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# SENATE BILL No. 4

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-7-11-23.

**Synopsis:** Altering historic preservation districts. Provides the exclusive method for removing the designation of a historic district. Provides that a petition requesting the removal of a designation of a historic district may be filed with the legislative body of the unit by the owners of: (1) a building, structure, or site designated as a single site historic district; or (2) in the case of a historic district with two or more parcels, at least 51% of the owners of the real property of the historic district. Requires the legislative body to submit the petition to the historic preservation commission (commission) of the unit. Requires the commission to conduct a public hearing on the petition not later than 60 days after receiving the petition. Requires the commission to make findings and a recommendation to grant or deny the petition not later than ten days after the public hearing. Requires the legislative body of the unit to grant or deny the petition not later than 45 days after receiving the petition from the commission. Provides that the legislative body may adopt an ordinance granting a petition by: (1) a majority vote, if the recommendation of the commission is to grant the petition; or (2) by a two-thirds vote, if the recommendation of the commission is to deny the petition. Provides that if the legislative body does not act upon the petition within the 45 day period, the petition is considered granted or denied in accordance with the recommendation of the commission. Provides that if a petition is granted, the legislative body must adopt an ordinance to remove the designation of the historic district and record the ordinance with the county recorder. Provides that the designation of the historic district is considered removed on the date the ordinance is recorded with the county recorder.

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**Effective:** July 1, 2013.

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January 7, 2013, read first time and referred to Committee on Local Government.

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First Regular Session 118th General Assembly (2013)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2012 Regular Session of the General Assembly.

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## SENATE BILL No. 4



A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-7-11-23 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2013]: **Sec. 23. (a) This section provides the exclusive method for**  
4 **removing the designation of a historic district. The owner or**  
5 **owners of a building, structure, or site designated as a single site**  
6 **historic district may sign and file a petition with the legislative**  
7 **body of the unit requesting removal of the designation of the**  
8 **building, structure, or site as a historic district. In the case of a**  
9 **historic district containing two (2) or more parcels, at least**  
10 **fifty-one percent (51%) of the owners of the real property of the**  
11 **historic district may sign and file a petition with the legislative**  
12 **body of the unit requesting removal of the designation of the**  
13 **historic district.**

14 (b) The legislative body shall submit a petition filed under  
15 subsection (a) to the historic preservation commission of the unit.  
16 The historic preservation commission shall conduct a public  
17 hearing on the petition not later than sixty (60) days after receiving



1 the petition. The historic preservation commission shall provide  
2 notice of the hearing:

- 3 (1) by publication under IC 5-3-1-2(b);
- 4 (2) in the case of a historic district comprised of real property  
5 owned by fewer than fifty (50) property owners, by certified  
6 mail, at least ten (10) days before the hearing, to each owner  
7 of real estate within the historic district; and
- 8 (3) in the case of a single building, structure, or site designated  
9 as a historic district, by certified mail, at least ten (10) days  
10 before the hearing, to each owner of the real estate abutting  
11 the building, structure, or site designated as a historic district  
12 that is the subject of the petition.

13 (c) The historic preservation commission shall make the  
14 following findings after the public hearing:

- 15 (1) Whether a building, structure, or site within the historic  
16 district continues to meet the criteria for inclusion in a  
17 historic district as set forth in the ordinance approving the  
18 historic district map under section 7 of this chapter. The  
19 determination must state specifically the criteria that are  
20 applicable to the buildings, structures, or sites within the  
21 district.
- 22 (2) Whether failure to remove the designation of the historic  
23 district would deny an owner of a building, structure, or site  
24 within the historic district reasonable use of the owner's  
25 property or prevent reasonable economic return. Evidence  
26 provided by the petitioner may include information on:
  - 27 (A) costs to comply with regulations;
  - 28 (B) income generation;
  - 29 (C) availability of contractors to perform work;
  - 30 (D) real estate values;
  - 31 (E) assessed values and taxes;
  - 32 (F) revenue projections;
  - 33 (G) current level of return;
  - 34 (H) operating expenses;
  - 35 (I) vacancy rates;
  - 36 (J) financing issues;
  - 37 (K) efforts to explore alternative uses for a property;
  - 38 (L) availability of economic incentives; and
  - 39 (M) recent efforts to sell or rent property.
- 40 (3) Whether removal of the designation of a historic district  
41 would have an adverse economic impact on the owners of real  
42 estate abutting the historic district, based on testimony and

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1 evidence provided by the owners of the real estate and  
2 licensed real estate appraisers or brokers.

3 (4) Whether failure to remove the designation of the historic  
4 district would have an adverse impact on the unit's historic  
5 resources, and specifically whether it would result in the loss  
6 of a building, structure, or site classified as historic by the  
7 commission's survey prepared under section 6 of this chapter.

8 (d) Not later than ten (10) days after the public hearing, the  
9 historic preservation commission shall submit:

10 (1) its findings on the petition; and

11 (2) a recommendation to grant or deny the petition;

12 to the legislative body of the unit.

13 (e) Not later than forty-five (45) days after receiving the historic  
14 preservation commission's findings, the legislative body of the unit  
15 shall do one (1) of the following:

16 (1) Deny the petition.

17 (2) Grant the petition by adopting an ordinance that removes  
18 the designation of the historic district by:

19 (A) a majority vote, if the recommendation of the historic  
20 preservation commission is to grant the petition; or

21 (B) a two-thirds (2/3) vote, if the recommendation of the  
22 historic preservation commission is to deny the petition.

23 The legislative body shall record an ordinance adopted under  
24 subdivision (2) with the county recorder not later than ten (10)  
25 days after the legislative body adopts the ordinance. The historic  
26 district designation is considered removed on the date the  
27 ordinance is recorded with the county recorder.

28 (f) If the legislative body of the unit does not grant or deny the  
29 petition within forty-five (45) days after receiving the historic  
30 preservation commission's findings:

31 (1) the petition is considered granted or denied in accordance  
32 with the recommendation of the historic preservation  
33 commission; and

34 (2) if the petition is considered granted, the legislative body  
35 shall, not later than fifty-five (55) days after receiving the  
36 historic preservation commission's findings:

37 (A) adopt an ordinance that removes the designation of the  
38 historic district; and

39 (B) record the ordinance with the county recorder.

40 The historic district designation is considered removed on the date  
41 the ordinance is recorded with the county recorder.

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