

AN ACT concerning State government.

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

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

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

Sec. 2. As used in this Act:

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

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

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

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

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

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

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

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

Register; or

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

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

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

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

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

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

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

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

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

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

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

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

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

or at the call of the Director.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(20 ILCS 3410/6 rep.)

(20 ILCS 3410/7 rep.)

(20 ILCS 3410/8 rep.)

(20 ILCS 3410/9 rep.)

(20 ILCS 3410/10 rep.)

(20 ILCS 3410/11 rep.)

(20 ILCS 3410/12 rep.)

(20 ILCS 3410/13 rep.)

(20 ILCS 3410/14 rep.)

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

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

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

Sec. 3. Definitions.

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

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

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

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

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

Section 106 of Title 16 of the United States Code;

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

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

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

(d) "Adverse effect" means:

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

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

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

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

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

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

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

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

(1) directly undertaken by a State agency;

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

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

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

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

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

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

stream floodplains and including

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

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

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

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

Sec. 4. State agency undertakings.

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

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

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

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

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

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

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

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

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

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

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

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

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Statutes amended in order of appearance

20 ILCS 3410/2	from Ch. 127, par. 133d2
20 ILCS 3410/4	from Ch. 127, par. 133d4
20 ILCS 3410/5	from Ch. 127, par. 133d5
20 ILCS 3410/6 rep.	
20 ILCS 3410/7 rep.	
20 ILCS 3410/8 rep.	
20 ILCS 3410/9 rep.	
20 ILCS 3410/10 rep.	
20 ILCS 3410/11 rep.	
20 ILCS 3410/12 rep.	
20 ILCS 3410/13 rep.	
20 ILCS 3410/14 rep.	
20 ILCS 3420/3	from Ch. 127, par. 133c23
20 ILCS 3420/4	from Ch. 127, par. 133c24