

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 83rd General Assembly
3 Regular Session, 2001

A Bill

SENATE BILL 759

4
5 By: Senator B. Walker

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

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

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

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

32 (1) There shall have been filed, with the clerk of the city, town, or
33 county in which a municipal conservation district is contemplated, a petition
34 signed by two-thirds (2/3rds) of the property owners within the proposed
35 municipal conservation district agreeing that their property shall be
36 included in the municipal conservation district; or

1 (2) The boundaries of the proposed municipal conservation district may
 2 be identical to and encompass the area of a National Register Historic
 3 District as certified by the United States Department of the Interior; or

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

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

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

26
 27 SECTION 6. Municipal Conservation District Commission.

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

33 (b) The members shall be appointed by the city council or board of
 34 directors from a list of property owners approved by the majority of the
 35 property owners.

36 (c) Members shall be qualified electors of the municipality who reside

1 within or own property within the district, provided that persons with
2 architectural or real estate expertise may be appointed to the commission
3 regardless of where within the city they reside.

4 (d) The city council or board of directors shall have the authority to
5 fill any vacancies or, by majority vote, to remove any member of the
6 commission from a list of property owners approved by the majority of the
7 property owners in the conservation district.

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

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

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

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29 SECTION 8. Any person seeking to take action on a property that is
30 covered by the powers of the commission shall obtain a certificate of
31 appropriateness to do so. Application for certificates of appropriateness
32 for substantial alterations, new construction, or demolition shall be made,
33 provided that a four (4) month deferral of a demolition permit may be granted
34 if the commission determines that demolition of a structure would
35 substantially detract from the historic nature of the district.
36 Notwithstanding the preceding provisions, a certificate of appropriateness

1 shall not be required for:

2 (1) Ordinary maintenance and repair where the purpose of the work is to
 3 correct deterioration to the structure and restore it to its condition prior
 4 to deterioration;

5 (2) Any substantial alteration, new construction, or demolition duly
 6 approved prior to the effective date of this act;

7 (3) Any substantial alteration, new construction, or demolition that
 8 only affects the interior of the structure; or

9 (4) Any substantial alteration or demolition that is necessary to
 10 correct or abate a condition that has been declared unsafe by the appropriate
 11 municipal officials, after notification of the commission, and where
 12 emergency measures have been declared necessary by municipal officials. The
 13 commission shall revise the application of certificates of appropriateness
 14 and approve or deny the application in writing within forty-five (45) days
 15 after submission to the commission.

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

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 23 SECTION 10. (a) Applications to the city council or board of
 24 directors to increase the boundaries of a municipal conservation district may
 25 be made by the commission if:

26 (1) A request is made to include structures, sites, areas, or
 27 lands of importance or value related to the district; or

28 (2) Facts previously undisclosed to or unknown by the commission
 29 are revealed which indicate a particular building or site is possessed of
 30 special architectural, archaeological, or historical importance or value.

31 (b) Applications to the city council or board of directors to reduce
 32 the boundaries of a municipal conservation district may be made by the
 33 commission if:

34 (1) It can be shown that a particular structure, site, area, or
 35 land has no historic, architectural, or archaeological importance or value to
 36 the viability of the district; or

1 (2) Exclusion of structures, sites, areas, or land is necessary
2 for major new development that would support either the architectural,
3 historical, or archaeological character or the economic viability of the
4 district; or

5 (3) It can be shown that no physical historical or architectural,
6 archaeological degradation of the district will result by excluding the
7 property from the district.

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

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12 SECTION 11. The chancery court having jurisdiction over the property
13 in question shall have jurisdiction in equity to enforce the provisions of
14 this act in the rulings issued under it and may restrain by injunction
15 violations of it.

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

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

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

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

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

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