

1 AN ACT concerning State government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Historic Preservation Act is
5 amended by changing Sections 2, 3, 4, and 5 as follows:

6 (20 ILCS 3410/2) (from Ch. 127, par. 133d2)

7 Sec. 2. As used in this Act:

8 (a) "Council" means the Illinois Historic Sites Advisory
9 Council. ~~†~~

10 (b) (Blank). ~~"Demolish" means raze, reconstruct or~~
11 ~~substantially alter;~~

12 (c) "Agency" means the Historic Preservation Agency. ~~†~~

13 (d) "Director" means the Director of Historic Preservation
14 who will serve as the State Historic Preservation Officer. ~~†~~

15 (d-1) "Historic resource" means any property which is
16 either publicly or privately held and which:

17 (1) is listed in the National Register of Historic
18 Places (hereafter "National Register");

19 (2) has been formally determined by the Director to be
20 eligible for listing in the National Register as defined in
21 Section 106 of Title 16 of the United States Code;

22 (3) has been nominated by the Director and the Illinois
23 Historic Sites Advisory Council for listing in the National

1 Register; or

2 (4) meets one or more criteria for listing in the
3 National Register, as determined by the Director.

4 (e) "Place" means (1) any parcel or contiguous grouping of
5 parcels of real estate under common or related ownership or
6 control, where any significant improvements are at least 40
7 years old, or (2) any aboriginal mound, fort, earthwork,
8 village, location, burial ground, historic or prehistoric
9 ruin, mine case or other location which is or may be the source
10 of important archeological data. †

11 (f) (Blank). ~~"Registered Illinois Historic Place" means~~
12 ~~any place listed on the "Illinois Register of Historic Places"~~
13 ~~pursuant to Section 6 of this Act;~~

14 (g) (Blank). ~~"Person" means any natural person,~~
15 ~~partnership, corporation, trust, estate, association, body~~
16 ~~politic, agency, or unit of government and its legal~~
17 ~~representatives, agents, or assigns; and~~

18 (h) (Blank). ~~"Municipal Preservation Agency" means any~~
19 ~~agency described in Section 11 48.2 3 of the "Illinois~~
20 ~~Municipal Code", as now or hereafter amended, or any agency~~
21 ~~with similar authority created by a municipality under Article~~
22 ~~VII, Section 6 of the Illinois Constitution.~~

23 (i) (Blank). ~~"Critical Historic Feature" means those~~
24 ~~physical and environmental components which taken singly or~~
25 ~~together, make a place eligible for designation as a Registered~~
26 ~~Illinois Historic Place.~~

1 (Source: P.A. 84-25.)

2 (20 ILCS 3410/3) (from Ch. 127, par. 133d3)

3 Sec. 3. There is recognized and established hereunder the
4 Illinois Historic Sites Advisory Council, previously
5 established pursuant to Federal regulations, hereafter called
6 the Council. The Council shall consist of 15 members. Of these,
7 there shall be at least 3 historians, at least 3 architectural
8 historians, or architects with a preservation background, and
9 at least 3 archeologists. The remaining 6 members shall be
10 drawn from supporting fields and have a preservation interest.
11 Supporting fields shall include but not be limited to
12 historical geography, law, urban planning, local government
13 officials, and members of other preservation commissions. All
14 shall be appointed by the Director of Historic Sites and
15 Preservation, with the consent of the Board.

16 The Council Chairperson shall be appointed by the Director
17 of Historic Sites and Preservation from the Council membership
18 and shall serve at the Director's pleasure.

19 The Director of the Lincoln Presidential Library and the
20 Director of the Illinois State Museum shall serve on the
21 Council in advisory capacity as non-voting members.

22 Terms of membership shall be 3 years and shall be staggered
23 by the Director to assure continuity of representation.

24 The Council shall meet at least 3 4 times each year.
25 Additional meetings may be held at the call of the chairperson

1 or at the call of the Director.

2 Members shall serve without compensation, but shall be
3 reimbursed for actual expenses incurred in the performance of
4 their duties.

5 (Source: P.A. 92-600, eff. 7-1-02.)

6 (20 ILCS 3410/4) (from Ch. 127, par. 133d4)

7 Sec. 4. In addition to those powers specifically granted or
8 necessary to perform the duties prescribed by this Act, the
9 Council shall have the following powers:

10 (a) to recommend nominations to the National Register of
11 Historic Places;

12 (b) (blank); ~~to nominate places to the Illinois Register of~~
13 ~~Historic Places;~~

14 (c) to recommend removal of places from the National
15 Register of Historic Places;

16 (d) (blank); ~~to recommend removal of places from the~~
17 ~~Illinois Register of Historic Places;~~

18 (e) (blank); ~~to establish guidelines determining the~~
19 ~~eligibility for listing and removing places on the Illinois~~
20 ~~Register of Historic Places;~~ and

21 (f) to advise the Agency on matters pertaining to historic
22 preservation.

23 (Source: P.A. 84-25.)

24 (20 ILCS 3410/5) (from Ch. 127, par. 133d5)

1 Sec. 5. In addition to the powers otherwise specifically
2 granted to the Agency by law, the Agency shall have the
3 following powers and responsibilities:

4 (a) to perform the administrative functions for the
5 Council;

6 (b) to hold public hearings and meetings concerning the
7 National Illinois Register of Historic Places;

8 (c) to prepare and periodically revise a statewide
9 preservation plan;

10 (d) to attempt to maximize the extent to which the
11 preservation of historic resources ~~Registered Illinois~~
12 ~~Historic Places~~ is accomplished through active use, including
13 self-sustaining or revenue-producing use and through the
14 involvement of persons other than the Agency; and

15 (e) to disseminate information of historic resources
16 ~~Registered Illinois Historic Places~~, to provide technical and
17 other assistance to persons involved in preservation
18 activities, to develop interpretive programs and otherwise
19 stimulate public interest in preservation.

20 (Source: P.A. 84-25.)

21 (20 ILCS 3410/6 rep.)

22 (20 ILCS 3410/7 rep.)

23 (20 ILCS 3410/8 rep.)

24 (20 ILCS 3410/9 rep.)

25 (20 ILCS 3410/10 rep.)

1 (20 ILCS 3410/11 rep.)

2 (20 ILCS 3410/12 rep.)

3 (20 ILCS 3410/13 rep.)

4 (20 ILCS 3410/14 rep.)

5 Section 10. The Illinois Historic Preservation Act is
6 amended by repealing Sections 6, 7, 8, 9, 10, 11, 12, 13, and
7 14.

8 Section 15. The Illinois State Agency Historic Resources
9 Preservation Act is amended by changing Sections 3 and 4 as
10 follows:

11 (20 ILCS 3420/3) (from Ch. 127, par. 133c23)

12 Sec. 3. Definitions.

13 (a) "Director" means the Director of Historic Preservation
14 who shall serve as the State Historic Preservation Officer.

15 (b) "Agency" shall have the same meaning as in Section 1-20
16 of the Illinois Administrative Procedure Act, and shall
17 specifically include all agencies and entities made subject to
18 such Act by any State statute.

19 (c) "Historic resource" means any property which is either
20 publicly or privately held and which:

21 (1) is listed in the National Register of Historic
22 Places (hereafter "National Register");

23 (2) has been formally determined by the Director to be
24 eligible for listing in the National Register as defined in

1 Section 106 of Title 16 of the United States Code;

2 (3) has been nominated by the Director and the Illinois
3 Historic Sites Advisory Council for listing in the National
4 Register; or

5 (4) meets one or more criteria for listing in the
6 National Register, as determined by the Director. ~~or~~

7 (5) (blank). ~~is listed in the Illinois Register of~~
8 ~~Historic Places.~~

9 (d) "Adverse effect" means:

10 (1) destruction or alteration of all or part of an
11 historic resource;

12 (2) isolation or alteration of the surrounding
13 environment of an historic resource;

14 (3) introduction of visual, audible, or atmospheric
15 elements which are out of character with an historic
16 resource or which alter its setting;

17 (4) neglect or improper utilization of an historic
18 resource which results in its deterioration or
19 destruction; or

20 (5) transfer or sale of an historic resource to any
21 public or private entity without the inclusion of adequate
22 conditions or restrictions regarding preservation,
23 maintenance, or use.

24 (e) "Comment" means the written finding by the Director of
25 the effect of a State undertaking on an historic resource.

26 (f) "Undertaking" means any project, activity, or program

1 that can result in changes in the character or use of historic
2 property, if any historic property is located in the area of
3 potential effects. The project, activity or program shall be
4 under the direct or indirect jurisdiction of a State agency or
5 licensed or assisted by a State agency. An undertaking
6 includes, but is not limited to, action which is:

7 (1) directly undertaken by a State agency;

8 (2) supported in whole or in part through State
9 contracts, grants, subsidies, loan guarantees, or any
10 other form of direct or indirect funding assistance; or

11 (3) carried out pursuant to a State lease, permit,
12 license, certificate, approval, or other form of
13 entitlement or permission.

14 (g) "Committee" means the Historic Preservation Mediation
15 Committee.

16 (h) "Feasible" means capable of being accomplished in a
17 successful manner within a reasonable period of time, taking
18 into account economic, environmental, social, and
19 technological factors.

20 (i) "Private undertaking" means any undertaking that does
21 not receive public funding or is not on public lands.

22 (j) "High probability area" means any occurrence of Cahokia
23 Alluvium, Carmi Member of the Equality Formation, Grayslake
24 Peat, Parkland Sand, Peyton Colluvium, the Batavia Member of
25 the Henry Formation, or the Mackinaw Member, as mapped by
26 Lineback et al. (1979) at a scale of 1-500,000 within permanent

1 stream floodplains and including

2 (1) 500 yards of the adjoining bluffline crest of the
3 Fox, Illinois, Kankakee, Kaskaskia, Mississippi, Ohio,
4 Rock and Wabash Rivers and 300 yards of the adjoining
5 bluffline crest of all other rivers or

6 (2) a 500 yard wide area along the shore of Lake
7 Michigan abutting the high water mark.

8 (Source: P.A. 87-717; 87-739; 87-847; 88-45.)

9 (20 ILCS 3420/4) (from Ch. 127, par. 133c24)

10 Sec. 4. State agency undertakings.

11 (a) As early in the planning process as may be practicable
12 and prior to the approval of the final design or plan of any
13 undertaking by a State agency, or prior to the funding of any
14 undertaking by a State agency, or prior to an action of
15 approval or entitlement of any private undertaking by a State
16 agency, written notice of the project shall be given to the
17 Director either by the State agency or the recipients of its
18 funds, permits or licenses. The State agency shall consult with
19 the Director to determine the documentation requirements
20 necessary for identification and treatment of historic
21 resources. For the purposes of identification and evaluation of
22 historic resources, the Director may require archaeological
23 and historic investigations. Responsibility for notice and
24 documentation may be delegated by the State agency to a local
25 or private designee.

1 (b) Within 30 days after receipt of complete and correct
2 documentation of a proposed undertaking, the Director shall
3 review and comment to the agency on the likelihood that the
4 undertaking will have an adverse effect on a historic resource.
5 In the case of a private undertaking, the Director shall, not
6 later than 30 days following the receipt of an application with
7 complete documentation of the undertaking, either approve that
8 application allowing the undertaking to proceed or tender to
9 the applicant a written statement setting forth the reasons for
10 the requirement of an archaeological investigation. If there is
11 no action within 30 days after the filing of the application
12 with the complete documentation of the undertaking, the
13 applicant may deem the application approved and may proceed
14 with the undertaking. Thereafter, all requirements for
15 archaeological investigations are waived under this Act.

16 (c) If the Director finds that an undertaking will
17 adversely affect an historic resource or is inconsistent with
18 agency policies, the State agency shall consult with the
19 Director and shall discuss alternatives to the proposed
20 undertaking which could eliminate, minimize, or mitigate its
21 adverse effect. During the consultation process, the State
22 agency shall explore all feasible and prudent plans which
23 eliminate, minimize, or mitigate adverse effects on historic
24 resources. Grantees, permittees, licensees, or other parties
25 in interest and representatives of national, State, and local
26 units of government and public and private organizations may

1 participate in the consultation process. The process may
2 involve on-site inspections and public informational meetings
3 pursuant to regulations issued by the Historic Preservation
4 Agency.

5 (d) The State agency and the Director may agree that there
6 is a feasible and prudent alternative which eliminates,
7 minimizes, or mitigates the adverse effect of the undertaking.
8 Upon such agreement, or if the State agency and the Director
9 agree that there are no feasible and prudent alternatives which
10 eliminate, minimize, or mitigate the adverse effect, the
11 Director shall prepare a Memorandum of Agreement describing the
12 alternatives or stating the finding. The State agency may
13 proceed with the undertaking once a Memorandum of Agreement has
14 been signed by both the State agency and the Director.

15 (e) After the consultation process, the Director and the
16 State agency may fail to agree on the existence of a feasible
17 and prudent alternative which would eliminate, minimize, or
18 mitigate the adverse effect of the undertaking on the historic
19 resource. If no agreement is reached, the agency shall call a
20 public meeting in the county where the undertaking is proposed
21 within 60 days. If, within 14 days following conclusion of the
22 public meeting, the State agency and the Director fail to agree
23 on a feasible and prudent alternative, the proposed
24 undertaking, with supporting documentation, shall be submitted
25 to the Historic Preservation Mediation Committee. The document
26 shall be sufficient to identify each alternative considered by

1 the Agency and the Director during the consultation process and
2 the reason for its rejection.

3 (f) The Mediation Committee shall consist of the Director
4 and 5 persons appointed by the Director for terms of 3 years
5 each, each of whom shall be no lower in rank than a division
6 chief and each of whom shall represent a different State
7 agency. An agency that is a party to mediation shall be
8 notified of all hearings and deliberations and shall have the
9 right to participate in deliberations as a non-voting member of
10 the Committee. Within 30 days after submission of the proposed
11 undertaking, the Committee shall meet with the Director and the
12 submitting agency to review each alternative considered by the
13 State agency and the Director and to evaluate the existence of
14 a feasible and prudent alternative. In the event that the
15 Director and the submitting agency continue to disagree, the
16 Committee shall provide a statement of findings or comments
17 setting forth an alternative to the proposed undertaking or
18 stating the finding that there is no feasible or prudent
19 alternative. The State agency shall consider the written
20 comments of the Committee and shall respond in writing to the
21 Committee before proceeding with the undertaking.

22 (g) When an undertaking is being reviewed pursuant to
23 Section 106 of the National Historic Preservation Act of 1966,
24 the procedures of this law shall not apply and any review or
25 comment by the Director on such undertaking shall be within the
26 framework or procedures of the federal law. ~~When an undertaking~~

1 ~~involves a structure listed on the Illinois Register of~~
2 ~~Historic Places, the rules and procedures of the Illinois~~
3 ~~Historic Preservation Act shall apply.~~ This subsection shall
4 not prevent the Illinois Historic Preservation Agency from
5 entering into an agreement with the Advisory Council on
6 Historic Preservation pursuant to Section 106 of the National
7 Historic Preservation Act to substitute this Act and its
8 procedures for procedures set forth in Council regulations
9 found in 36 C.F.R. Part 800.7. A State undertaking that is
10 necessary to prevent an immediate and imminent threat to life
11 or property shall be exempt from the requirements of this Act.
12 Where possible, the Director shall be consulted in the
13 determination of the exemption. In all cases, the agency shall
14 provide the Director with a statement of the reasons for the
15 exemption and shall have an opportunity to comment on the
16 exemption. The statement and the comments of the Director shall
17 be included in the annual report of the Historic Preservation
18 Agency as a guide to future actions. The provisions of this Act
19 do not apply to undertakings pursuant to the Illinois Oil and
20 Gas Act, the Surface-Mined Land Conservation and Reclamation
21 Act and the Surface Coal Mining Land Conservation and
22 Reclamation Act.

23 (Source: P.A. 96-1000, eff. 7-2-10.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.

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