

**1999 DRAFTING REQUEST**

**Bill**

Received: **08/05/1999**

Received By: **shoveme**

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:

Alt. Drafters: **shoveme  
jkreye  
kenneda**

Subject: **Counties  
Munis - miscellaneous  
Buildings/Safety - bldg codes  
Courts - civil procedure  
Health - miscellaneous  
Tax Credits - miscellaneous**

Extra Copies: **RPN**

**Pre Topic:**

No specific pre topic given

**Topic:**

Regulation of historic buildings; historic building code

**Instructions:**

See Attached. Changes to historic building codes, dept of commerce's role in historic building codes, tax credits for historic buildings, rural historic preservation

**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>
/P1	shoveme			_____			
	01/03/2000			_____			
	kenneda			_____			

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
	01/05/2000 jkreye			_____			
	01/05/2000 grantpr			_____			
	01/06/2000			_____			
/P2	shoveme 01/06/2000	gilfokm 01/07/2000	martykr 01/10/2000	_____	lrb_docadmin 01/10/2000		
			martykr 01/10/2000	_____	lrb_docadmin 01/10/2000		
/1	shoveme 01/28/2000	gilfokm 02/01/2000	kfollet 02/03/2000	_____	lrb_docadmin 02/03/2000	lrb_docadmin 02/04/2000	

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<END>

02-08-00  
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/P1	shoveme 01/03/2000 kenneda	1-2-1-2000 kmq	Kjf 2/2	Kjf/cm 2/3			

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	01/05/2000			_____			
	jkreye			_____			
	01/05/2000			_____			
	grantpr			_____			
	01/06/2000			_____			
/P2	shoveme	gilfokm	martykr	_____	lrb_docadmin		
	01/06/2000	01/07/2000	01/10/2000	_____	01/10/2000		
			martykr	_____	lrb_docadmin		
			01/10/2000	_____	01/10/2000		

*1/10/00*  
/IMES  
FE Sent For:

*1/28/00*

<END>

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By/Representing: **Mark Patronsky**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact:

Alt. Drafters: ~~amarchon~~  
~~landman~~  
jkreye  
DAK

Subject: **Counties  
Munis - miscellaneous  
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Health - miscellaneous  
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1?	shoveme	1/2-1-6-2000 Kmg	8/16 Kmg	8/16 HIS Kmg 1/10	Submit		

FE Sent For:

5/18/99

*enter Bill*  
*MP*  
*see the Leg Council Notes*

1 **AN ACT** to renumber and amend 254.61 (1) (f); to consolidate, renumber and amend  
2 66.05 (10) (a) and (b); to amend 66.05 (1m) (a), 66.05 (3), 66.05 (9) (c), 71.07 (9m)  
3 (c), 71.28 (6) (c), 71.47 (6) (c), 101.122 (4) (b) 1., 101.122 (4) (b) 1., 823.21 and  
4 823.21; and to create 20.245 (3) (c), 44.46, 66.038, 66.05 (10) (b), 71.21 (6),  
5 101.121 (4) (c), 101.121 (5), 101.121 (6), 101.121 (7), 101.132 (1m), 101.132 (2) (b)  
6 3m., 101.19 (4), 101.975 (4) and 254.61 (1) (f) 2. of the statutes; relating to:  
7 regulation of historic buildings, the historic building code and making  
8 appropriations.

*NO ANAL*

*JLB analysis*

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

~~JOINT LEGISLATIVE COUNCIL~~ PREFATORY NOTE: This bill draft was prepared for the joint legislative council's special committee on the historic building code. The bill draft 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.

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

*It* 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 draft 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.

*It* 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.

**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.

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 draft, see the notes throughout the bill draft.

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

				1999-00	2000-01
3	<b>20.245</b>	<b>Historical society</b>			
4	(3)	HISTORIC AND BURIAL SITES PRESERVATION			
5	(c)	Historic agricultural building grant			
6		program	GPR    A	75,000	75,000

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

8           20.245 (3) (c) *Historic agricultural building grant program.* The amounts in the  
9 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, "historic  
12 agricultural building" means any building or structure that is designed for agricultural  
13 purposes and that is significant in the history, architecture or culture of this state.

14          (2) From the appropriation under s. 20.245 (3) (c), the historical society shall award  
15 grants to owners of historic agricultural buildings to provide assistance in the restoration of  
16 such buildings. Grants shall be awarded on a matching basis, under which, for each grant  
17 awarded, the historical society shall provide 50% and the grantee 50% of the total grant  
18 funding. To receive a grant, the grantee shall agree to use the total grant funding to restore the

1 historic agricultural building and, after such restoration, to use the historic agricultural  
2 building in a 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 draft 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. 66.038 of the statutes is created to read:

4 **66.038 Razing historic buildings and buildings that are more than 50 years old.**

5 (1) DEFINITIONS. In this section:

6 (a) "Historic building" has the meaning given in s. 66.05 (9) (a) 1m.

7 (b) "Housing authority" means a housing authority under ss. 66.40 to 66.404, a  
8 redevelopment authority under s. 66.431 or a housing and community development authority  
9 under s. 66.4325.

10 (c) "Political subdivision" means a city, village, town or county, and includes a housing  
11 authority acting on behalf of or at the direction of a city.

1           (2) NOTICE TO STATE HISTORICAL SOCIETY. If a political subdivision issues an order or  
2 permit or other similar directive or authorization to raze a building or if a political subdivision  
3 intends to raze a building that is owned by the political subdivision, and the building is either  
4 a historic building or more than 50 years old, the political subdivision shall notify the state  
5 historical society of the order, permit, directive or authorization or its intent.

6           (3) DELAY IN RAZING. (a) Unless waived under sub. (4) (b), or extended under par. (c)  
7 or sub. (4) (d), a building subject to sub. (2) may not be razed during the following time periods  
8 after the notice is given to the state historical society:

9           1. For a historic building, 60 days.

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

11           (b) During the period of delay in razing under par. (a), the state historical society shall  
12 have access to the building to create or preserve a historic record and access to the building  
13 shall be a condition of the order, permit, directive or authorization issued by the political  
14 subdivision.

15           (c) Upon request by the state historical society, the political subdivision may grant  
16 additional time for access to the building.

17           (4) OPPORTUNITY TO REQUEST PUBLIC HEARING; WRITTEN FINDINGS. (a) For a building  
18 subject to sub. (2), the state historical society may direct the political subdivision to provide  
19 notice and the opportunity to request a public hearing.

20           (b) If the state historical society does not direct the political subdivision to provide  
21 notice and the opportunity to request a public hearing, the state historical society may waive  
22 the period of delay in razing under sub. (3) (a) if the delay is not necessary to accomplish the  
23 purpose of sub. (3) (b).

1           (c) If the state historical society directs the political subdivision to provide notice and  
2 the opportunity to request a public hearing under this subsection, the political subdivision shall  
3 provide notice to any person who requests notice by mail and by publishing a class 1 notice,  
4 under ch. 985. Within 30 days after the political subdivision provides the notice under this  
5 paragraph, if 5 or more residents of the political subdivision submit a request for a hearing on  
6 the matter, the political subdivision shall either hold a public hearing or make written findings  
7 setting forth the reasons for denying the request for a hearing and responding to issues raised  
8 in the request for a hearing.

9           (d) If the state historical society directs the political subdivision to provide notice and  
10 the opportunity to request a public hearing, the period of delay in razing under sub. (3) (a) is  
11 the latest of any of the following:

- 12           1. The period specified under sub. (3) (a).
- 13           2. The completion of the public hearing.
- 14           3. The issuance of written findings by the political subdivision under par. (c).

15           (5) REUSE OF BUILDING MATERIALS. Either the political subdivision as owner of the  
16 building, or the owner as a condition of the order, permit, directive or authorization, shall reuse  
17 the building materials or contract with a demolition contractor who will reuse the building  
18 materials, to the maximum extent feasible.

19           (6) APPLICABILITY. This section does not apply to part of a building that is not a historic  
20 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 political subdivision to raze a building, or a decision by a political subdivision to raze a building that it owns, if the building is a historic building or is more than 50 years old. 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 political subdivision to notify the state historical society of the order or permit or of its intent. The bill draft 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 political subdivision 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 political subdivision may request a hearing and the political subdivision 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 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.

1           **SECTION 5.** 66.05 (1m) (a) of the statutes is amended to read:

2           **66.05 (1m) (a)** The governing body or the inspector of buildings or other designated  
3 officer in every municipality may order the owner of premises upon which is located any  
4 building or part thereof within such municipality, which in its judgment is so ~~old~~, dilapidated  
5 or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for  
6 human habitation, occupancy or use, and so that it would be unreasonable to repair the same,  
7 to raze and remove such building or part thereof and restore the site to a dust-free and  
8 erosion-free condition, or if it can be made safe by repairs to repair and make safe and sanitary  
9 or to raze, remove and restore the site to a dust-free and erosion-free condition at the owner's  
10 option; or where there has been a cessation of normal construction of any building for a period  
11 of more than 2 years, to raze and remove such building or part thereof and restore the site to  
12 a dust-free and erosion-free condition. The order shall specify a time in which the owner shall

1 comply therewith and specify repairs, if any. It shall be served on the owner of record or the  
2 owner's agent where an agent is in charge of the building in the manner provided for service  
3 of a summons in the circuit court. If the owner and the owner's agent cannot be found, or if  
4 the owner is deceased and an estate has not been opened, the order may be served by posting  
5 it on the main entrance of the building and by publishing it as a class 1 notice, under ch. 985,  
6 before the time limited in the order commences to run. The time limited in the order  
7 commences to run from the date of service upon the owner or the agent in the manner of a  
8 summons or, if the owner and agent cannot be found, from the date that the order was posted  
9 on the building. The order shall also be served on the holder of any encumbrance of record  
10 by 1st class mail at the last-known address and by 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 above 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".

11 **SECTION 6.** 66.05 (3) of the statutes is amended to read:

12 66.05 (3) Anyone affected by any such order shall within the time provided by s. 893.76  
13 apply to the circuit court for an order restraining the inspector of buildings or other designated  
14 officer from razing and removing the building or part thereof and restoring the site to a  
15 dust-free and erosion-free condition or forever be barred. The hearing shall be held within  
16 20 days and shall be given preference. The court shall determine whether the order of the  
17 inspector of buildings is reasonable, and if found reasonable the court shall dissolve the  
18 restraining order, and if found not reasonable the court shall continue the restraining order or  
19 modify it as the circumstances require. Costs shall be in the discretion of the court. If the court  
20 finds that the order of the inspector of buildings is unreasonable, the inspector of buildings or

1 other designated officer shall issue no other order under this section in regard to the same  
2 building or part thereof until its condition is substantially changed. The remedies provided  
3 in this subsection are exclusive remedies and anyone affected by such an order of the inspector  
4 shall not be entitled to recover any damages for the razing and removal of any such building  
5 and the restoration of the site to a dust-free and erosion-free condition. If the order requires  
6 the razing of a historic building, as defined in sub. (9) (a) 1m., persons affected by the order  
7 include representatives of a local historical society and the owner of a historic building, as  
8 defined in sub. (9) (a) 1m., that is located within 200 yards of the historic building that is  
9 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" include 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".

10 SECTION 7. 66.05 (9) (c) of the statutes is amended to read:



1           66.05 (9) (c) If an order is issued under this section to raze and remove a historic  
2 building and restore the site to a dust free and erosion free condition, an application is made  
3 for a permit to raze and remove a historic building and restore the site to a dust free and  
4 erosion free condition or a municipality intends to raze and remove a municipally owned  
5 historic building and restore the site to a dust free and erosion free condition, the  
6 municipality in which the historic building is located shall notify the state historical society  
7 of the order, application or intent. No historic building may be razed and removed nor the site  
8 restored to a dust free and erosion free condition for 30 days after the notice is given. During  
9 the 30 day period, the state historical society shall have access to the historic building to create  
10 or preserve a historic record or a building that is more than 50 years old. s. 66.038 applies.

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

11           SECTION 8. 66.05 (10) (a) and (b) of the statutes are consolidated, renumbered 66.05  
12 (10) (a) and amended to read:

13           66.05 (10) (a) ~~First~~ Except as provided in par. (b), first class cities may adopt by  
14 ordinance alternate or additional provisions governing the placarding, closing, razing and  
15 removal of a building and the restoration of the site to a dust-free and erosion-free condition.

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

18           SECTION 9. 66.05 (10) (b) of the statutes is created to read:

19           66.05 (10) (b) A first class city shall comply with 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 draft.

1           **SECTION 10.** 71.07 (9m) (c) of the statutes is amended to read:

2           71.07 (9m) (c) No person may claim the credit under this subsection unless the claimant  
3 includes with the claimant's return evidence that the rehabilitation was ~~approved~~  
4 recommended by the state historic preservation officer for approval by the secretary of the  
5 interior under 36 CFR 67.6 before the physical work of construction, or destruction in  
6 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 draft makes the state supplement available upon recommendation of the state historic preservation officer, rather than final approval 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.

7           **SECTION 11.** 71.21 (6) of the statutes is created to read:

8           71.21 (6) Credits computed by a partnership under s. 71.07 (9m) (c), 71.28 (6) (c) or  
9           71.47 (6) (c) may be allocated to partners either as provided under this chapter or pursuant to

1 an executed agreement among the partners establishing an alternate allocation method. The  
2 partners shall notify the department of an agreement within 30 days after the agreement is  
3 executed and shall provide any additional information requested by the department regarding  
4 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.

5 **SECTION 12.** 71.28 (6) (c) of the statutes is amended to read:

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

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

11 **SECTION 13.** 71.47 (6) (c) of the statutes is amended to read:

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

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

6           SECTION 14. 101.121 (4) (c) of the statutes is created to read:

7           101.121 (4) (c) Upon the request of the owner of a qualified historic building, the  
8 department shall review any decision of a city, village, town or county to require compliance  
9 by the owner with a county or municipal building code, or any other local ordinance or  
10 regulation, to determine if the county or municipal building code, or any other local ordinance  
11 or regulation, to determine if the requirement of compliance is contrary to par. (a). The  
12 procedures in s. 101.02 (7) apply to any review conducted by the department under this  
13 paragraph.

          NOTE: Section 101.121 (4), 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 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.

1           **SECTION 15.** 101.121 (5) of the statutes is created to read:

2           **101.121 (5) ADVISORY OPINION OF STATE HISTORICAL SOCIETY.** (a) Any person who owns  
3 a qualified historic building may request an advisory opinion from the state historical society  
4 with respect to any decision of the department or a city, village, town or county that is certified  
5 by the department to examine plans and conduct inspections under s. 101.12 (3) (a), (b) and  
6 (g), if the decision pertains to any of the following:

7           1. This section or rules promulgated under this section, except for decisions of the  
8 department under sub. (4) (c).

9           2. A variance to rules promulgated under this section.

10           3. The inspection of a qualified historic building for compliance with rules promulgated  
11 under this section.

1 (b) The request for an advisory opinion under this subsection shall be submitted to the  
2 state historical society. This subsection does not modify any procedures for appeal of a  
3 decision of the department or of a city, village, town or county under this section.

4 (c) The state historical society shall review all information related to the decision and  
5 shall render an opinion on the following:

6 1. Whether the decision is consistent with this section and rules promulgated under this  
7 section.

8 2. If the alternative decision requested by the owner of the qualified historic building,  
9 or any other alternative decision, is consistent with this section and rules promulgated under  
10 this section.

11 (d) The state historical society may negotiate with the department or a city, village, town  
12 or county and the owner of the qualified historic building to seek agreement on alternative  
13 decisions that will allow the greatest possible degree of restoration and preservation of the  
14 historic elements and features of the building, while continuing to meet the standards for the  
15 health, safety and welfare of occupants and visitors in the historic building.

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

**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 draft 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 draft 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.

1           **SECTION 16.** 101.121 (6) of the statutes is created to read:

2           **101.121 (6) INTERPRETATION.** The historic building code shall be liberally interpreted  
3 to 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.”

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 17.** 101.121 (7) of the statutes is created to read:

2           101.121 (7) PAMPHLET. (a) The department shall develop, in cooperation with the state  
3 historical society, a pamphlet designed to increase awareness and use of the historic building  
4 code. The pamphlet shall be updated as statutes and rules relating to the historic building code  
5 are amended. The pamphlet shall include the following information:

6           1. A description of the historic building code.

7           2. An explanation of the types and qualities of buildings that are subject to the historic  
8 building code.

9           3. An explanation of how an owner may elect to use the historic building code and a  
10 description of the consequences of that election.

11           4. A description of other alternative building codes a historic building owner may be  
12 eligible to use.

13           5. A description of where further information regarding historic buildings and the  
14 historic building code may be obtained.

15           (b) The department and the state historical society shall distribute the pamphlets as they  
16 deem necessary to increase awareness of the historic building 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 deem necessary to increase awareness of the historic building code.

1           **SECTION 18.** 101.122 (4) (b) 1. of the statutes is amended to read:

2           101.122 (4) (b) 1. Order demolition of the rental unit no sooner than 90 days after the  
3 order. The department or the city, village or town shall comply with s. 66.038 with respect  
4 to the razing of historic buildings or buildings more than 50 years old.

NOTE: This provision applies the requirements of s. 66.038, as created by this bill draft, 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.

5           **SECTION 19.** 101.122 (4) (b) 1. of the statutes is amended to read:

6           101.122 (4) (b) 1. Order demolition of the rental unit no sooner than 90 days after the  
7 order. The department or the city, village or town shall comply with s. 66.038 with respect  
8 to the razing of historic buildings or buildings more than 50 years old.

NOTE: This provision applies the requirements of s. 66.038, as created by this bill draft, 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.

9           **SECTION 20.** 101.132 (1m) of the statutes is created to read:

10           101.132 (1m) **COMPLIANCE WITH FEDERAL STANDARDS.** All rules promulgated by the  
11 department under this section relating to qualified historic buildings as defined in s. 101.121  
12 (2) (c) shall comply with and not exceed the requirements of the federal Fair Housing Act  
13 under 42 USC 3601 to 3620 and the Americans with Disabilities Act under 42 USC 12181 and  
14 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 and the Americans with Disabilities Acts 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.

- 1 SECTION 21. 101.132 (2) (b) 3m. of the statutes is created to read:  
 2 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to qualified  
 3 historic buildings under 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 Act applies only to buildings which are first occupied after March 31, 1991.

1           **SECTION 22.** 101.19 (4) of the statutes is created to read:

2           101.19 (4) The department shall waive the fees under sub. (1) (a), (am), (b), (d) and (i)  
3 for any preservation or restoration of a building or structure that is more than 100 years old  
4 if the state historic preservation officer certifies to the department all of the following:

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

7           (b) The building or structure is listed on the national register of historic places in  
8 Wisconsin or the state register of historic places, or is determined by the state historical society  
9 to be eligible for listing on the national register of historic places in Wisconsin or the state  
10 register of historic places, or is located in a historic district which is listed in the national  
11 register of historic places in Wisconsin or the state register of historic places and is certified  
12 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 draft 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.

13           **SECTION 23.** 101.975 (4) of the statutes is created to read:

1           101.975 (4) A political subdivision may adopt an ordinance that permits it to grant a  
2 variance to the uniform multifamily dwelling code relating to handrails and guardrails of  
3 qualified historic buildings, as defined in s. 101.121 (2) (c), that are converted from  
4 single-family use to multifamily use. The ordinance shall require the owner of a qualified  
5 historic building who is seeking a variance to provide the political subdivision with evidence  
6 that the type, height and design of the handrail or guardrail proposed for installation is  
7 historically appropriate for the owner's building. Upon the provision of such evidence, the  
8 political subdivision may grant a variance to the uniform multifamily dwelling code that  
9 permits the owner to install a handrail or guardrail that is at least as protective of public safety  
10 as the historically appropriate handrail or guardrail.

**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 use to multifamily use. 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 draft, 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 draft 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.

1 SECTION 24. 254.61 (1) (f) of the statutes is renumbered 254.61 (1) (f) (intro.) and  
2 amended to read:

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

6 1. A structural addition, including a renovation, made to the structure ~~may~~, after May  
7 11, 1990, ~~be made~~ within the dimensions of the original structure.

8 SECTION 25. 254.61 (1) (f) 2. of the statutes is created to read:

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

**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:

α "(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 draft. 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."

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 draft 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.

1 SECTION 14. 823.21 of the statutes is amended to read:

2 823.21 Dilapidated buildings declared nuisances. Any building which, under s.  
3 66.05 (1m), has been declared so old, dilapidated or out of repair as to be dangerous, unsafe,  
4 unsanitary or otherwise unfit for human habitation or has been determined to be unreasonable

1 to repair under s. 66.05 (1m) is a public nuisance and may be proceeded against under this  
2 chapter.

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

3 **SECTION 14.** 823.21 of the statutes is amended to read:

4 **823.21 Dilapidated buildings declared nuisances.** Any building which, under s.  
5 66.05 (1m), has been declared so ~~old~~, dilapidated or out of repair as to be dangerous, unsafe,  
6 unsanitary or otherwise unfit for human habitation or has been determined to be unreasonable  
7 to repair under s. 66.05 (1m) is a public nuisance and may be proceeded against under this  
8 chapter.

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

9 **SECTION 26. Nonstatutory provisions; legislature.**

10 (1) **STUDY OF RURAL HISTORIC PRESERVATION.** The joint legislative council is requested  
11 to study methods to promote rural historic preservation. If the council undertakes such a study,  
12 the council is requested to report its findings, conclusions and recommendations to the 2001  
13 legislature when it convenes.

14 **SECTION 27. Appropriation changes; historical society.**

15 (1) **SURVEY OF RURAL HISTORIC BUILDINGS.** In the schedule under section 20.005 (3) of  
16 the statutes for the appropriation to the state historical society under section 20.245 (3) (a) of  
17 the statutes, as affected by the acts of 1999, the dollar amount is increased by \$75,000 for fiscal  
18 year 1999-00 and the dollar amount is increased by \$75,000 for fiscal year 2000-01 for the  
19 purpose of entering into a contract for a survey under section 44.34 (1) of the statutes to  
20 identify and document historic properties 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 draft increases the appropriation for 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".

1           **SECTION 28. Initial applicability.**

- 2           (1) The treatment of section 71.21 (6) of the statutes first applies to agreements  
3           establishing an alternate allocation method executed on the first day of the 3rd month after the  
4           effective date of this act.

**NOTE:** Creates a nonstatutory provision that provides that s. 71.21 (6), stats., created in this bill draft, first applies to partnership agreements for the allocation of the state tax credit for historic preservation executed on the first day of the 3rd month after the effective date of the act created by the bill draft.

5

(END)



1       **AN ACT to amend** 59.69 (4m), 60.64 and 62.23 (7) (em) of the statutes; **relating to:**  
2           requiring a liberal interpretation of local regulations applicable to historic buildings  
3           and structures.

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

4           **SECTION 1.** 59.69 (4m) of the statutes is amended to read:

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

15          **SECTION 2.** 60.64 of the statutes is amended to read:

16          **60.64 Historic preservation.** The town board, in the exercise of its zoning and police  
17          powers for the purpose of promoting the health, safety and general welfare of the community  
18          and of the state, may regulate any place, structure or object with a special character, historic

1 interest, aesthetic interest or other significant value for the purpose of preserving the place,  
2 structure or object and its significant characteristics. The town board may create a landmarks  
3 commission to designate historic landmarks and establish historic districts. The board may  
4 regulate all historic landmarks and all property within each historic district to preserve the  
5 historic landmarks and property within the district and the character of the district. The town  
6 board shall interpret its regulations liberally to facilitate the preservation and restoration of  
7 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.

8 SECTION 3. 62.23 (7) (em) of the statutes is amended to read:

9 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and police  
10 powers for the purpose of promoting the health, safety and general welfare of the community  
11 and of the state, may regulate by ordinance, or if a city contains any property that is listed on  
12 the national register of historic places in Wisconsin or the state register of historic places shall,  
13 not later than 1995, enact an ordinance to regulate, any place, structure or object with a special  
14 character, historic, archaeological or aesthetic interest, or other significant value, for the  
15 purpose of preserving the place, structure or object and its significant characteristics. A city  
16 may create a landmarks commission to designate historic or archaeological landmarks and  
17 establish historic districts. The city may regulate, or if the city contains any property that is  
18 listed on the national register of historic places in Wisconsin or the state register of historic  
19 places shall regulate, all historic or archaeological landmarks and all property within each  
20 historic district to preserve the historic or archaeological landmarks and property within the  
21 district and the character of the district. The city shall interpret its regulations liberally to  
22 facilitate the preservation and restoration of historic buildings and structures.

4/21/99

- 3 -

WLCS: 0100/1

**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.

1

(END)

Questions to Mark Patrosky 12/23/99

① p. 6 l. 13 Δ from pt. sub. to LGA OK

② p. 7 l. 19-24: ~~how~~ if the LGA is an authority, who are the "residents"? Need to say if the city?

③ p. 7 l. 20 : why 30 days of which notice, the class I notice on the notice by mail?

\* ④ p. 12 l. 1-2: why needed? ~~First~~

§ 66.037 does not exempt MKE

subject to the ~~management~~ if needed, see Δ - OK?   
 ~~no less~~ ~~stronger than~~ ~~company~~ ~~provision~~ (also p. 18 l. 5-8)

⑤ need unit app for 71.07 (9)(c)

~~71.07 (b)~~, 71.27 (6)(d), 71.47 (6)(c) ?

⑥ p. 15 l. 5: "certified"? see 101.12 (3)(a) in stat.   
 change

⑦ (INS-22-4) : ~~test phrase~~

p. 22 l. 2-3 : prepared by whom?

⑧ p. 23 l. 16: Δ "is required to" to "shall" ?   
 the owner

(i.e. if they do the study, must report)

also, include



State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-3382/M1  
Pg, MES, jf  
KMG  
DNK, JK

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

SOON

RMR

WPO:  
Proof all  
amended  
stats w/ stats.

regenerate

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

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

Analysis by the Legislative Reference Bureau

preliminary draft.

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

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 ~~draft~~ see the notes throughout the bill ~~draft~~.

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

1999-00 2000-01

3 20.245 Historical society

4 (3) HISTORIC AND BURIAL SITES PRESERVATION

5 (f) ~~(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)~~ <sup>(f)</sup> 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)~~ <sup>(f)</sup> ✓, the historical society shall  
16 award grants to owners of historic agricultural buildings to ~~provide~~ <sup>provide</sup> assistance in the  
17 restoration of ~~such~~ <sup>the</sup> buildings. ~~Grants shall be awarded on a matching basis, under~~  
18 ~~which, for each grant awarded, the historical society shall provide 50% and the~~  
19 ~~grantee 50% of the total grant funding.~~ To receive a grant, the ~~grantee~~ <sup>owner</sup> shall agree  
20 to use the total ~~grant funding~~ <sup>amount of funds</sup> to restore the historic agricultural building and, ~~after~~  
21 ~~such restoration~~ <sup>shall agree</sup> to use the ~~historic agricultural building~~ <sup>restored</sup> in a manner consistent  
22 with the public policy expressed in s. 44.30. ✓

match the amount of the grant, ~~and~~ shall

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 ~~does~~ 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:

*delete space*

"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."

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

2 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and  
3 police powers for the purpose of promoting the health, safety and general welfare of  
4 the community and of the state, may regulate by ordinance any place, structure or  
5 object with a special character, historic interest, aesthetic interest or other  
6 significant value, for the purpose of preserving the place, structure or object and its  
7 significant characteristics. The county may create a landmarks commission to  
8 designate historic landmarks and establish historic districts. The county may  
9 regulate all historic landmarks and all property within each historic district to  
10 preserve the historic landmarks and property within the district and the character  
11 of the district. ~~The county~~ <sup>and</sup> shall interpret ~~its~~ <sup>the county's</sup> regulations liberally to facilitate the  
12 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.

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



1           **60.64 Historic preservation.** The town board, in the exercise of its zoning  
2 and police powers for the purpose of promoting the health, safety and general welfare  
3 of the community and of the state, may regulate any place, structure or object with  
4 a special character, historic interest, aesthetic interest or other significant value for  
5 the purpose of preserving the place, structure or object and its significant  
6 characteristics. The town board may create a landmarks commission to designate  
7 historic landmarks and establish historic districts. The board may regulate all  
8 historic landmarks and all property within each historic district to preserve the  
9 historic landmarks and property within the district and the character of the district.

10 ~~The town board~~ shall interpret ~~its~~ regulations liberally to facilitate the preservation  
11 ~~and restoration of historic buildings and structures.~~  
*the board's*

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.

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

13           62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and  
14 police powers for the purpose of promoting the health, safety and general welfare of  
15 the community and of the state, may regulate by ordinance, or if a city contains any  
16 property that is listed on the national register of historic places in Wisconsin or the  
17 state register of historic places shall, not later than 1995, enact an ordinance to  
18 regulate, any place, structure or object with a special character, historic,  
19 archaeological or aesthetic interest, or other significant value, for the purpose of  
20 preserving the place, structure or object and its significant characteristics. A city  
21 may create a landmarks commission to designate historic or archaeological  
22 landmarks and establish historic districts. The city may regulate, or if the city  
23 contains any property that is listed on the national register of historic places in

1 Wisconsin or the state register of historic places shall regulate, all historic or  
 2 archaeological landmarks and all property within each historic district to preserve  
 3 the historic or archaeological landmarks and property within the district and the  
 4 character of the district. ~~The city shall interpret its~~ <sup>and</sup> ~~regulations~~ <sup>the city's</sup> liberally to facilitate  
 5 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.

SECTION 7. 66.038 of the statutes is created to read:

**66.038 Razing historic buildings and buildings that are more than 50 years old.** (1) DEFINITIONS. In this section:

(b) ~~(a)~~ "Historic building" has the meaning given in s. 66.05 (9) (a) 1m.

(a) ~~(b)~~ ~~"Housing authority"~~ <sup>housing authority</sup> means a housing authority under ss. 66.40 to 66.404, a redevelopment authority under s. 66.431 or a housing and community development authority under s. 66.4325.

(c) ~~"Political subdivision"~~ <sup>"local governmental unit"</sup> means a city, village, town or county, and includes ~~an~~ <sup>an</sup> housing authority acting on behalf of or at the direction of a city, village or town.

(2) NOTICE TO STATE HISTORICAL SOCIETY. If a ~~political subdivision~~ <sup>local governmental unit</sup> issues an order or permit or other similar directive or authorization to raze a building or if a ~~political subdivision~~ <sup>political subdivision</sup> intends to raze a building that is owned by the ~~political subdivision~~ <sup>political subdivision</sup>, and the building is either a historic building or more than 50 years old, the ~~political subdivision~~ <sup>political subdivision</sup> shall notify the state historical society of the order, permit, directive or authorization <sup>of</sup> its intent.

(3) DELAY IN RAZING. (a) ~~Unless waived under sub. (4) (b), or extended under~~ <sup>Except as provided in</sup> ~~par. (a) or sub. (4) (c),~~ <sup>(a) 3. and (b)</sup> a local governmental unit may not raze a building subject to sub. (2) ~~may not be razed~~ during the following ~~time~~ <sup>time</sup> periods after the notice is given to the state historical society:

local governmental unit

INS. 6-14

- 1 1. For a historic building, 60 days.
- 2 2. For a building more than 50 years old that is not a historic building, 30 days.

*ext*  
*and during any extension*  
*of a period of delay*

3 (c) ~~(b)~~ During the period of delay in razing under par. (a), the state historical  
 4 society shall have access to the building to create or preserve a historic record and  
 5 access to the building shall be a condition of the order, permit, directive or  
 6 authorization issued by the ~~political subdivision~~ *local governmental unit*.

7 (b) ~~(a)~~ Upon request by the state historical society, the ~~political subdivision~~ *local governmental unit* may  
 8 grant additional time for access to the building. *extens the period of delay*  
*in razing under par. (a)*

9 (4) OPPORTUNITY TO REQUEST PUBLIC HEARING; WRITTEN FINDINGS. (a) ~~For a~~ *1.*  
 10 building subject to sub. (2), the state historical society may direct the ~~political~~  
 11 ~~subdivision~~ *local governmental unit* to provide notice and the opportunity to request a public hearing.

12 (h) If the state historical society does not direct the ~~political subdivision~~ *local governmental unit* to  
 13 provide notice and the opportunity to request a public hearing, the state historical  
 14 society may waive the period of delay in razing under sub. (3) (a) if the delay is not  
 15 necessary to accomplish the purpose of sub. (3) ~~(b)~~ *(c)* *state historical*  
*society determines that*  
*the*

*move*  
*to*  
*P. 8*

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

*local governmental unit*

SECTION 7

3. 5 or more residents of the local governmental unit submit a request for a hearing under sub. (2)

1 ~~(d) If the state historical society directs the political subdivision to provide~~  
2 ~~notice and the opportunity to request a public hearing, the period of delay in razing~~  
3 ~~under sub. (3) (a), is the latest of any of the following.~~

- 4 ~~1. The period specified under sub. (3) (a).~~ does not end until the local governmental unit holds
- 5 ~~2. The completion of the public hearing.~~ as required
- 6 ~~3. The issuance of written findings by the political subdivision under paragraph (b).~~ or makes subd. 2

INS. from P. 7

7 (5) REUSE OF BUILDING MATERIALS. Either the political subdivision as owner of  
8 the building, or the owner as a condition of the order, permit, directive or  
9 authorization, <sup>that is razed</sup> shall reuse the building materials or contract with a demolition  
10 contractor who will reuse the building materials, to the maximum extent feasible.

11 (6) APPLICABILITY. This section does not apply to part of a building that is not  
12 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 political subdivision to raze a building, or a decision by a political subdivision to raze a building that it owns, if the building is a historic building or is more than 50 years old. 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 political subdivision to notify the state historical society of the order or permit or of its intent. The bill ~~draft~~ 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 political subdivision 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 political subdivision may request a hearing and the political subdivision 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 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.

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

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

1           **SECTION 9.** 66.05 (3) of the statutes is amended to read:

2           66.05 (3) Anyone affected by any such order shall within the time provided by  
3 s. 893.76 apply to the circuit court for an order restraining the inspector of buildings  
4 or other designated officer from razing and removing the building or part thereof and  
5 restoring the site to a dust-free and erosion-free condition or forever be barred. The  
6 hearing shall be held within 20 days and shall be given preference. The court shall  
7 determine whether the order of the inspector of buildings is reasonable, and if found  
8 reasonable the court shall dissolve the restraining order, and if found not reasonable  
9 the court shall continue the restraining order or modify it as the circumstances  
10 require. Costs shall be in the discretion of the court. If the court finds that the order  
11 of the inspector of buildings is unreasonable, the inspector of buildings or other  
12 designated officer shall issue no other order under this section in regard to the same  
13 building or part thereof until its condition is substantially changed. The remedies  
14 provided in this subsection are exclusive remedies and anyone affected by such an  
15 order of the inspector shall not be entitled to recover any damages for the razing and  
16 removal of any such building and the restoration of the site to a dust-free and  
17 erosion-free condition. If the order requires the razing of a historic building, as  
18 defined in sub. (9) (a) 1m., persons affected by the order include representatives of  
19 a local historical society and the owner of a historic building, as defined in sub. (9)  
20 (a) 1m., that is located within 200 yards of the historic building that is subject to the  
21 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

For the purposes of this subsection

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" include 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".

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

2           66.05 (9) (c) If an order is issued under this section to raze and remove a historic  
3 building and restore the site to a dust-free and erosion-free condition, an application  
4 is made for a permit to raze and remove a historic building and restore the site to a  
5 dust-free and erosion-free condition or a municipality intends to raze and remove  
6 a municipally owned historic building and restore the site to a dust-free and  
7 erosion-free condition, the municipality in which the historic building is located  
8 shall notify the state historical society of the order, application or intent. No historic  
9 building may be razed and removed nor the site restored to a dust-free and  
10 erosion-free condition for 30 days after the notice is given. During the 30-day period,  
11 the state historical society shall have access to the historic building to create or  
12 preserve a historic record or a building that is more than 50 years old, s. 66.038  
13 applies.

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

14           **SECTION 11.** 66.05 (10) (a) and (b) of the statutes are consolidated, renumbered  
15 (15) 66.05 (10) ~~(a)~~ and amended to read:

1

66.05 (10) ~~AN~~ <sup>plain</sup> ~~First Except as provided in part (b), first~~ class cities may adopt

2

by ordinance alternate or additional provisions governing the placarding, closing,

3

razing and removal of a building and the restoration of the site to a dust-free and

4

erosion-free condition. (b) This <sup>plain</sup> ~~subsection~~ shall be liberally construed

5

to provide 1st class cities with the largest possible power and leeway of action.

IN S.  
12-5

**SECTION 12.** 66.05 (10) (b) of the statutes is created to read:  
66.05 (10) (b) A first class city shall comply with s. 66.038.

6

7

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.

8

**SECTION 13.** 71.07 (9m) (c) of the statutes is amended to read:

9

71.07 (9m) (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: 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 ~~draft~~ makes the state supplement available upon recommendation of the state historic preservation officer, rather than final approval 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 14.** 71.21 (6) of the statutes is created to read:

2           71.21 (6) Credits computed by a partnership under s. 71.07 (9m) (c), 71.28 (6)  
3           (c) or 71.47 (6) (c) may be allocated to partners either as provided under this chapter  
4           or pursuant to an ~~executed~~ agreement among the partners establishing an alternate  
5           allocation method. The partners shall notify the department of an agreement within  
6           30 days 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 15.** 71.28 (6) (c) of the statutes is amended to read:

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 ~~done~~ to s. 71.07 (9m) (c), stats., which includes an explanatory note.

14          **SECTION 16.** 71.47 (6) (c) of the statutes is amended to read:

15          71.47 (6) (c) No person may claim the credit under this subsection unless the  
16          claimant includes with the claimant's return evidence that the rehabilitation was  
17          approved recommended by the state historic preservation officer for approval by the

INSERT 14-2 A ✓

1 secretary of the interior under 36 CFR 67.6 before the physical work of construction,  
2 or destruction in preparation for construction, began.

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

INS. FROM PP. 16-17

SECTION 17. RN, 101.121 (4) (a); 101.121 (4) (a) 1.

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SECTION 17. 101.121 (4) ~~(a)~~ of the statutes is created to read:

(a) 2.

101.121 (4) ~~(a)~~ Upon the request of the owner of a qualified historic building, the department shall review any decision of a city, village, town or county <sup>that</sup> ~~to require~~ <sup>to comply</sup> ~~compliance by~~ the owner with a county or municipal building code, or <sup>of</sup> ~~any~~ other local ordinance or regulation, to determine if the ~~county or municipal building code, or any other local ordinance or regulation, to determine if the requirement of compliance is~~ <sup>provision of a</sup> ~~contrary to par. (a).~~ The procedures in s. 101.02 (7) apply to any review conducted by the department under this ~~paragraph~~ <sup>subdivision</sup>.

building code

NOTE: Section 101.121 (4), 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 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.

*submit to the state historical society a*

1 SECTION 18. 101.121 (5) of the statutes is created to read:

2 101.121 (5) ADVISORY OPINION OF STATE HISTORICAL SOCIETY. (a) ~~Any person who~~

3 *The owner of* a qualified historic building may *for* request ~~an advisory opinion from the state~~

4 ~~historical society~~ with respect to any decision of the department or *of* a city, village,

5 town or county that is *an agent of* ~~certified by~~ the department to ~~examine plans and conduct~~

6 ~~inspections under s. 101.12 (3) (a), (b) and (c)~~ if the decision pertains to any of the

7 following:

8 1. This section or *a* ~~rules~~ promulgated under this section, except for *a* ~~decisions~~ of

9 the department under sub. (4) *(a) 2* ~~rules~~

10 2. A variance to *a* ~~rules~~ promulgated under this section.

11 3. The inspection of a qualified historic building for compliance with *a* ~~rules~~

12 promulgated under this section.

13 ~~(e) (b) The request for an advisory opinion under this subsection shall be~~

14 ~~submitted to the state historical society.~~ This subsection does not modify any

15 procedures for appeal of a decision of the department or of a city, village, town or

16 county under this section.

17 *upon receiving a request under par. (a)* (b) ~~The~~ state historical society shall review all information related to the

18 decision and shall render *a written* ~~an~~ opinion on the following:

19 1. Whether the decision is consistent with this section and *the* ~~rules~~ promulgated

20 under this section.

21 *Whether* 2. ~~If~~ the alternative decision requested by the owner of the qualified historic

22 building, or any other alternative decision, is consistent with this section and *The* ~~rules~~

23 promulgated under this section.

*move to p. 16*

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

INS. from P. 15 →

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 ~~draft~~ 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 ~~draft~~ 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.

9 SECTION 19. 101.121 <sup>(3)(c)</sup> ~~(a)~~ of the statutes is created to read:

10 101.121 <sup>(3)(c)</sup> ~~(a)~~ <sup>(b)</sup> INTERPRETATION. The historic building code shall be liberally

11 interpreted to facilitate the preservation and restoration of qualified historic

12 buildings.

INS. to P. 14 →

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.”

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.

*end of memo*

1 SECTION 20. 101.121 (7) of the statutes is created to read:

2 101.121 (7) <sup>INFORMATIONAL</sup> ~~RAMPHLET~~ (a) ~~The department shall develop~~ in cooperation with  
3 the state historical society, <sup>an informational</sup> pamphlet designed to increase awareness and use of the  
4 historic building code. The pamphlet shall be updated as statutes and rules relating  
5 to the historic building code are amended. The pamphlet shall include the following  
6 information:

- 7 1. A description of the historic building code.
- 8 2. <sup>A description</sup> ~~An explanation~~ of the types and qualities of buildings that are subject to the  
9 historic building code.
- 10 3. An explanation of how <sup>the</sup> ~~an~~ owner may elect to <sup>of a qualified historic building</sup> ~~use~~ be subject to the historic building code  
11 and a description of the consequences of that election.
- 12 4. A description of other alternative building codes <sup>that</sup> a historic building owner  
13 may be eligible to use.
- 14 5. A description of where further information regarding historic buildings and  
15 the historic building code may be obtained.

1 (b) The department and the state historical society shall distribute the  
 2 pamphlets as they ~~deem~~ <sup>consider</sup> necessary to increase awareness of the historic building  
 3 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 deem necessary to increase awareness of the historic building code.

4 SECTION 21. 101.122 (4) (b) 1. of the statutes is amended to read:

5 101.122 (4) (b) 1. ~~Order~~ <sup>Subject to s. 66.038, order</sup> demolition of the rental unit no sooner than 90 days  
 6 after the order. The department or the city, village or town shall comply with s.  
 7 66.038 with respect to the razing of historic buildings or buildings more than 50 years  
 8 old.

NOTE: This provision applies the requirements of s. 66.038, as created by this bill ~~that~~, 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.

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

10 101.122 (4) (b) 1. Order demolition of the rental unit no sooner than 90 days  
 11 after the order. The department or the city, village or town shall comply with s.  
 12 66.038 with respect to the razing of historic buildings or buildings more than 50 years  
 13 old.

NOTE: This provision applies the requirements of s. 66.038, as created by this bill ~~draft~~, 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.

14 SECTION 23. 101.132 (1m) of the statutes is created to read:

15 101.132 (1m) COMPLIANCE WITH FEDERAL STANDARDS. All rules promulgated by  
 16 the department under this section relating to qualified historic buildings as defined

- ① in s. 101.121 (2) (c) shall comply with and not exceed the requirements of the federal
- 2 Fair Housing Act under 42 USC 3601 to 3620 and the Americans with Disabilities
- 3 Act 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 and the Americans with Disabilities Acts 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.

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

5 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to

6 qualified historic buildings <sup>as defined in</sup> ~~under~~ 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 Act applies only to buildings which are first occupied after March 31, 1991.

SECTION 25. 101.19 <sup>(1m)</sup> of the statutes is created to read:

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19-7 → ⑦

(1m)

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101.19 ~~(a)~~ The department shall waive the fees under sub. (1) (a), (am), (b), (d)

2

and (l) for any preservation or restoration of a building or structure that is more than

3

100 years old if the state historic preservation officer certifies to the department all

4

of the following:

That

5

(a) The plan for the preservation or restoration of the building or structure

6

complies with the standards promulgated under s. 44.02 (24). ✓

7

(b) The building or structure is listed on the national register of historic places

That

8

in Wisconsin or the state register of historic places, ~~or~~ is determined by the state

9

historical society to be eligible for listing on the national register of historic places

10

in Wisconsin or the state register of historic places, or is located in a historic district

11

which is listed in the national register of historic places in Wisconsin or the state

12

register of historic places and is certified by the state historic preservation officer as

13

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 ~~also~~ 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.

INSERT 20-13

14

SECTION 26. 101.975 (4) of the statutes is created to read:

15

101.975 (4) A political subdivision may adopt an ordinance that permits it to

16

grant a variance to the uniform multifamily dwelling code relating to handrails and

17

guardrails of qualified historic buildings, as defined in s. 101.121 (2) (c), that are

18

converted from single-family <sup>dwellings</sup> use to multifamily <sup>dwellings</sup> use. The ordinance shall require

19

the owner of a qualified historic building who ~~is seeking~~ <sup>SEEKS</sup> a variance to provide the



1 political subdivision with evidence that the type, height and design of the handrail  
2 or guardrail proposed for installation is historically appropriate for the owner's  
3 building. Upon the provision of such evidence, the political subdivision may grant  
4 a variance to the uniform multifamily dwelling code that permits the owner to install  
5 a handrail or guardrail that is at least as protective of public safety as the historically  
6 appropriate handrail or guardrail.

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.

*dwelling*  
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 use to multifamily use. 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 ~~draft~~, 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 ~~draft~~ 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.

7 SECTION 27. 254.61 (1) (f) of the statutes is renumbered 254.61 (1) (f) (intro.)  
8 and amended to read:

9 254.61 (1) (f) (intro.) Has had completed, before May 11, 1990, any structural  
10 additions to the dimensions of the original structure, including by renovation, except  
11 that a this limit does not apply to any of the following:

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

14 SECTION 28. 254.61 (1) (f) 2. of the statutes is created to read:

*under s. 254.64(1)(b)*

1  
2  
3  
4

254.61 (1) (f) 2. A structure that was originally constructed at least 50 years before ~~a permit~~<sup>an</sup> application <sup>for a permit</sup> is made, for which no use other than as a bed and breakfast establishment is proposed and for which the structural addition complies with the uniform dwelling code adopted in rules promulgated under s. 101.63 (1).

JNS.  
22-4

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 ~~draft~~<sup>bill</sup>. 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."

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 ~~draft~~ 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.

1           **SECTION 14.** 823.21 of the statutes is amended to read:

2           **823.21 Dilapidated buildings declared nuisances.** Any building which,  
3 under s. 66.05 (1m), has been declared so ~~old~~, dilapidated or out of repair as to be  
4 dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has been  
5 determined to be unreasonable to repair under s. 66.05 (1m) is a public nuisance and  
6 may be proceeded against under this chapter.

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

7           ~~**SECTION 14.** 823.21 of the statutes is amended to read:~~

8           ~~**823.21 Dilapidated buildings declared nuisances.** Any building which,~~  
9 ~~under s. 66.05 (1m), has been declared so old, dilapidated or out of repair as to be~~  
10 ~~dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has been~~  
11 ~~determined to be unreasonable to repair under s. 66.05 (1m) is a public nuisance and~~  
12 ~~may be proceeded against under this chapter.~~

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

13           **SECTION 29. Nonstatutory provisions; legislature.**

14           (1) STUDY OF RURAL HISTORIC PRESERVATION. The joint legislative council is  
15 requested to study methods to promote rural historic preservation. If the council  
16 undertakes such a study, the council ~~is requested to~~ <sup>shall</sup> report its findings, conclusions  
17 and recommendations to the 2001 legislature when it convenes.

18           **SECTION 30. Appropriation changes; historical society.**

19           (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005  
20 (3) of the statutes for the appropriation to the state historical society under section  
21 20.245 (3) (a) of the statutes, as affected by the acts of 1999, the dollar amount is  
22 increased by \$75,000 for fiscal year 1999-00 and the dollar amount is increased by

1 \$75,000 for fiscal year 2000-01 for the purpose of entering into a contract for a survey  
 2 under section 44.34 (1) of the statutes to identify and document historic properties  
 3 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 ~~does~~ increases the appropriation ~~for~~ 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".

4 **SECTION 31. Initial applicability.**

(5) <sup>CS</sup> SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT.  
 (1) The treatment of section 71.21 (6) of the statutes first applies to agreements

6 establishing an alternate allocation method executed on the first day of the 3rd month after the effective date of this act. <sup>71.28(b)(c) and 71.47(b)(c)</sup>  
 7 <sup>71.07(9m)(c)</sup> taxable years beginning on January 1, 2000

NOTE: Creates a nonstatutory provision that provides that s. 71.21 (6), stats., created in this bill ~~does~~ <sup>now</sup> applies to partnership agreements for the allocation of the state tax credit for historic preservation executed on the first day of the 3rd month after the effective date of the act created by the bill ~~does~~.

(END)

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beginning

on which this bill takes effect

takes effect for