

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas  
2 81st General Assembly  
3 Regular Session, 1997

# A Bill

SENATE BILL 144

4  
5 By: Senator Walker

## For An Act To Be Entitled

9 "AN ACT TO PROVIDE FOR THE CREATION OF CONSERVATION  
10 DISTRICTS; AND FOR OTHER PURPOSES."

### Subtitle

13 "AN ACT TO PROVIDE FOR THE CREATION OF  
14 CONSERVATION DISTRICTS."

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18 SECTION 1. This act shall be known as the "Conservation Districts Act."

20 SECTION 2. The purpose of this act is to promote the educational,  
21 cultural, economic, and general welfare of the public through the conversion  
22 and protection of buildings, sites, places and districts of interest through  
23 the maintenance of such as landmarks if the municipality, of the state, and of  
24 the nation, and through the development of appropriate settings for such  
25 buildings, places and districts.

27 SECTION 3. None of the provisions of this act shall be in operation  
28 until and unless:

29 (1) There shall have been filed, with the clerk of the city, town, or  
30 county in which an historic district is contemplated, a petition signed by a  
31 majority in numbers of the property owners within the proposed conservation  
32 district agreeing that their property shall be included in the conservation  
33 district; or

34 (2) The boundaries of the proposed conservation district are identical  
35 to and encompass the area of a National Register of Historic District as  
36 certified by the United States Department of the Interior.

1           SECTION 4. (a) Any person who violates any of the provisions of this  
2 act shall be guilty of a misdemeanor and, upon conviction, shall be fined not  
3 less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

4           (b) Each day that a violation continues to exist shall constitute a  
5 separate offense.

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7           SECTION 5. The chancery court having jurisdiction over the property in  
8 question shall have jurisdiction in equity to enforce the provisions of this  
9 act in the rulings issued under it and may restrain by injunction violations  
10 of it.

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12          SECTION 6. Conservation District Commissions.

13          (a) A conservation district commission shall consist of no less than  
14 five (5) members nor more than nine (9) members.

15          (b) The members shall be appointed by the city council or board of  
16 directors.

17          (c) Members shall be qualified electors of the municipality who reside  
18 within or own property within the district, provided that persons with  
19 architectural or preservation expertise may be appointed to the commission  
20 regardless of where within the city they reside.

21          (d) The city council or board of directors shall have the authority to  
22 fill any vacancies or, by majority vote, to remove any member of the  
23 commission.

24          (e) Commissioners shall serve without compensation, but the municipality  
25 may pay expenses incurred for attendance at any municipally approved training  
26 sessions.

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28          SECTION 7. A conservation district shall be formed by an ordinance  
29 approved by a majority of the members of the city council or board of  
30 directors. The ordinance shall include the boundaries of the district and  
31 shall attach a map of the district to the ordinance. No ordinance shall  
32 receive final approval until the proposed ordinance has been on file with the  
33 city clerk for a period of sixty (60) days and, the city council or board of  
34 directors has conducted at least one public hearing to consider the merits of  
35 the district.

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1           SECTION 8. The ordinance creating the district shall set forth the  
2 exact powers of the commission. These powers may include the ability to  
3 approve new construction, demolitions, alterations, erections, paving,  
4 appurtenant fixtures, walls, fences, light fixtures, or other matters. No  
5 ordinance is required to include all of these powers within the powers of the  
6 district. Once a district is created, if the commission is given less than  
7 all of the powers set forth in this section, there shall be no increase in the  
8 authority of the commission unless the entire process set forth in this act is  
9 followed.

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11           SECTION 9. Upon formation of the commission, the first order of  
12 business shall be the adoption of bylaws and regulations setting forth the  
13 manner in which the powers shall be exercised. The commission is free to  
14 establish rules of procedure to be followed provided that notice requirements  
15 conform to those established for any municipal planning commission operating  
16 within the boundaries of the conservation district.

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18           SECTION 10. Any person seeking to take action on a property that is  
19 covered by the powers of the commission shall obtain a certificate of  
20 appropriateness to do so. The commission may allow for administrative grants  
21 of such certificates for any matter that does not involve substantial  
22 rehabilitation, new construction, or demolition. Certificates of  
23 appropriateness for substantial rehabilitation, new construction or demolition  
24 shall be granted, provided that a six (6) month deferral of demolition permits  
25 can be granted if the commission determines that demolition of a structure  
26 would substantially detract from the historic nature of the district.

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28           SECTION 11. Nothing in this act shall be construed to prevent the  
29 ordinary maintenance or repair of any exterior architectural feature in the  
30 conservation district which does not involve a change in design, material,  
31 color or outer appearance thereof, nor to prevent the construction,  
32 reconstruction, alteration, restoration, or demolition of any such feature, or  
33 building, which the building inspector, or similar agent, shall certify is  
34 required for the public safety because of an unsafe or dangerous condition,  
35 nor to prevent the construction, reconstruction, alteration, restoration, or  
36 demolition of any such feature under a permit issued by a building inspector,

1 or similar agent, prior to the effective date of the establishment of the  
2 conservation district.

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4 SECTION 12. In its deliberation under this act, the conservation  
5 district commission shall not consider interior arrangement or use and shall  
6 take no action under this act except for the purpose of preventing the  
7 construction, reconstruction, alteration, restoration, moving, or demolition  
8 of buildings, structures, or appurtenant fixtures in the conservation district  
9 obviously incongruous with the historic aspects of the district.

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11 SECTION 13. (a) Any applicant aggrieved by the determination of the  
12 conservation district commission, within thirty (30) days after the making of  
13 the decision as announced in open session, may appeal to the chancery court of  
14 the county where the property is located.

15 (b) The court shall hear all pertinent evidence and shall affirm the  
16 determination of the commission unless it finds no rational basis to support  
17 the reasons given for the determination.

18 (c) The remedy provided by this section shall be exclusive; but, the  
19 applicant shall have the right to appeal the decision of the chancery court as  
20 provided by law.

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22 SECTION 14. All provisions of this act of a general and permanent  
23 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas  
24 Code Revision Commission shall incorporate the same in the Code.

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26 SECTION 15. If any provision of this act or the application thereof to  
27 any person or circumstance is held invalid, such invalidity shall not affect  
28 other provisions or applications of the act which can be given effect without  
29 the invalid provision or application, and to this end the provisions of this  
30 act are declared to be severable.

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32 SECTION 16. All laws and parts of laws in conflict with this act are  
33 hereby repealed.

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