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2001 BILL

Gen. Cat.

1 AN ACT *to renumber* 101.121 (4) (a); *to consolidate, renumber and amend*
2 66.0413 (4) (a) and (b); *to amend* 59.69 (4m), 60.64, 62.23 (7) (em), 66.0413 (1)
3 (b) 1., 66.0413 (1) (h), 66.0413 (1) (k), 66.0413 (3) (c), 71.07 (9m) (c), 71.28 (6) (c),
4 71.47 (6) (c), 101.121 (4) (b), 101.122 (4) (b) 1., 101.132 (2) (b) 1., 101.132 (2) (b)
5 2., 101.132 (2) (b) 3., 101.19 (1) (intro.), 254.61 (1) (f) 2. and 823.21; and *to*
6 *create* 20.245 (3) (f), 44.46, 66.0414, 71.21 (6), 101.121 (3) (c), 101.121 (4) (a) 2.,
7 101.121 (5), 101.121 (6), 101.132 (2) (b) 3m., 101.132 (2) (e) 3., 101.19 (1m) and
8 101.975 (4) of the statutes; **relating to:** the regulation of historic buildings, the
9 income and franchise tax credit that supplements the federal historic
10 rehabilitation tax credit, the historic building code, awarding grants to owners
11 of historic agricultural buildings, requiring a liberal interpretation of local

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1 regulations applicable to historic buildings and structures, and making
2 appropriations.

Analysis by the Legislative Reference Bureau

Razing of historic buildings

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

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

This bill eliminates the age of the building from the criteria that may lead to an order to raze the building. The bill also provides that, if the order relates to a historic building, representatives of a local historical society and the owner of a historic building located within 200 yards of the historic building that is subject to the order may appeal the order to circuit court.

Historic building code

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

With certain exceptions, the owner of a qualified historic building may elect to be subject to the historic building code. With limited exceptions, an owner who makes this election is exempt from any provision of any other building code, including a local building code, that concerns a matter that is dealt with in the historic building code. Although current law does not contain an administrative

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procedure designed specifically to determine whether an owner is entitled to this exemption, current law does contain a procedure that an owner may follow to resolve any conflicts between a local order and any order of the department that relates to the safety of places of employment or certain buildings that are open to the public (public buildings).

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

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

Historic buildings used as multifamily dwellings

Current law requires the department to promulgate a multifamily dwelling code that provides uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units. The multifamily dwelling code currently applies to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the historic building code. Rules promulgated by the department also

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permit a local governmental unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with the multifamily dwelling code. Currently, the multifamily dwelling code contains specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

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

Current law requires certain multifamily dwellings to meet design and construction standards that ensure accessibility for individuals with physical disabilities. In certain circumstances, these requirements may apply to a qualified historic building that is remodeled or added to for use as a multifamily dwelling. This bill specifies that a qualified historic building that is remodeled is exempt from accessibility requirements that are otherwise triggered by the remodeling of a multifamily dwelling. The bill also provides that all rules promulgated by the department relating to the accessibility of multifamily dwellings that are qualified historic buildings must comply with, and may not exceed, the requirements of the federal Fair Housing Act and the federal Americans with Disabilities Act, and regulations promulgated under those acts.

Exemption from fees

Currently, the department must charge fees to recover the costs of certain services that it provides relating to, among other things, reviewing construction plans and inspecting public buildings, places of employment, and other building components and locations that are subject to the department's jurisdiction. This bill requires the department to waive these fees for services relating to any preservation or restoration of a building or structure that is more than 100 years old, if the state historic preservation officer certifies: 1) that the building or structure is listed or eligible to be listed on the national or state register of historic places or is a building of historical significance in a district that is listed or eligible to be listed on the national or state register of historic places; and 2) that the preservation or restoration plan complies with standards applicable to projects that qualify for an income tax credit for historic property rehabilitation.

Historic agricultural grant program

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

BILL***Historic preservation in local governmental units***

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

Study of rural historic preservation

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

Supplement to the federal historic rehabilitation tax credit

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

Under current law, a person who may claim the federal income tax credit for rehabilitating an income-producing historic building may also claim a state income tax or franchise tax credit that is equal to 5% of certain costs to rehabilitate the historic building. To claim the credit, the person must include with the person's tax return evidence that the secretary of the interior approved the rehabilitation work before the rehabilitation work began.

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

Under current law, each partner in a partnership is allocated a portion of any tax credit that the partnership may claim, including the credit for rehabilitating a historic building, based on each partner's ownership interest. Under this bill, a partner may also be allocated a portion of the tax credit for rehabilitating a historic building in a manner specified in an agreement with the other partners, if the partners notify the department of revenue of the agreement within 30 days after executing the agreement.

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

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

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

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

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

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

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

21 **62.23 (7) (em) *Historic preservation.*** A city, as an exercise of its zoning and
22 police powers for the purpose of promoting the health, safety and general welfare of
23 the community and of the state, may regulate by ordinance, or if a city contains any
24 property that is listed on the national register of historic places in Wisconsin or the
25 state register of historic places shall, not later than 1995, enact an ordinance to

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1 regulate, any place, structure or object with a special character, historic,
2 archaeological or aesthetic interest, or other significant value, for the purpose of
3 preserving the place, structure or object and its significant characteristics. A city
4 may create a landmarks commission to designate historic or archaeological
5 landmarks and establish historic districts. The city may regulate, or if the city
6 contains any property that is listed on the national register of historic places in
7 Wisconsin or the state register of historic places shall regulate, all historic or
8 archaeological landmarks and all property within each historic district to preserve
9 the historic or archaeological landmarks and property within the district and the
10 character of the district, and shall interpret the city's regulations liberally to
11 facilitate the preservation and restoration of historic buildings and structures.

12 **SECTION 7.** 66.0413 (1) (b) 1. of the statutes is amended to read:

13 66.0413 (1) (b) 1. If a building is ~~old~~, dilapidated or out of repair and
14 consequently dangerous, unsafe, unsanitary or otherwise unfit for human
15 habitation and unreasonable to repair, order the owner of the building to raze the
16 building or, if the building can be made safe by reasonable repairs, order the owner
17 to either make the building safe and sanitary or to raze the building, at the owner's
18 option.

19 **SECTION 8.** 66.0413 (1) (h) of the statutes is amended to read:

20 66.0413 (1) (h) *Restraining order.* A person affected by an order issued under
21 par. (b) may within the time provided by s. 893.76 apply to the circuit court for an
22 order restraining the building inspector or other designated officer from razing the
23 building or forever be barred. The hearing shall be held within 20 days and shall be
24 given preference. The court shall determine whether the raze order is reasonable.
25 If the order is found reasonable the court shall dissolve the restraining order. If the

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1 order is found not reasonable the court shall continue the restraining order or modify
2 it as the circumstances require. Costs are in the discretion of the court. If the court
3 finds that the order is unreasonable, the building inspector or other designated
4 officer shall issue no other order under this subsection in regard to the same building
5 until its condition is substantially changed. The remedies provided in this
6 paragraph are exclusive remedies and anyone affected by an order issued under par.
7 (b) is not entitled to recover any damages for the razing of the building. For the
8 purposes of this paragraph, if the order requires the razing of a historic building, as
9 defined in sub. (3) (a) 1m., persons affected by the order include representatives of
10 a local historical society and the owner of a historic building, as defined in sub. (3)
11 (a) 1m., that is located within 200 yards of the historic building that is subject to the
12 order.

13 **SECTION 9.** 66.0413 (1) (k) of the statutes is amended to read:

14 66.0413 (1) (k) *Public nuisance procedure.* A building which is determined
15 under par. (b) 1. to be old, dilapidated or out of repair and consequently dangerous,
16 unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to
17 repair may be proceeded against as a public nuisance under ch. 823.

18 **SECTION 10.** 66.0413 (3) (c) of the statutes is amended to read:

19 66.0413 (3) (c) If an order is issued under this section to raze and remove a
20 historic building and ~~restore the site to a dust free and erosion free condition, an~~
21 ~~application is made for a permit to raze and remove a historic building and restore~~
22 ~~the site to a dust free and erosion free condition or a municipality intends to raze~~
23 ~~and remove a municipally owned historic building and restore the site to a dust free~~
24 ~~and erosion free condition, the municipality in which the historic building is located~~
25 ~~shall notify the state historical society of the order, application or intent. No historic~~

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1 ~~building may be razed and removed nor the site restored to a dust-free and~~
2 ~~erosion-free condition for 30 days after the notice is given, unless a shorter period~~
3 ~~is authorized by the state historical society. If the state historical society authorizes~~
4 ~~a shorter period, however, such a period shall be subject to any applicable local~~
5 ~~ordinance. During the 30-day period, the state historical society shall have access~~
6 ~~to the historic building to create or preserve a historic record. If the state historical~~
7 ~~society completes its creation or preservation of a historic record, or decides not to~~
8 ~~create or preserve a historic record, before the end of the 30-day period, the society~~
9 ~~may waive its right to access the building and may authorize the person who intends~~
10 ~~to raze and remove the building, and restore the site to a dust-free and erosion-free~~
11 ~~condition, to proceed before the end of such period, except that such a person shall~~
12 ~~be subject to any applicable local ordinance or a building that is more than 50 years~~
13 ~~old, s. 66.0414 applies.~~

14 **SECTION 11.** 66.0413 (4) (a) and (b) of the statutes are consolidated, renumbered
15 66.0413 (4) and amended to read:

16 66.0413 (4) **FIRST CLASS CITIES; OTHER PROVISIONS.** First class cities may adopt,
17 by ordinance, alternate or additional provisions governing the placarding, closing,
18 razing and removal of a building and the restoration of the site to a dust-free and
19 erosion-free condition. (b) This subsection shall be liberally construed to provide 1st
20 class cities with the largest possible power and leeway of action, except that any
21 alternate or additional provision adopted shall be no less stringent than the
22 corresponding provision in s. 66.0414.

23 **SECTION 12.** 66.0414 of the statutes is created to read:

24 **66.0414 Razing historic buildings and buildings that are more than 50**
25 **years old. (1) DEFINITIONS.** In this section:

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1 (a) “Authority” means a housing authority under subch. XII, a redevelopment
2 authority under s. 66.1333, or a housing and community development authority
3 under s. 66.1335.

4 (b) “Historic building” has the meaning given in s. 66.0413 (3) (a) 1m.

5 (c) “Local governmental unit” means a city, village, town, or county, and
6 includes an authority acting on behalf of or at the direction of a city, village, or town.

7 (d) “Resident,” in the case of a local governmental unit that is an authority,
8 means a resident of the city, village, or town on whose behalf or at whose direction
9 the authority is acting.

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

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

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

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

23 (c) During the period of delay in razing under par. (a) and during any extension
24 of a period of delay, the state historical society shall have access to the building to

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1 create or preserve a historic record and access to the building shall be a condition of
2 the order, permit, directive, or authorization issued by the local governmental unit.

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

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

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

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

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

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

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

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

12 **SECTION 14.** 71.21 (6) of the statutes is created to read:

13 **71.21 (6)** Credits computed by a partnership under s. 71.07 (9m), 71.28 (6), or
14 71.47 (6) may be allocated to partners either as provided under this chapter or
15 pursuant to an agreement among the partners establishing an alternate allocation
16 method. The partners shall notify the department of an agreement within 30 days
17 after the agreement is executed and shall provide any additional information
18 requested by the department regarding the agreement.

19 **SECTION 15.** 71.28 (6) (c) of the statutes is amended to read:

20 **71.28 (6) (c)** No person may claim the credit under this subsection unless the
21 claimant includes with the claimant's return evidence that the rehabilitation was
22 approved recommended by the state historic preservation officer for approval by the
23 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
24 or destruction in preparation for construction, began.

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

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

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

7 101.121 (3) (c) The historic building code shall be liberally interpreted to
8 facilitate the preservation and restoration of qualified historic buildings.

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

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

11 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building
12 who elects under subd. 1. to be subject to the historic building code, the department
13 shall review any decision of a city, village, town, or county that requires the owner
14 to comply with a provision of a county or municipal building code, or of any other local
15 ordinance or regulation, to determine if the provision concerns a matter dealt with
16 in the historic building code. The procedures in s. 101.02 (7) apply to any review
17 conducted by the department under this subdivision.

18 **SECTION 20.** 101.121 (4) (b) of the statutes is amended to read:

19 101.121 (4) (b) Paragraph (a) 1. does not apply to any owner of a nursing home,
20 as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c), or an
21 approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2)
22 (b) and (c).

23 **SECTION 21.** 101.121 (5) of the statutes is created to read:

24 101.121 (5) **ADVISORY OPINION OF STATE HISTORICAL SOCIETY.** (a) The owner of a
25 qualified historic building may submit to the state historical society a request for an

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1 advisory opinion with respect to any decision of the department, or of a city, village,
2 town, or county that is an agent of the department, if the decision pertains to any of
3 the following:

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

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

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

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

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

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

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

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

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

3 **SECTION 22.** 101.121 (6) of the statutes is created to read:

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

10 1. A description of the historic building code.

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

13 3. An explanation of how the owner of a qualified historic building may elect
14 to be subject to the historic building code and a description of the consequences of that
15 election.

16 4. A description of other alternative building codes that the owner of a historic
17 building may be eligible to use.

18 5. A description of where a person may obtain further information regarding
19 historic buildings and the historic building code.

20 (b) The department and the state historical society shall distribute the
21 pamphlets as they consider necessary to increase awareness of the historic building
22 code.

23 **SECTION 23.** 101.122 (4) (b) 1. of the statutes is amended to read:

24 101.122 (4) (b) 1. ~~Order~~ Subject to s. 66.0414, order demolition of the rental unit
25 no sooner than 90 days after the order.

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1 **SECTION 24.** 101.132 (2) (b) 1. of the statutes is amended to read:

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

6 **SECTION 25.** 101.132 (2) (b) 2. of the statutes is amended to read:

7 101.132 (2) (b) 2. If Except as provided in subd. 3m., if 25% to 50% of the interior
8 square footage of any housing with 3 or more dwelling units is to be remodeled, that
9 part of the housing that is to be remodeled shall conform to the standards in par. (a),
10 regardless of when the housing was first intended for occupancy.

11 **SECTION 26.** 101.132 (2) (b) 3. of the statutes is amended to read:

12 101.132 (2) (b) 3. If Except as provided in subd. 3m., if less than 25% of the
13 interior square footage of any housing with 3 or more dwelling units is to be
14 remodeled, the remodeling is not subject to the standards in par. (a) unless the
15 alteration involves work on doors, entrances, exits or toilet rooms, in which case the
16 doors, entrances, exits or toilet rooms shall conform to the standards in par. (a)
17 regardless of when the housing was first intended for occupancy.

18 **SECTION 27.** 101.132 (2) (b) 3m. of the statutes is created to read:

19 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to
20 qualified historic buildings, as defined in s. 101.121 (2) (c).

21 **SECTION 28.** 101.132 (2) (e) 3. of the statutes is created to read:

22 101.132 (2) (e) 3. All rules promulgated by the department under this section
23 relating to qualified historic buildings, as defined in s. 101.121 (2) (c), shall comply
24 with and not exceed the requirements of the Fair Housing Act under 42 USC 3601

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1 to 3619 and the Americans with Disabilities Act under 42 USC 12181 to 12189 and
2 regulations adopted under those acts.

3 **SECTION 29.** 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 30.** 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 services relating to any preservation or restoration of a building or
11 structure that is more than 100 years old if the state historic preservation officer
12 certifies to the department 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).

15 (b) That the building or structure is listed on the national register of historic
16 places in Wisconsin or the state register of historic places, is determined by the state
17 historical society to be eligible for listing on the national register of historic places
18 in Wisconsin or the state register of historic places, or is located in a historic district
19 that is listed on the national register of historic places in Wisconsin or the state
20 register of historic places and is certified by the state historic preservation officer as
21 being of historic significance to the district.

22 **SECTION 31.** 101.975 (4) of the statutes is created to read:

23 101.975 (4) (a) A political subdivision may adopt an ordinance that permits the
24 political subdivision to grant a variance to the uniform multifamily dwelling code if
25 all of the following apply:

BILL

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

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

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

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

13 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
14 structure that was originally constructed at least 50 years before an initial or
15 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
16 other than as a bed and breakfast establishment is proposed. The structural addition
17 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)
18 and (1m).

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

20 **823.21 Dilapidated buildings declared nuisances.** Any building which,
21 under s. 66.0413 (1) (b) 1., has been declared so old, dilapidated or out of repair as
22 to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has
23 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
24 nuisance and may be proceeded against under this chapter.

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

BILL**SECTION 34**

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 2003 legislature when it convenes.

SECTION 35. Appropriation changes; historical society.

5 (1) SURVEY OF RURAL HISTORIC BUILDINGS. In the schedule under section 20.005
6 (3) of the statutes for the appropriation to the state historical society under section
7 20.245 (3) (a) of the statutes, as affected by the acts of 2001, the dollar amount is
8 increased by \$75,000 for fiscal year 2001–02 and the dollar amount is increased by
9 \$75,000 for fiscal year 2002–03 for the purpose of entering into a contract for a survey
10 under section 44.34 (1) of the statutes to identify and document historic properties
11 in rural areas of the state.

SECTION 36. Initial applicability.

12 (1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. The treatment of
13 sections 71.07 (9m) (c), 71.21 (6), 71.28 (6) (c), and 71.47 (6) (c) of the statutes first
14 applies to taxable years beginning on January 1 of the year in which this subsection
15 takes effect, except that if this subsection takes effect after July 1 the treatment of
16 sections 71.07 (9m) (c), 71.21 (6), 71.28 (6) (c), and 71.47 (6) (c) of the statutes first
17 applies to taxable years beginning on January 1 of the year following the year in
18 which this subsection takes effect.

19 **SECTION 37. Effective dates.** This act takes effect on the day after publication,
20 or on the day after publication of the 2001–03 biennial budget act, whichever is later,
21 except as follows:

22 (1) SUPPLEMENT TO FEDERAL HISTORIC REHABILITATION CREDIT. The treatment of
23 section 71.21 (6) of the statutes takes effect on the first day of the 3rd month
24
25

BILL

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


3 (END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0671dn
RJM&PG:kmg:rs

1387/pl

November 28, 2000


Please note that this draft clarifies that the review procedure established in proposed s. 101.121 (4) (a) 2., stats., applies to an owner of a qualified historic building *who elects to be subject to the historic building code*. This limitation is consistent with my understanding of the intended effect of this proposed statute. Please let me know if this provision is inconsistent with your intent.

Robert J. Marchant
Legislative Attorney
Phone: (608) 261-4454
E-mail: robert.marchant@legis.state.wi.us

Under section 16.47 (2) of the statutes, any bill that increases the cost of state government by more than \$10,000 may not be passed by either house of the legislature until the budget bill passes both houses unless the governor or the joint committee on finance recommends the bill's passage.

Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1387/P1dn
RJM&PG:king:rs

December 12, 2000

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Peter R. Grant
Managing Attorney
Phone: (608) 267-3362
E-mail: peter.grant@legis.state.wi.us

Marchant, Robert

From: Patronsky, Mark
Sent: Wednesday, February 21, 2001 12:06 PM
To: Marchant, Robert
Subject: LRB-1387/P1

You and a couple of your colleagues finished this draft last December---it's the historic building code draft. The Leg Council is meeting on March 14 to approve it for reintroduction. It's time to convert it to a final draft. The question you have on the DN is fine. Are there any other questions or issues? If not, please go ahead and do the final draft. Ideally we would have it to mail on March 7,, but we can mail the prelim draft if need be.

Thanks!

Mark P

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1387/P1dn
RJM&PG:kmg:rs

December 12, 2000

Please note that this draft clarifies that the review procedure established in proposed s. 101.121 (4) (a) 2., stats., applies to an owner of a qualified historic building *who elects to be subject to the historic building code*. This limitation is consistent with my understanding of the intended effect of this proposed statute. Please let me know if this provision is inconsistent with your intent. OK

Robert J. Marchant
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Peter R. Grant
Managing Attorney
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E-mail: peter.grant@legis.state.wi.us



State of Wisconsin
2001 - 2002 LEGISLATURE

LRB-1387/P1
PG/RJM/JK:kmg:rs

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber* 101.121 (4) (a); *to consolidate, renumber and amend*
2 66.0413 (4) (a) and (b); *to amend* 59.69 (4m), 60.64, 62.23 (7) (em), 66.0413 (1)
3 (b) 1., 66.0413 (1) (h), 66.0413 (1) (k), 66.0413 (3) (c), 71.07 (9m) (c), 71.28 (6) (c),
4 71.47 (6) (c), 101.121 (4) (b), 101.122 (4) (b) 1., 101.132 (2) (b) 1., 101.132 (2) (b)
5 2., 101.132 (2) (b) 3., 101.19 (1) (intro.), 254.61 (1) (f) 2. and 823.21; and *to*
6 **create** 20.245 (3) (f), 44.46, 66.0414, 71.21 (6), 101.121 (3) (c), 101.121 (4) (a) 2.,
7 101.121 (5), 101.121 (6), 101.132 (2) (b) 3m., 101.132 (2) (e) 3., 101.19 (1m) and
8 101.975 (4) of the statutes; **relating to:** the regulation of historic buildings, the
9 income and franchise tax credit that supplements the federal historic
10 rehabilitation tax credit, the historic building code, awarding grants to owners
11 of historic agricultural buildings, requiring a liberal interpretation of local

1 regulations applicable to historic buildings and structures, and making
2 appropriations.

Analysis by the Legislative Reference Bureau

Razing of historic buildings

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

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

This bill eliminates the age of the building from the criteria that may lead to an order to raze the building. The bill also provides that, if the order relates to a historic building, representatives of a local historical society and the owner of a historic building located within 200 yards of the historic building that is subject to the order may appeal the order to circuit court.

Historic building code

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

With certain exceptions, the owner of a qualified historic building may elect to be subject to the historic building code. With limited exceptions, an owner who makes this election is exempt from any provision of any other building code, including a local building code, that concerns a matter that is dealt with in the historic building code. Although current law does not contain an administrative

procedure designed specifically to determine whether an owner is entitled to this exemption, current law does contain a procedure that an owner may follow to resolve any conflicts between a local order and any order of the department that relates to the safety of places of employment or certain buildings that are open to the public (public buildings).

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

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

Historic buildings used as multifamily dwellings

Current law requires the department to promulgate a multifamily dwelling code that provides uniform standards for the construction of multifamily dwellings and their components. With certain exceptions, a multifamily dwelling is an apartment building, row house, town house, condominium, or manufactured building that does not exceed 60 feet in height or 6 stories and that consists of 3 or more attached dwelling units. The multifamily dwelling code currently applies to any building or portion of a building that is converted to a multifamily dwelling after April 1, 1995, unless the building is a qualified historic building and the owner elects to be subject to the historic building code. Rules promulgated by the department also

permit a local governmental unit to exercise jurisdiction over the construction and inspection of multifamily dwellings by adopting ordinances that are consistent with the multifamily dwelling code. Currently, the multifamily dwelling code contains specific requirements relating to the type, height, and design of handrails and guardrails that are required to be used in multifamily dwellings.

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

Current law requires certain multifamily dwellings to meet design and construction standards that ensure accessibility for individuals with physical disabilities. In certain circumstances, these requirements may apply to a qualified historic building that is remodeled or added to for use as a multifamily dwelling. This bill specifies that a qualified historic building that is remodeled is exempt from accessibility requirements that are otherwise triggered by the remodeling of a multifamily dwelling. The bill also provides that all rules promulgated by the department relating to the accessibility of multifamily dwellings that are qualified historic buildings must comply with, and may not exceed, the requirements of the federal Fair Housing Act and the federal Americans with Disabilities Act, and regulations promulgated under those acts.

Exemption from fees

Currently, the department must charge fees to recover the costs of certain services that it provides relating to, among other things, reviewing construction plans and inspecting public buildings, places of employment, and other building components and locations that are subject to the department's jurisdiction. This bill requires the department to waive these fees for services relating to any preservation or restoration of a building or structure that is more than 100 years old, if the state historic preservation officer certifies: 1) that the building or structure is listed or eligible to be listed on the national or state register of historic places or is a building of historical significance in a district that is listed or eligible to be listed on the national or state register of historic places; and 2) that the preservation or restoration plan complies with standards applicable to projects that qualify for an income tax credit for historic property rehabilitation.

Historic agricultural grant program

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

Historic preservation in local governmental units

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

Study of rural historic preservation

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

Supplement to the federal historic rehabilitation tax credit

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

Under current law, a person who may claim the federal income tax credit for rehabilitating an income-producing historic building may also claim a state income tax or franchise tax credit that is equal to 5% of certain costs to rehabilitate the historic building. To claim the credit, the person must include with the person's tax return evidence that the secretary of the interior approved the rehabilitation work before the rehabilitation work began.

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

Under current law, each partner in a partnership is allocated a portion of any tax credit that the partnership may claim, including the credit for rehabilitating a historic building, based on each partner's ownership interest. Under this bill, a partner may also be allocated a portion of the tax credit for rehabilitating a historic building in a manner specified in an agreement with the other partners, if the partners notify the department of revenue of the agreement within 30 days after executing the agreement.

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

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:

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

*NECESSARY
NOTE*

2001-02 2002-03

1 **20.245 Historical society**

2 (3) HISTORIC AND BURIAL SITES PRESERVATION

3 (f) Historic agricultural building

4	grant program	GPR	A	75,000	75,000
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5 **SECTION 2.** 20.245 (3) (f) of the statutes is created to read:

6 20.245 (3) (f) *Historic agricultural building grant program.* The amounts in
7 the schedule for the historic agricultural building grant program under s. 44.46.

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

9 **44.46 Historic agricultural building grant program.** (1) In this section,
10 “historic agricultural building” means any building or structure that is designed for
11 agricultural purposes and that is significant in the history, architecture, or culture
12 of this state.

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

NOTE →

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

20 59.69 (4m) HISTORIC PRESERVATION. A county, as an exercise of its zoning and
21 police powers for the purpose of promoting the health, safety and general welfare of
22 the community and of the state, may regulate by ordinance any place, structure or
23 object with a special character, historic interest, aesthetic interest or other

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

NOTE →
8 SECTION 5. 60.64 of the statutes is amended to read:

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

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

21 62.23 (7) (em) *Historic preservation.* A city, as an exercise of its zoning and
22 police powers for the purpose of promoting the health, safety and general welfare of
23 the community and of the state, may regulate by ordinance, or if a city contains any
24 property that is listed on the national register of historic places in Wisconsin or the
25 state register of historic places shall, not later than 1995, enact an ordinance to

1 regulate, any place, structure or object with a special character, historic,
2 archaeological or aesthetic interest, or other significant value, for the purpose of
3 preserving the place, structure or object and its significant characteristics. A city
4 may create a landmarks commission to designate historic or archaeological
5 landmarks and establish historic districts. The city may regulate, or if the city
6 contains any property that is listed on the national register of historic places in
7 Wisconsin or the state register of historic places shall regulate, all historic or
8 archaeological landmarks and all property within each historic district to preserve
9 the historic or archaeological landmarks and property within the district and the
10 character of the district, and shall interpret the city's regulations liberally to
11 facilitate the preservation and restoration of historic buildings and structures.

SECTION 7. 66.0413 (1) (b) 1. of the statutes is amended to read:

12
13 66.0413 (1) (b) 1. If a building is ~~old~~, dilapidated or out of repair and
14 consequently dangerous, unsafe, unsanitary or otherwise unfit for human
15 habitation and unreasonable to repair, order the owner of the building to raze the
16 building or, if the building can be made safe by reasonable repairs, order the owner
17 to either make the building safe and sanitary or to raze the building, at the owner's
18 option.

SECTION 8. 66.0413 (1) (h) of the statutes is amended to read:

19
20 66.0413 (1) (h) *Restraining order.* A person affected by an order issued under
21 par. (b) may within the time provided by s. 893.76 apply to the circuit court for an
22 order restraining the building inspector or other designated officer from razing the
23 building or forever be barred. The hearing shall be held within 20 days and shall be
24 given preference. The court shall determine whether the raze order is reasonable.
25 If the order is found reasonable the court shall dissolve the restraining order. If the

1 order is found not reasonable the court shall continue the restraining order or modify
 2 it as the circumstances require. Costs are in the discretion of the court. If the court
 3 finds that the order is unreasonable, the building inspector or other designated
 4 officer shall issue no other order under this subsection in regard to the same building
 5 until its condition is substantially changed. The remedies provided in this
 6 paragraph are exclusive remedies and anyone affected by an order issued under par.
 7 (b) is not entitled to recover any damages for the razing of the building. For the
 8 purposes of this paragraph, if the order requires the razing of a historic building, as
 9 defined in sub. (3) (a) 1m., persons affected by the order include representatives of
 10 a local historical society and the owner of a historic building, as defined in sub. (3)
 11 (a) 1m., that is located within 200 yards of the historic building that is subject to the
 12 order.

NOTE → 13 **SECTION 9.** 66.0413 (1) (k) of the statutes is amended to read:

14 66.0413 (1) (k) *Public nuisance procedure.* A building which is determined
 15 under par. (b) 1. to be ~~old~~, dilapidated or out of repair and consequently dangerous,
 16 unsafe, unsanitary or otherwise unfit for human habitation and unreasonable to
 17 repair may be proceeded against as a public nuisance under ch. 823.

NOTE! See the NOTE to SECTION 7.
 18 **SECTION 10.** 66.0413 (3) (c) of the statutes is amended to read:

19 66.0413 (3) (c) If an order is issued under this section to raze and remove a
 20 historic building and restore the site to a dust-free and erosion-free condition, an
 21 application is made for a permit to raze and remove a historic building and restore
 22 the site to a dust-free and erosion-free condition or a municipality intends to raze
 23 and remove a municipally owned historic building and restore the site to a dust-free
 24 and erosion-free condition, the municipality in which the historic building is located
 25 shall notify the state historical society of the order, application or intent. No historic

SECTION 10

1 ~~building may be razed and removed nor the site restored to a dust-free and~~
2 ~~erosion-free condition for 30 days after the notice is given, unless a shorter period~~
3 ~~is authorized by the state historical society. If the state historical society authorizes~~
4 ~~a shorter period, however, such a period shall be subject to any applicable local~~
5 ~~ordinance. During the 30-day period, the state historical society shall have access~~
6 ~~to the historic building to create or preserve a historic record. If the state historical~~
7 ~~society completes its creation or preservation of a historic record, or decides not to~~
8 ~~create or preserve a historic record, before the end of the 30-day period, the society~~
9 ~~may waive its right to access the building and may authorize the person who intends~~
10 ~~to raze and remove the building, and restore the site to a dust-free and erosion-free~~
11 ~~condition, to proceed before the end of such period, except that such a person shall~~
12 ~~be subject to any applicable local ordinance or a building that is more than 50 years~~
13 ~~old, s. 66.0414 applies.~~

NOTE →
14 SECTION 11. 66.0413 (4) (a) and (b) of the statutes are consolidated, renumbered
15 66.0413 (4) and amended to read:

16 66.0413 (4) FIRST CLASS CITIES; OTHER PROVISIONS. First class cities may adopt,
17 by ordinance, alternate or additional provisions governing the placarding, closing,
18 razing and removal of a building and the restoration of the site to a dust-free and
19 erosion-free condition. (b) This subsection shall be liberally construed to provide 1st
20 class cities with the largest possible power and leeway of action, except that any
21 alternate or additional provision adopted shall be no less stringent than the
22 corresponding provision in s. 66.0414.

NOTE →
23 SECTION 12. 66.0414 of the statutes is created to read:

24 66.0414 Razing historic buildings and buildings that are more than 50
25 years old. (1) DEFINITIONS. In this section:

1 (a) "Authority" means a housing authority under subch. XII, a redevelopment
2 authority under s. 66.1333, or a housing and community development authority
3 under s. 66.1335.

4 (b) "Historic building" has the meaning given in s. 66.0413 (3) (a) 1m.

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

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

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

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

19 1. For a historic building, 60 days.

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

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

23 (c) During the period of delay in razing under par. (a) and during any extension
24 of a period of delay, the state historical society shall have access to the building to

SECTION 12

1 create or preserve a historic record and access to the building shall be a condition of
2 the order, permit, directive, or authorization issued by the local governmental unit.

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

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

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

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

23 (3) (c).

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

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

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

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

NOTE →
12 **SECTION 14.** 71.21 (6) of the statutes is created to read:

13 **71.21 (6)** Credits computed by a partnership under s. 71.07 (9m), 71.28 (6), or
14 71.47 (6) may be allocated to partners either as provided under this chapter or
15 pursuant to an agreement among the partners establishing an alternate allocation
16 method. The partners shall notify the department of an agreement within 30 days
17 after the agreement is executed and shall provide any additional information
18 requested by the department regarding the agreement.

NOTE →
19 **SECTION 15.** 71.28 (6) (c) of the statutes is amended to read:

20 **71.28 (6) (c)** No person may claim the credit under this subsection unless the
21 claimant includes with the claimant's return evidence that the rehabilitation was
22 approved recommended by the state historic preservation officer for approval by the
23 secretary of the interior under 36 CFR 67.6 before the physical work of construction,
24 or destruction in preparation for construction, began.

NOTE →
25 **SECTION 16.** 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
2 claimant includes with the claimant's return evidence that the rehabilitation was
3 approved recommended by the state historic preservation officer for approval by the
4 secretary of the interior under 36 CFR 67:6 before the physical work of construction,
5 or destruction in preparation for construction, began.

NOTE →
6 **SECTION 17.** 101.121 (3) (c) of the statutes is created to read:

7 101.121 (3) (c) The historic building code shall be liberally interpreted to
8 facilitate the preservation and restoration of qualified historic buildings.

NOTE →
9 **SECTION 18.** 101.121 (4) (a) of the statutes is renumbered 101.121 (4) (a) 1.

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

11 101.121 (4) (a) 2. Upon the request of the owner of a qualified historic building
12 who elects under subd. 1. to be subject to the historic building code, the department
13 shall review any decision of a city, village, town, or county that requires the owner
14 to comply with a provision of a county or municipal building code, or of any other local
15 ordinance or regulation, to determine if the provision concerns a matter dealt with
16 in the historic building code. The procedures in s. 101.02 (7) apply to any review
17 conducted by the department under this subdivision.

NOTE →
18 **SECTION 20.** 101.121 (4) (b) of the statutes is amended to read:

19 101.121 (4) (b) Paragraph (a) 1. does not apply to any owner of a nursing home,
20 as defined in s. 50.01 (3), a hospital, as defined in s. 50.33 (2) (a) and (c), or an
21 approved public or private treatment facility for alcoholics, as defined in s. 51.45 (2)
22 (b) and (c).

23 **SECTION 21.** 101.121 (5) of the statutes is created to read:

24 101.121 (5) **ADVISORY OPINION OF STATE HISTORICAL SOCIETY.** (a) The owner of a
25 qualified historic building may submit to the state historical society a request for an

1 advisory opinion with respect to any decision of the department, or of a city, village,
2 town, or county that is an agent of the department, if the decision pertains to any of
3 the following:

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

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

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

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

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

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

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

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

SECTION 21

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

NOTE →
3 SECTION 22. 101.121 (6) of the statutes is created to read:

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

10 1. A description of the historic building code.

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

13 3. An explanation of how the owner of a qualified historic building may elect
14 to be subject to the historic building code and a description of the consequences of that
15 election.

16 4. A description of other alternative building codes that the owner of a historic
17 building may be eligible to use.

18 5. A description of where a person may obtain further information regarding
19 historic buildings and the historic building code.

20 (b) The department and the state historical society shall distribute the
21 pamphlets as they consider necessary to increase awareness of the historic building
22 code.

NOTE →
23 SECTION 23. 101.122 (4) (b) 1. of the statutes is amended to read:

24 101.122 (4) (b) 1. ~~Order~~ Subject to s. 66.0414, order demolition of the rental unit
25 no sooner than 90 days after the order.

NOTE →

1 **SECTION 24.** 101.132 (2) (b) 1. of the statutes is amended to read:

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

6 **SECTION 25.** 101.132 (2) (b) 2. of the statutes is amended to read:

7 101.132 (2) (b) 2. If Except as provided in subd. 3m., if 25% to 50% of the interior
8 square footage of any housing with 3 or more dwelling units is to be remodeled, that
9 part of the housing that is to be remodeled shall conform to the standards in par. (a),
10 regardless of when the housing was first intended for occupancy.

11 **SECTION 26.** 101.132 (2) (b) 3. of the statutes is amended to read:

12 101.132 (2) (b) 3. If Except as provided in subd. 3m., if less than 25% of the
13 interior square footage of any housing with 3 or more dwelling units is to be
14 remodeled, the remodeling is not subject to the standards in par. (a) unless the
15 alteration involves work on doors, entrances, exits or toilet rooms, in which case the
16 doors, entrances, exits or toilet rooms shall conform to the standards in par. (a)
17 regardless of when the housing was first intended for occupancy.

18 **SECTION 27.** 101.132 (2) (b) 3m. of the statutes is created to read:

19 101.132 (2) (b) 3m. The requirements under this paragraph do not apply to
20 qualified historic buildings, as defined in s. 101.121 (2) (c).

21 **SECTION 28.** 101.132 (2) (e) 3. of the statutes is created to read:

22 101.132 (2) (e) 3. All rules promulgated by the department under this section
23 relating to qualified historic buildings, as defined in s. 101.121 (2) (c), shall comply
24 with and not exceed the requirements of the Fair Housing Act under 42 USC 3601

NOTE →

1 to 3619 and the Americans with Disabilities Act under 42 USC 12181 to 12189 and
2 regulations adopted under those acts.

3 **SECTION 29.** 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 30.** 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 services relating to any preservation or restoration of a building or
11 structure that is more than 100 years old if the state historic preservation officer
12 certifies to the department 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).

15 (b) That the building or structure is listed on the national register of historic
16 places in Wisconsin or the state register of historic places, is determined by the state
17 historical society to be eligible for listing on the national register of historic places
18 in Wisconsin or the state register of historic places, or is located in a historic district
19 that is listed on the national register of historic places in Wisconsin or the state
20 register of historic places and is certified by the state historic preservation officer as
21 being of historic significance to the district.

22 **SECTION 31.** 101.975 (4) of the statutes is created to read:

23 101.975 (4) (a) A political subdivision may adopt an ordinance that permits the
24 political subdivision to grant a variance to the uniform multifamily dwelling code if
25 all of the following apply:

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

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

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

NOTE →
12 **SECTION 32.** 254.61 (1) (f) 2. of the statutes is amended to read:

13 254.61 (1) (f) 2. A structural addition, including a renovation, made to a
14 structure that was originally constructed at least 50 years before an initial or
15 renewal application for a permit under s. 254.64 (1) (b) is made and for which no use
16 other than as a bed and breakfast establishment is proposed. The structural addition
17 under this subdivision shall comply with the rules promulgated under s. 101.63 (1)
18 and (1m).

NOTE →
19 **SECTION 33.** 823.21 of the statutes is amended to read:

20 **823.21 Dilapidated buildings declared nuisances.** Any building which,
21 under s. 66.0413 (1) (b) 1., has been declared so old, dilapidated or out of repair as
22 to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation or has
23 been determined to be unreasonable to repair under s. 66.0413 (1) (b) 1. is a public
24 nuisance and may be proceeded against under this chapter.

25 **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 2003 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 2001, the dollar amount is
9 increased by \$75,000 for fiscal year 2001-02 and the dollar amount is increased by
10 \$75,000 for fiscal year 2002-03 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.

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

21 **SECTION 37. Effective dates.** This act takes effect on the day after publication,
22 or on the day after publication of the 2001-03 biennial budget act, whichever is later,
23 except as follows:

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

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

3

(END)

NOTE →