

1 State of Arkansas

2 82nd General Assembly

3 Regular Session, 1999

A Bill

SENATE BILL 199

4
5 By: Senators B. Walker, Argue, Riggs

For An Act To Be Entitled

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

Subtitle

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

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

19 SECTION 1. This act shall be known as the "Municipal Conservation
20 Districts Act".

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

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

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

36 (2) The boundaries of the proposed municipal conservation district are

1 identical to and encompass the area of a National Register Historic District
2 as certified by the United States Department of the Interior; or

3 (3) The city council or board of directors shall have proposed and
4 approved the creation of a municipal conservation district.

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6 SECTION 4. A municipal conservation district shall be formed by an
7 ordinance approved by a majority of the governing body of the municipality.
8 The ordinance shall include the boundaries of the district and a map of the
9 district shall be attached to the ordinance. No ordinance shall receive final
10 approval until the proposed ordinance has been on file with the city clerk for
11 a period of sixty (60) days and the city council or board of directors has
12 conducted at least one (1) public hearing to consider the merits of the
13 district.

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15 SECTION 5. The ordinance creating the municipal conservation district
16 shall set forth the exact powers of the commission. These powers may only
17 include the ability to approve new construction, demolition, and substantial
18 alterations of the structures located within the district. The ordinance to
19 create the municipal conservation district does not have to include all of
20 these powers permitted by the statute. Once a district is created, if the
21 commission is given less than all of the powers set forth in this section,
22 there shall be no increase in the authority of the commission until the entire
23 process of forming a municipal conservation district set forth in this act is
24 followed.

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26 SECTION 6. Municipal Conservation District Commission.

27 (a) A municipal conservation district commission shall consist of no
28 less than five (5) members nor more than nine (9) members. One (1) member
29 shall be a licensed architect, one (1) member shall be a licensed real estate
30 agent, and two (2) members shall own property in municipal conservation
31 districts.

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

34 (c) Members shall be qualified electors of the municipality who reside
35 within or own property within the district, provided that persons with
36 architectural, preservation, or real estate expertise may be appointed to the

1 commission regardless of where within the city they reside.

2 (d) the city council or board of directors shall have the authority to
3 fill any vacancies or, by majority vote, to remove any member of the
4 commission.

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

8 (f) Commissioners shall serve staggered terms of three (3) years in
9 order to provide a continuum of knowledge and expertise on the commission.

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11 SECTION 7. 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. All such regulations shall be
14 uniform for each class or kind of structures throughout each district, but the
15 regulations in one district may differ from those in other districts. Such
16 regulations shall be made with reasonable consideration of the intrinsic
17 character of the district. The commission shall adopt specific standards as
18 to the approved powers relating to substantial alterations, new construction,
19 or demolition and shall provide for a design review process, which process
20 shall include a provision addressing economic hardship. The commission is
21 also permitted to establish rules of procedure to be followed provided that
22 notice requirements conform to those established for any municipal planning
23 commission operating within the boundaries of the municipal conservation
24 district.

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26 SECTION 8. Any person seeking to take action on a property that is
27 covered by the powers of the commission shall obtain a certificate of
28 appropriateness to do so. Application for certificates of appropriateness for
29 substantial alterations, new construction, or demolition shall be made,
30 provided that a six (6) month deferral of a demolition permit may be granted
31 if the commission determines that demolition of a structure would
32 substantially detract from the historic nature of the district.
33 Notwithstanding the preceding provisions, a certificate of appropriateness
34 shall not be required for (1) ordinary maintenance and repair where the
35 purpose of the work is to correct deterioration to the structure and restore
36 it to its condition prior to deterioration, (2) any substantial alteration,

1 new construction, or demolition duly approved prior to the effective date of
2 this act, (3) any substantial alteration, new construction, or demolition that
3 only affects the interior of the structure, or (4) any substantial alteration
4 or demolition that is necessary to correct or abate a condition that has been
5 declared unsafe by the appropriate municipal officials, after notification of
6 the commission, and where emergency measures have been declared necessary by
7 municipal officials.

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9 SECTION 9. The commission shall not consider interior arrangement or
10 use and shall take no action except as authorized by ordinance to prevent the
11 substantial alteration, construction, or demolition of structures or
12 appurtenant fixtures in the municipal conservation district that are obviously
13 incongruous with the historic aspects of the district.

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15 SECTION 10. (a) Applications to the city council or board of directors
16 to increase the boundaries of a municipal conservation district may be made by
17 the commission if (1) a request is made to include structures, sites, areas,
18 or lands of importance or value related to the district, or (2) facts
19 previously undisclosed to or unknown by the commission are revealed which
20 indicate a particular building or site is possessed of special architectural,
21 archaeological, cultural, or historical importance or value.

22 (b) Applications to the city council or board of directors to reduce
23 the boundaries of a municipal conservation district may be made by the
24 commission if (1) it can be shown that a particular structure, site, area, or
25 land has no historic, architectural, archaeological, or cultural importance or
26 value to the viability of the district, or (2) exclusion of structures, sites,
27 areas, or land is necessary for major new development that would support
28 either the architectural, historical, archaeological, or cultural character or
29 the economic viability of the district, or (3) it can be shown that no
30 physical historical, architectural, archaeological, or cultural degradation of
31 the district will result by excluding the property from the district.

32 (c) Applications made pursuant to this section shall require that the
33 entire process of forming a municipal conservation district set forth in this
34 act is followed.

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36 SECTION 11. The chancery court having jurisdiction over the property in

1 question shall have jurisdiction in equity to enforce the provisions of this
2 act in the rulings issued under it and may restrain by injunction violations
3 of it.

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

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

12 (c) The remedy provided by this section shall be exclusive; however,
13 the applicant shall have the right to appeal the decision of the chancery
14 court as provided by law.

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16 SECTION 13. (a) Any person who violates any of the provisions of this
17 act shall be guilty of a misdemeanor and, upon conviction, shall be fined not
18 less than ten dollars (\$10.00) nor more than five hundred dollars (\$500).

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

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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.