preservation

This bill requests the joint legislative council to study methods of promoting rural historic preservation.

sub sub
Supplement to the federal historic rehabilitation
tax credit

Under current law, a person who owns an income-producing historic building may claim a federal income tax credit that is equal to 20% of certain costs to rehabilitate the historic building. To claim the credit, the building must be listed, or ^{be} eligible for listing, on the national register of historic places or located in certain national, state, or local historic districts and the rehabilitation ^{work} must comply with standards established by the secretary of the interior.

Under current law, a person who may claim the ^{income} federal tax credit for rehabilitating an income-producing historic building may also claim a state income tax or franchise tax credit that is equal to 5% of certain costs to rehabilitate the historic building. To claim

the credit, the person must include with the person's tax return evidence that the secretary of the interior approved the rehabilitation ^{work} before the dehabilitation work began.

Under this bill, a person may claim the ^{state} income and franchise tax credit for rehabilitating an income-producing historic building, if the person includes with the person's tax return evidence that the state historic preservation officer ^{recommened} recommended the rehabilitation work ^K for approval by the secretary of the interior before the rehabilitation work began.

Under current law, each partner in a partnership is allocated a portion of any tax credit, that ^{including the credit for rehabilitating a historic building,} the partnership may claim, based on each partner's ownership interest. Under this bill,

(a) a partner may also be allocated a portion of the tax credit for rehabilitating a historic building in a manner specified in an agreement

with the other partners, if the partners notify the
department of revenue of the agreement within 30
days after executing the agreement

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sub-sub → Historic building code

Current law authorizes the department of commerce (department) to regulate the preservation and restoration of qualified historic buildings. A qualified historic building is a building that is listed on the national or state register of historic places, or a certified local register of historic property, or that is located in a district that is listed on the national or state register of historic places and is of historical significance to the district. Current law permits the department, in consultation with the historic building code council, to promulgate a historic building code that provides specific standards for the preservation or restoration of qualified historic buildings, while still providing for the health, safety, and welfare of occupants of and visitors to historic buildings. In addition, in order to permit the preservation or restoration of qualified historic buildings, the department may grant a variance from any rule promulgated under the chapters of the statutes relating to the regulation of industry, buildings, and safety or the regulation of plumbing, fire protection systems, and swimming pools.

With certain exceptions, the owner of a qualified historic building may elect to be subject to the historic building code. With limited exceptions, an owner who makes this election is exempt from any provision of any other building code, including a local building code, that concerns a matter that is dealt with in the historic building code. Although current law does not contain an administrative procedure designed specifically to determine whether an owner is entitled to this exemption, current law does contain a procedure that an owner may follow to resolve any conflicts between a local order and any order of the department that relates to the safety of places of employment or certain buildings that are open to the public (public buildings).

This bill specifies that the historic building code must be liberally interpreted to facilitate the preservation and restoration of qualified historic buildings. The bill also creates a specific administrative procedure for determining the extent to which a provision in a local building code applies to a qualified historic building. The bill permits the owner of a qualified historic building who has elected to be governed by the historic building code to request that the department review any decision of a local ~~governance~~ unit that requires the owner to comply with a provision in a local ordinance. The department must review the decision in order to determine whether the provision in the ordinance concerns a matter dealt with in the historic building code, in which case the owner would be exempt from the provision. The bill specifies that, in performing this review, the department must follow the existing procedure for resolving conflicts between local orders and orders of the department that relate to the safety of places of employment or public buildings.

This bill also expands the role of the state historical society relating to the historic building code. Under the bill, the owner of a qualified historic building may request that the state historical society review certain decisions of the department, or of a local ~~governance~~ unit acting as an agent of the department, relating to the historic building code, variances under the historic building code, or the inspection

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of qualified historic buildings for compliance with the historic building code. The state historical society must review the particular decision and issue an advisory opinion as to whether the decision or an alternate decision is consistent with the historic building code. The bill permits the state historical society to negotiate with the department or the particular local ~~governance~~ unit to achieve an alternate decision that would allow the greatest possible degree of restoration and preservation, while still providing for the health, safety, and welfare of occupants of and visitors to the qualified historic building. The bill also permits the department or the particular local ~~governance~~ unit to modify a reviewed decision, based upon these negotiations. In addition, the bill requires the department, in cooperation with the state historical society, to develop an informational pamphlet to increase public awareness and use of the historic building code.

Historic buildings used as multifamily dwellings

Current law requires the department to promulgate a multifamily dwelling code that provides uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units. The multifamily dwelling code currently applies to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the historic building code. Rules promulgated by the department also permit a local ~~governance~~ unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with the multifamily dwelling code. Currently, the multifamily dwelling code contains specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

This bill permits a local ~~governance~~ unit to adopt an ordinance that allows the local ~~governance~~ unit to grant a variance from these handrail and guardrail requirements, as they apply to a qualified historic building that is converted from a single-family to a multifamily dwelling. Under the bill, the ordinance must require an owner of a qualified historic building who seeks a variance to show that the type, height, and design of the handrail or guardrail proposed for installation is historically appropriate. If the owner makes this showing, the local ~~governance~~ unit may grant the variance, as long as the proposed installation is at least as protective of public safety as the handrail or guardrail that otherwise would have been required.

Current law requires certain multifamily dwellings to meet design and construction standards that ensure accessibility for individuals with physical disabilities. In certain circumstances, these requirements may apply to a qualified historic building that is remodelled or added to for use as a multifamily dwelling. This bill specifies that a qualified historic building that is remodelled is exempt from accessibility requirements that are otherwise triggered by the remodeling of a multifamily dwelling. The bill also provides that all rules promulgated by the department relating to the accessibility of multifamily dwellings that are qualified

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historic buildings must comply with, and may not exceed, the requirements of the federal Fair Housing Act, ^{and} the federal Americans with Disabilities Act, and regulations promulgated under those acts.

Exemption from fees

sub sub that

Currently, the department must charge fees to recover the costs of certain services it provides relating to, among other things, reviewing construction plans and inspecting public buildings, places of employment, and other building components and locations that are subject to the department's jurisdiction. This bill requires the department to waive these fees for services relating to any preservation or restoration of a building or structure that is more than 100 years old, if the state historic preservation officer certifies ~~that~~ that the building or structure is listed or eligible to be listed on the national or state register of historic places or is a building of historical significance in a district that is listed or eligible to be listed on the national or state register of historic places ~~and~~ that the preservation or restoration plan complies with standards applicable to projects that qualify for an income tax credit for historic property rehabilitation.

1) ; and 2)

12-18-1 ✓

Section #. 66.0413 (1) (b) 1. of the statutes is amended to read:

66.0413 (1) (b) 1. If a building is ~~old~~, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to repair, order the owner of the building to raze the building or, if the building can be made safe by reasonable repairs, order the owner to either make the building safe and sanitary or to raze the building, at the owner's option.

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413.

212-8:24

Section #. 66.0413 (1) (k) of the statutes is amended to read:

66.0413 (1) (k) *Public nuisance procedure.* A building which is determined under par. (b) 1. to be ~~old~~, dilapidated or out of repair and consequently dangerous, unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to repair may be proceeded against as a public nuisance under ch. 823.

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413.

2-8-3 ✓

Section #. 66.0413 (1) (h) of the statutes is amended to read:

66.0413 (1) (h) *Restraining order.* A person affected by an order issued under par. (b) may within the time provided by s. 893.76 apply to the circuit court for an order restraining the building inspector or other designated officer from razing the building or forever be barred. The hearing shall be held within 20 days and shall be given preference. The court shall determine whether the raze order is reasonable. If the order is found reasonable the court shall dissolve the restraining order. If the order is found not reasonable the court shall continue the restraining order or modify it as the circumstances require. Costs are in the discretion of the court. If the court finds that the order is unreasonable, the building inspector or other designated officer shall issue no other order under this subsection in regard to the same building until its condition is substantially changed. The remedies provided in this paragraph are exclusive remedies and anyone affected by an order issued under par. (b) is not entitled to recover any damages for the razing of the building.

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413.

For the purposes of this paragraph,
if the order requires the
razing of a historic building,
as defined in sub. (3) (a) 1m,
persons affected by the order
include representatives of a
local historical society and the
owner of a historic building, as
defined in sub. (3) (a) 1m, that is located
within 200 yards of the historic building
that is subject to

12-8:9 ✓

(c)

Section # 66.0413 (3) of the statutes is amended to read:

66.0413 (3) RAZING HISTORIC BUILDINGS. (a) In this subsection:

1. "Cost of repairs" includes the estimated cost of repairs that are necessary to comply with applicable building codes, or other ordinances or regulations, governing the repair or renovation of a historic building.

1m. "Historic building" means any building or object listed on, or any building or object within and contributing to a historic district listed on, the national register of historic places in Wisconsin, the state register of historic places or a list of historic places maintained by a municipality.

2. "Municipality" means a city, village, county or town.

(b) The state historical society shall notify a municipality of any historic building located in the municipality. If a historic district lies within a municipality, the historical society shall furnish to the municipality a map delineating the boundaries of the district

~~66.0413 (3) (c) If an order is issued under this section to raze and remove a historic building and restore the site to a dust-free and erosion-free condition, an application is made for a permit to raze and remove a historic building and restore the site to a dust-free and erosion-free condition or a municipality intends to raze and remove a municipally-owned historic building and restore the site to a dust-free and erosion-free condition, the municipality in which the historic building is located shall notify the state historical society of the order, application or intent. No historic building may be razed and removed nor the site restored to a dust-free and erosion-free condition for 30 days after the notice is given, unless a shorter period is authorized by the state historical society. If the state historical society authorizes a shorter period, however, such a period shall be subject to any applicable local ordinance. During the 30-day period, the state historical society shall have access to the historic building to create or preserve a historic record. If the state historical society completes its creation or preservation of a historic record, or decides not to create or preserve a historic record, before the end of the 30-day period, the society may waive its right to access the building and may authorize~~

12-8:5 ✓

~~the person who intends to raze and remove the building, and restore the site to a dust-free and erosion-free condition, to proceed before the end of such period, except that such a person shall be subject to any applicable local ordinance.~~

~~(d) If a municipal governing body, inspector of buildings or designated officer determines that the cost of repairs to a historic building would be less than 85% of the assessed value of the building divided by the ratio of the assessed value to the recommended value as last published by the department of revenue for the municipality within which the historic building is located, the repairs are presumed reasonable.~~

~~History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413.~~

or a building that is more than 50 years old, s. ~~66.038~~ applies

66.0414

12-8-06 ✓

(a) and (b)

Section #. 66.0413 (4) of the statutes is amended to read:

are consolidated, renumbered 66.0413 (4) and

66.0413 (4) FIRST CLASS CITIES; OTHER PROVISIONS. First class cities may adopt by ordinance alternate or additional provisions governing the placarding, closing, razing and removal of a building and the restoration of the site to a dust-free and erosion-free condition.

NOFF

(b) This subsection shall be liberally construed to provide 1st class cities with the largest possible power and leeway of action.

History: Sup. Ct. Order, 67 Wis. 2d 750; 1977 c. 187; 1979 c. 323; 1981 c. 341; 1983 a. 108, 192, 219; 1983 a. 275 s. 15 (2); 1987 a. 395; 1989 a. 347; 1991 a. 39, 316; 1993 a. 213, 246, 267, 382, 491; 1995 a. 225; 1997 a. 187; 1999 a. 67; 1999 a. 150 ss. 98 to 108, 134 to 149; Stats. 1999 s. 66.0413.

except that any alternate or additional provision adopted shall be no less stringent than the corresponding provision in s. 66.038

66.0414

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SECTION 1. 101.121 (4) (b) of the statutes is amended to read:

101.121 (4) (b) Paragraph (a) 1. does not apply to any owner of a nursing home, as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c) or an approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2) (b) and (c).

INSERT 19-6

SECTION 2. 101.132 (2) (b) 1. of the statutes is amended to read:

101.132 (2) (b) 1. ~~If Except as provided under~~ ⁱⁿ subd. 3m., if more than 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the entire housing shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

SECTION 3. 101.132 (2) (b) 2. of the statutes is amended to read:

101.132 (2) (b) 2. ~~If Except as provided under~~ ⁱⁿ subd. 3m., if 25% to 50% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, that part of the housing that is to be remodeled shall conform to the standards in par. (a), regardless of when the housing was first intended for occupancy.

SECTION 4. 101.132 (2) (b) 3. of the statutes is amended to read:

101.132 (2) (b) 3. ~~If Except as provided in~~ ⁱⁿ subd. 3m., if less than 25% of the interior square footage of any housing with 3 or more dwelling units is to be remodeled, the remodeling is not subject to the standards in par. (a) unless the alteration involves work on doors, entrances, exits or toilet rooms, in which case the doors, entrances, exits or toilet rooms shall conform to the standards in par. (a) regardless of when the housing was first intended for occupancy.

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INSERT 22-1

SECTION 1. 101.975 (4) of the statutes is created to read:

101.975 (4) (a) A political subdivision may adopt an ordinance that permits the political subdivision to grant a variance to the uniform multifamily dwelling code if all of the following apply:

1. The ordinance permits only a variance that relates to handrails or guardrails of qualified historic buildings, as defined in s. 101.121 (2) (c), that are converted from single-family dwellings to multifamily dwellings.

2. The ordinance requires the owner of a qualified historic building who seeks a variance to provide the political subdivision with evidence that the type, height, and design of the handrail or guardrail proposed for installation is historically appropriate for the owner's building.

(b) A political subdivision may grant a variance under an ordinance adopted under par. (a) if the owner seeking the variance provides the evidence required under par. (a) 2. and if the handrail or guardrail installation is at least as protective of public safety as the handrail or guardrail that would otherwise have been required.

24-1 ✓

Section #. 254.61 (1) (f) 2. of the statutes is amended to read:

254.61 (1) (f) 2. A structural addition, ^{including a renovation,} ~~made~~ ^{renovation,} to a structure that was originally constructed at least 50 years before an initial or renewal application for a permit under s. 254.64 (1) (b) is made and for which no use other than as a bed and breakfast establishment is proposed. The structural addition under this subdivision shall comply with the rules ^{promulgated} under s. 101.63 (1) and (1m).

History: 1973 c. 190; 1975 c. 189; 1975 c. 413 s. 13; Stats. 1975 s. 50.50; 1983 a. 163, 189, 203, 538; 1985 a. 135; 1987 a. 27, 307; 1989 a. 269, 354, 359; 1993 a. 27 s. 65; Stats. 1993 s. 254.61; 1993 a. 399; 1997 a. 27, 237; 1999 a. 135.