

6-14 ✓

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

12-5 ✓

except that any alternate ^{or}
additional ^{provi} ~~provi~~ ~~si~~ ~~on~~ ~~may~~ ~~be~~ ~~accepted~~
shall be no less ^{string} stringent than
the corresponding provision ~~in~~
in s. 66.038 ✓

1999-2000 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3382/P1ins
MES:....jf

INSERT 14-2A ✓

1 SECTION 1. 101.05 (2) of the statutes is amended to read:

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

8 History: 1971 c. 329; 1983 a. 163; 1983 a. 538 s. 271; 1989 a. 31, 354; 1993 a. 27, 117; 1995 a. 27.

✓ INSERT 20-13

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

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

History: 1975 c. 404; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (8); 1987 a. 343; 1993 a. 26, 126, 414.

21

SECTION 3. 101.63 (1) (a) of the statutes is created to read:

am (b)

are

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

3 (b) A structural addition ^o ~~tht~~ is specified under s. 254.61 (1) (f) 2. ✓

4 **SECTION 4.** 101.63 (1m) of the statutes is amended to read:

5 101.63 (1m) Adopt a rule which requires any one- and 2-family dwelling which
6 uses electricity for space heating to be superinsulated. A rule promulgated under
7 this subsection does not apply to a bed and breakfast establishment, as defined ~~in~~ ⁱⁿ
8 s. 254.61 (1), except as specified ~~under~~ ⁱⁿ sub. (1) (a) and (b).

History: 1975 c. 404; 1979 c. 221; 1981 c. 20; 1983 a. 27; 1983 a. 189 s. 329 (8); 1987 a. 343; 1993 a. 26, 126, 414.

19-7 ✓

promulgate rules
establishing and
providing for the collection of

Section #. 101.19 (1) (intro.) of the statutes is amended to read:

Except as provided in sub. (bm), the

101.19 (1) (intro.) ~~The department, by rule promulgated under ch. 227, shall fix and collect fees~~ which shall, as closely as possible, equal the cost of providing the following services:

History: 1971 c. 185; 1971 c. 228 s. 42; Stats. 1971 s. 101.19; 1975 c. 39; 1977 c. 29; 1979 c. 221; 1983 a. 27, 94, 446; 1987 a. 343; 1991 a. 39, 269; 1993 a. 414.

22-4

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

1999

Nonstat File Sequence: **FFF**

LRB 3382, P2

MES : : :

EFFECTIVE DATE

1. In the component bar: For the action phrase, execute: ... create → action: → *NS: → effdate
For the text, execute: create → text: → *NS: → effdateA
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # ____ . Effective date.

(#1) () This act takes effect on

1. In the component bar: For the action phrase, execute: .. create → action: → *NS: → effdateE
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, fill in "____" or "()" only if a "frozen" number is needed.

SECTION # ____ . Effective dates;

..... This act takes effect on the day after publication, except as follows:

(#1) ^(S) ~~Supplement to federal historic rehabilitation credit,~~ The treatment of section ~~71.21(6)~~

of the statutes takes effect on the first day of the 3rd month beginning after the effective date of this subsection. publication

1. In the component bar: For the budget action phrase, execute: .. create → action: → *NS: → 94XX
For the text, execute: create → text: → *NS: → effdate
2. Nonstatutory subunits are numbered automatically if "(#1)", "(#2)", etc., is filled in. Below, for the budget, fill in the 9400 department code; and fill in "()" only if a "frozen" number is needed.

SECTION 94 ____ . Effective dates;

(#1) () The treatment of sections of the statutes takes effect on

FN 247

1 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building,
2 the department shall review any decision of a city, village, town or county that
3 requires the owner to comply with a provision of a county or municipal building code,
4 or of any other local ordinance or regulation, to determine if the provision concerns
5 a matter dealt with in the historic building code. The procedures in s. 101.02 (7)
6 apply to any review conducted by the department under this subdivision.

NOTE: Section 101.121 (4) (a) 2, 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. (X)

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.

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

8 101.121 (5) **ADVISORY OPINION OF STATE HISTORICAL SOCIETY.** (a) The owner of a
9 qualified historic building may submit to the state historical society a request for an
10 advisory opinion with respect to any decision of the department, or of a city, village,

1 town or county that is an agent of the department, if the decision pertains to any of
2 the following:

3 1. This section or a rule promulgated under this section, except for a decision
4 of the department under sub. (4) (a) 2.

5 2. A variance to a rule promulgated under this section.

6 3. The inspection of a qualified historic building for compliance with a rule
7 promulgated under this section.

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

11 1. Whether the decision is consistent with this section and the rules
12 promulgated under this section.

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

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

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

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

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

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

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

1 **SECTION 21.** 101.121 (7) of the statutes is created to read:

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

7 1. A description of the historic building code.


8 2. A description of the types and qualities of buildings that are subject to the
9 historic building code.

10 3. An explanation of how the owner of a qualified historic building may elect
11 to be subject to the historic building code and a description of the consequences of that
12 election.

13 4. A description of other alternative building codes that a historic building
14 owner may be eligible to use.

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

1 (b) The department and the state historical society shall distribute the
2 pamphlets as they consider 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~~ ^{consider} necessary to increase awareness of the historic building code. 


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

5 101.122 (4) (b) 1. ~~Order~~ Subject to s. 66.038, order demolition of the rental unit
6 no sooner than 90 days after the order.

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

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

8 101.132 (1m) COMPLIANCE WITH FEDERAL STANDARDS. All rules promulgated by
9 the department under this section relating to qualified historic buildings, as defined
10 in s. 101.121 (2) (c), shall comply with and not exceed the requirements of the Fair
11 Housing Act under 42 USC 3601 to 3620 and the Americans with Disabilities Act
12 under 42 USC 12181 and regulations adopted under those acts.

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

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

1 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to
2 qualified historic buildings, as defined in s. 101.121 (2) (c).

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

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

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

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

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

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

law

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

4 101.19 (1) (intro.) The Except as provided in sub. (1m), the department, by rule
5 promulgated under ch. 227, shall fix and collect promulgate rules establishing and
6 providing for the collection of fees which shall, as closely as possible, equal the cost
7 of providing the following services:

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

9 101.19 (1m) The department shall waive the fees under sub. (1) (a), (am), (b),
10 (d) and (i) for any preservation or restoration of a building or structure that is more
11 than 100 years old if the state historic preservation officer certifies to the department
12 all of the following:

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

1 (b) That the building or structure is listed on the national register of historic
2 places in Wisconsin or the state register of historic places, is determined by the state
3 historical society to be eligible for listing on the national register of historic places
4 in Wisconsin or the state register of historic places, or is located in a historic district
5 which is listed in the national register of historic places in Wisconsin or the state
6 register of historic places and is certified by the state historic preservation officer as
7 being of historic significance to the district.

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

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

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

10 101.63 (1) (intro.) Adopt rules which establish standards for the construction
11 and inspection of one- and 2-family dwellings and components thereof. Where
12 feasible, the standards used shall be those nationally recognized and shall apply to
13 the dwelling and to its electrical, heating, ventilating, air conditioning and other
14 systems, including plumbing, as defined in s. 145.01 (10). No set of rules may be
15 adopted which has not taken into account the conservation of energy in construction
16 and maintenance of dwellings and the costs of specific code provisions to home buyers
17 in relationship to the benefits derived from the provisions. Rules promulgated under
18 this subsection do not apply to a bed and breakfast establishment, as defined in s.
19 254.61 (1), except that the rules apply to all of the following:

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

2 101.63 (1) (a) The 3rd floor level of a bed and breakfast establishment that uses
3 that level other than as storage.

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

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

6 101.63 (1m) Adopt a rule which requires any one- and 2-family dwelling which
7 uses electricity for space heating to be superinsulated. A rule promulgated under
8 this subsection does not apply to a bed and breakfast establishment, as defined in s.
9 254.61 (1), except as specified in sub. (1) (a) and (b).

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

11 101.975 (4) A political subdivision may adopt an ordinance that permits it to
12 grant a variance to the uniform multifamily dwelling code relating to handrails and
13 guardrails of qualified historic buildings, as defined in s. 101.121 (2) (c), that are
14 converted from single-family dwellings to multifamily dwellings. The ordinance
15 shall require the owner of a qualified historic building who seeks a variance to
16 provide the political subdivision with evidence that the type, height and design of the
17 handrail or guardrail proposed for installation is historically appropriate for the
18 owner's building. Upon the provision of such evidence, the political subdivision may
19 grant a variance to the uniform multifamily dwelling code that permits the owner
20 to install a handrail or guardrail that is at least as protective of public safety as the
21 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.

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

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

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

2 and amended to read:

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

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

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

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

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

establishments, which in general means that the establishments are subject to the commercial building code and the commercial restaurant regulations.

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

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

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

(c) Is the owner's personal residence.

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

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

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

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

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

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

1 **SECTION 33.** 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 to s. 66.05 (1m), which includes an explanatory note.

7 **SECTION 34. Nonstatutory provisions; legislature.**

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

5 **SECTION 35. Appropriation changes; historical society.**

6 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005
7 (3) of the statutes for the appropriation to the state historical society under section
8 20.245 (3) (a) of the statutes, as affected by the acts of 1999, the dollar amount is
9 increased by \$75,000 for fiscal year 1999-00 and the dollar amount is increased by
10 \$75,000 for fiscal year 2000-01 for the purpose of entering into a contract for a survey
11 under section 44.34 (1) of the statutes to identify and document historic properties
12 in rural areas of the state.

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

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

13 **SECTION 36. Initial applicability.**

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

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

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

NS
4-16



State of Wisconsin
1999 - 2000 LEGISLATURE

LRB-3382/F2
PG/MES/DAK/JK:kmg:fm

RMP

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOTE-
when running PM,
I accidentally clicked
on "1P3"; I then
made the bill a
"11." There is
NO 1P3 version.

CHANGES
TO
NOTES

SOON

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

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be provided in a later version.~~

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

bill is explained in the ⁽³⁾NOTES provided by the joint legislative
Council in the bill.

FE-GL

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

Historic Building Code

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

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

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

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

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

Other Structural Regulations

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

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

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

Demolition of Historic Buildings

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

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

Income Tax Credits for Historic Buildings

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

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

Rural Historic Preservation

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

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

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

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

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

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

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

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

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

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

15 (2) From the appropriation under s. 20.245 (3) (f), the historical society shall
16 award grants to owners of historic agricultural buildings to assist in the restoration
17 of the buildings. To receive a grant, the owner shall match the amount of the grant,
18 shall agree to use the total amount of funds to restore the historic agricultural
19 building and shall agree to use the restored historic agricultural building in a
20 manner consistent with the public policy expressed in s. 44.30.

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

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

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

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

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, and shall interpret the county's 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:

14 **60.64 Historic preservation.** The town board, in the exercise of its zoning
15 and police powers for the purpose of promoting the health, safety and general welfare
16 of the community and of the state, may regulate any place, structure or object with

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

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

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

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

1 character of the district, and shall interpret the city's regulations liberally to
2 facilitate the preservation and restoration of historic buildings and structures.

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

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

4 **66.038 Razing historic buildings and buildings that are more than 50**
5 **years old. (1) DEFINITIONS. In this section:**

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

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

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

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

15 (2) NOTICE TO STATE HISTORICAL SOCIETY. If a local governmental unit issues an
16 order or permit or other similar directive or authorization to raze a building, or if a
17 local governmental unit intends to raze a building that is owned by the local
18 governmental unit, and the building is either a historic building or more than 50
19 years old, the local governmental unit shall notify the state historical society of the
20 order, permit, directive or authorization or of its intent.

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

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.

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

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

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

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

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

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

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

9 (6) APPLICABILITY. This section does not apply to part of a building that is not
 10 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 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.

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

12 66.05 (1m) (a) The governing body or the inspector of buildings or other
 13 designated officer in every municipality may order the owner of premises upon which
 14 is located any building or part thereof within such municipality, which in its

Local governmental unit" is defined to (and mean a city, village, town or county, includes a housing, redevelopment or housing and community development authority acting on behalf of, or at the direction of, a city, village or town.

Local governmental unit

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

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

22

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

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

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

Any order under s. 66.05, stats., may be appealed to circuit court by an "affected person". The issue in the appeal is the reasonableness of the order. The current statute does not define who may be an affected person. This is a matter for the court to decide, and there have not been any appellate court decisions on this issue. It is possible that a court would allow a person with a demonstrated interest in historic preservation to

appeal a local order requiring demolition of a historic building, although there is no assurance of this under the current statute.

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

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

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.

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

16 66.05 (10) First class cities may adopt by ordinance alternate or additional
17 provisions governing the placarding, closing, razing and removal of a building and
18 the restoration of the site to a dust-free and erosion-free condition. (b) This
19 subsection shall be liberally construed to provide 1st class cities with the largest

1 possible power and leeway of action, except that any alternate or additional provision
2 adopted shall be no less stringent than the corresponding provision in s. 66.038.

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

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

4 71.07 (9m) (c) No person may claim the credit under this subsection unless the
5 claimant includes with the claimant's return evidence that the rehabilitation was
6 approved recommended by the state historic preservation officer for approval by the
7 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
8 or destruction in preparation for construction, began.

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

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

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

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

10 71.21 (6) Credits computed by a partnership under s. 71.07 (9m), 71.28 (6) or
11 71.47 (6) may be allocated to partners either as provided under this chapter or
12 pursuant to an agreement among the partners establishing an alternate allocation
13 method. The partners shall notify the department of an agreement within 30 days

1 after the agreement is executed and shall provide any additional information
2 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.

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

4 71.28 (6) (c) No person may claim the credit under this subsection unless the
5 claimant includes with the claimant's return evidence that the rehabilitation was
6 approved recommended by the state historic preservation officer for approval by the
7 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
8 or destruction in preparation for construction, began.

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

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

10 71.47 (6) (c) No person may claim the credit under this subsection unless the
11 claimant includes with the claimant's return evidence that the rehabilitation was
12 approved recommended by the state historic preservation officer for approval by the
13 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
14 or destruction in preparation for construction, began.

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

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

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

↓
FNS
14-6

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

8 101.121 (3) (c) The historic building code shall be liberally interpreted to
9 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.

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

11 SECTION 19. 101.121 (4) (a) 2. of the statutes is created to read:

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

1

(END)

**AMENDMENT ,
TO LRB-3382/P2**

1 At the locations indicated, amend the draft as follows:

2 1. Page 14, line 6, after that line insert:

auto. ref.

*INS
14-6*

Unbold

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

3 2. Page 21, line 9, after that line insert:

auto. ref.

*INS
21-9*

Unbold

auto ref.

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

4 3. Page 24, line 16, after that line insert:

auto ref.

*INS
24-16*

Unbold

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

5 *auto ref.*
apply

FROM

**SUBMITTAL
FORM**

**LEGISLATIVE REFERENCE BUREAU
Legal Section Telephone: 266-3561
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 02/03/2000

To: Legislative Council - JLC

Relating to LRB drafting number: LRB-3382

Topic

Regulation of historic buildings; historic building code

Subject(s)

Counties, Munis - miscellaneous, Buildings/Safety - bldg codes, Courts - civil procedure, Health - miscellaneous, Tax Credits - miscellaneous

1. **JACKET** the draft for introduction  _____

in the **Senate** or the **Assembly** _____ (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached _____

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction _____

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Peter R. Grant, Managing Attorney
Telephone: (608) 267-3362