

TESTIMONY
OF
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MAINE HISTORIC PRESERVATION COMMISSION

Before the Joint Standing Committee on Education and Cultural Affairs

April 10, 2025

LD 1282: *"An Act Regarding Eligibility for Historic Preservation Bond Proceeds"*

Senator Rafferty, Representative Murphy, and Members of the Joint Standing Committee on Education and Cultural Affairs, my name is Kirk Mohney, and I am the Director of the Maine Historic Preservation Commission. I am here today to present testimony neither for nor against LD 1282.

In 1985 the Maine Legislature established a program of state financed grants for the stabilization and restoration of historic buildings that had to be listed in the National Register of Historic Places. The administration of that program was entrusted to the Maine Historic Preservation Commission (Commission), which wrote rules to implement it. Since the program's inception, whenever state funds became available for the restoration of historic buildings, such as in 1985 or through funding of the New Century Community Program, grants were awarded by the Commission to National Register listed properties.

LD 1282 seeks to expand the pool of properties in Maine that would potentially qualify now and in the future for state funded preservation and restoration grants, including those funded by the \$10 million dollar bond passed by voters last November; **the first such bond in thirty-nine years that is designated exclusively for the restoration and preservation of Maine's historic buildings.** The Commission has been entrusted with the distribution of these finite public resources, and we take this responsibility very seriously.

The Commission's consideration of the administrative support that would be required for the grant program, as well as the development of the program parameters and schedule was

predicated in part on a general idea of the number of properties listed in the National Register that might qualify. LD 1282 will increase the number of properties eligible for the program by an unknown quantity: it will delay its implementation due to the necessity of going through the rule-making process; and it will impose additional administrative burdens.

The amended language uses terms that will need to be defined either in statute or in rule:

1. What constitutes a “municipal historic preservation ordinance”?
2. What is the definition of an “historic property”?
3. What is the process by which a municipality designates a “historic property”?

What follows in my written testimony which, being mindful of the time I will not read, explains how the Commission would address these questions in the program rules if this bill is enacted.

Thank you for the opportunity to present information to you about the state funded program for preservation and restoration grants.

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What is a historic preservation ordinance (HPO)?

- Is this a general term for a group of ordinances/planning tools that are associated with the general goals of historic preservation including demolition delay ordinances, and design review ordinances? Or is it a specific term with criteria? **The Commission defines it as the latter.**
- Is a Historic Resource Overlay district established in ordinance an HPO? **Establishing a district through ordinance or zoning overlay may be a component of an HPO but in and of itself it does not constitute an HPO.**

- HPOs typically have the following components:
 - a. **Statement of purpose.** The ordinance should clearly state its public purpose.
Although historic preservation on its own is a legitimate goal, many jurisdictions have found it politically and legally necessary to link historic preservation to broader community objectives. The ordinance’s definitions should be easy-to-understand explanations for technical terms to avoid confusion over concepts that might not be easily understood.
 - b. **Creation of a preservation commission.** The ordinance should spell out the commission’s position within local government, the number of members, member qualifications, their terms of office, and the number of members required for a quorum.
 - c. **Powers and duties of the commission.** The ordinance should state everything the preservation commission will have the authority to do. It should also outline the nature of the commission’s decisions, whether required or recommended.
 - d. **Criteria for designating historic properties (districts and landmarks).** The ordinance should establish objective and relevant criteria for designating districts and landmarks. Typically, municipal HPOs use criteria that are similar to the following:
 - A property has an association with an important local event or pattern of history (some ordinances include an association with state, regional and national events or patterns of history); or
 - A property is associated with an important person; or
 - A property has significance for its design, or in the case of a historic district the individual properties collectively have design significance; or
 - A property has significant archaeological values.

In addition to having significance under one or more of the above criteria, a property should also retain most if not all of the physical characteristics that it possessed during the time period when it achieved significance. Any “historic” building should also retain historic materials that lend it authenticity, in contrast to a building whose

modern replacement exterior materials and interior finishes do not convey its historic appearance and design.

- e. **Procedures for historic landmark and district designation.** The ordinance should explain who can nominate properties for designation; how and when affected property owners are notified; how many public hearings there are; who must approve designations; and what the timetable for these actions is.
- f. **Procedures and standards for reviewing alterations and demolitions.** The ordinance should articulate what types of changes are subject to review by the commission. In addition, it should fully explain the standards, guidelines, and process of review.
- g. **How and when to determine economic hardship.** This portion of an ordinance is its “safety valve.” It sets forth the process and criteria to be used in determining whether an ordinance imposes an economic hardship on an owner.
- h. **Penalties.** The ordinance should be enforced to be effective.
- i. **Appeal process.** The ordinance should spell out a process for appealing decisions rendered by the commission or governing body. An appeals provision helps ensure that a citizen’s right to due process is not diminished.