



HOUSE BILL 799: Zoning/Changes to Hist. Preserv. Pro

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2015-2016 General Assembly

Committee:	House Judiciary II	Date:	August 17, 2015
Introduced by:	Reps. Brody, Ager	Prepared by:	R. Erika Churchill & Tawanda Foster
Analysis of:	PCS to Second Edition H799-CSSTf-87		Committee Counsel

SUMMARY: *The proposed committee substitute would allow a property owner to request removal from a historic district, make amendments to the process to create a historical commission. Modify conflict of interest recusal for members of historical commissions, create an arbitration process for appeals from historic preservation commissions, and to establish a renovation report to be prepared at the request of property owners or potential purchasers of historic properties.*

CURRENT LAW: Part 3C of Article 19 of Chapter 160A authorizes counties and cities to safeguard the heritage of the city or county by preserving any district or landmark therein that embodies important elements of its culture, history, architectural history, or prehistory and to promote the use and conservation of such district or landmark for the education, pleasure and enrichment of the residents of the city or county and the State as a whole. G.S. 160A-400.1. Historic commissions may be established for those purposes.

Establishment. – A historic commission established by a county or city must have at least three members, with terms of no more than four years. Members must reside within the zoning jurisdiction of the local government, which includes the extraterritorial jurisdiction for cities. A majority of members must have "demonstrated special interest, experience, or education in history, architecture, archaeology, or related fields." When needed, the commission may appoint advisory bodies and committees.

Alternatively, the governing board may choose a different structure for the commission. A local government may establish separate preservation commissions for districts and landmarks, may designate the planning commission or community appearance commission as the preservation commission, or may establish a joint commission with a city (or cities) and county. When the planning commission or community appearance commission serves as the preservation commission, it must still include at least three members with the demonstrated experience in related fields.

The governing board may authorize a historic commission to carry out any of the following activities within the local government's zoning jurisdiction:

- Inventory historic and significant properties.
- Recommend historic designations (and revocations) for districts and landmarks.
- Negotiate for, acquire and sell property to promote preservation.
- Restore and operate historic properties.
- Conduct educational programs.
- Cooperate and contract with State, federal, and local governments.
- Recommend preservation elements of the local comprehensive plan.
- Review and act on certificates of appropriateness.

Certificates of Appropriateness.— After a historic district or landmark is established, a landowner may not alter the exterior portions of historic properties without obtaining a certificate of appropriateness (COA) from the preservation commission. COA's are required for any erection,

O. Walker Reagan
Director



Research Division
(919) 733-2578

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alteration, restoration, move, or demolition of an exterior feature of a structure; but do not regulate use. Structures include buildings, masonry walls, fences, light fixtures, steps and pavement, and other appurtenant features. Above ground utilities and outdoor advertising signs require a COA as well. Exterior features are defined to include, among other things, architectural style, size and scale of buildings, and types and styles of doors and windows. The local governing board, in its discretion, may define exterior features also to include historic signs, color, and significant landscape, archaeological, and natural features of the area.

Generally, COA's are not required for any of the following:

- Changes to the interior features of a building
- Ordinary maintenance or repair that does not change the material or appearance
- Changes required for public safety and certified by the building inspector.

Before a preservation commission may issue or deny any COA, the commission must adopt both (i) principles and guidelines for construction and alterations and (ii) rules of procedure. A preservation commission may not deny a certificate except to prevent a project "which would be incongruous with the special character of the landmark or district." G.S. 160A-400.9(a).

The commission must act upon applications for COA's within a reasonable time, not more than 180 days from the date of the application. A COA for relocation or demolition of a historic property may be delayed up to 365 days—depending on the circumstances—for the commission to negotiate for preservation of the building or site.

BILL ANALYSIS:

Section 1. Would provide the process by which a property owner may petition the commission for removal from the historical district.

Section 2. Would delete the authority for a county or city to opt for a community appearance board to function as the historic commission.

Section 3. Would specify that the historic preservation commission's authority to enter private lands with the consent of the owner or occupant, while solely in the performance of official duties and only at reasonable times, is limited to the preparation of renovation reports or other reports to aid in the review of a COA, examination or survey.

Section 4. Would do all of the following:

- Specify that the historic preservation commission failed to act upon a completed application for a COA within 180 days, the COA must be issued. The parties may agree to an extension of time prior to the expiration of the 180 days.
- Prohibit a member of the Board of Adjustment from voting on an appealed matter from the historic preservation commission, if that Board of Adjustment member also sits on the historic preservation commission.
- Establishes an option for binding arbitration in lieu of appealing to the Superior Court.

Section 5. Would create a new duty for the historic preservation commission, allowing the commission, or a third party at the direction of the commission, to prepare a renovation report upon the request of any owner or potential buyer of a contributing property located in a historic district or a property designated as a landmark. The renovation report would identify all of the exterior features of the structure, reference the applicable principles and guidelines of the commission, and provide a list of appropriate materials for alteration or restoration of those exterior features. The renovation report would be valid for one year, transferrable, and must be considered by the commission during a review for a COA.

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EFFECTIVE DATE: October 1, 2015, and applies to applications for certificates of appropriateness submitted on or after that date.

Adam Lovelady with the UNC School of Government substantially contributed to this summary.