

By Mr. Benson of Greenfield, petition of Michael Joseph Connolly, Angelo Marotta, Salvatore F. DiMasi, Lucile P. Hicks, Robert D. Wetmore and William D. Benson relative to the preservation of historic homesteads. State Administration.

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**The Commonwealth of Massachusetts**

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In the Year One Thousand Nine Hundred and Eighty-Two.

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AN ACT AMENDING HISTORIC PRESERVATION LEGISLATION.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 26 of Chapter 9, as most recently amend-  
2 ed by Section 1 of Chapter 216 of the Acts of 1978, is hereby further  
3 amended by inserting after the fifth sentence the following: — The  
4 commission shall encourage all governmental bodies and persons  
5 considering action which may affect a historical or archeological  
6 asset of the commonwealth to consult with the commission to  
7 avoid any adverse effect to such asset.

1 SECTION 2. Paragraph one of Section 26A of Chapter 9, as  
2 most recently amended by Section 2 of Chapter 1155 of the Acts of  
3 1973, is hereby further amended by striking the following: — “be  
4 made available to such private organizations, agencies, and politi-  
5 cal subdivisions of the commonwealth as the State Archeologist  
6 deems appropriate.” and inserting in place thereof the following  
7 words: — “not be a public record.”

1 SECTION 3. The first paragraph of section 26B of chapter 9 of  
2 the General Laws as most recently amended by chapter 706 acts of  
3 1975 is hereby further amended by striking the first sentence and  
4 inserting the following sentence: — The following definitions shall  
5 apply to section twenty-six A and to sections twenty-six C to  
6 twenty-seven C, inclusive:

1 SECTION 4. The first paragraph of section 26b of chapter 9 of  
2 the General Laws as most recently amended by chapter 706 acts of  
3 1975 is hereby further amended by inserting after the words "twen-  
4 ty-seven C, inclusive:" the following definitions: — "Adverse ef-  
5 fect", (1) the destruction or alteration of all or part of a site, (2) the  
6 isolation or alteration of a site's surrounding environment, (3) the  
7 introduction of visual, audible or atmospheric elements that are  
8 out of character with the site or alter its setting, (4) the neglect of a  
9 site resulting in deterioration or destruction, or (5) the transfer or  
10 sale of the site without adequate conditions or restrictions regard-  
11 ing preservation, maintenance or use. "Effect", any change in the  
12 integrity of the location, design, setting, material, workmanship,  
13 feeling or association of the site.

1 SECTION 5. Section 26B of chapter 9 of the General Laws as  
2 most recently amended by chapter 706 acts of 1975 is hereby  
3 further amended by striking out the definition of "site" and insert-  
4 ing in place thereof the following definition: — "Site", any build-  
5 ing, structure, district or area including those underground, that is  
6 fifty years old or more and significant in the history, archeology,  
7 architecture or culture of the nation, the commonwealth or its  
8 communities.

1 SECTION 6. Section 26B of chapter 9 of the General Laws as  
2 most recently amended by chapter 706 acts of 1975 is hereby  
3 further amended by striking out in the final sentence the words  
4 "one hundred and".

1 SECTION 7. Chapter 9 of the Generala Laws is hereby amend-  
2 ed by inserting after section 26B the following new section: —

3 *Section 26C.* The commission shall establish and maintain a  
4 state register of historic places, known as the state register. The  
5 state register shall contain the following properties: (1) all districts,  
6 sites, buildings, or objects determined eligible for listing or listed in  
7 the National Register of Historic Places; (2) all local historic dis-  
8 tricts established pursuant to chapter 40C or a special act; (3) all  
9 landmarks designated under local ordinance or by-law; (4) all

10 structures and sites subject to a preservation easement approved or  
11 held by the commission pursuant to G.L. c. 184, § 32; and (5) all  
12 historical or archeological landmarks certified pursuant to section  
13 27 of chapter 9. The commission shall periodically update the state  
14 register.

1 SECTION 8. Section 27C of chapter 9 of the General Laws, as  
2 most recently amended by chapter 706 acts of 1975 is hereby  
3 further amended by inserting at the beginning of the section the  
4 following paragraph: —

5 As early as possible in the planning process of any project  
6 undertaken by any agency, executive office, department, board,  
7 commission, bureau, division or authority of the commonwealth  
8 or of any authority established by the general court to serve a  
9 public purpose and prior to such state body funding, licensing or  
10 approving any private project, such state body shall determine if  
11 the project will affect any property listed on the state register of  
12 historic places. If the project affects a listed property, the state  
13 body shall so notify the commission. Within thirty days of receiv-  
14 ing notification, the commission shall determine if the project will  
15 adversely affect a listed property, and shall send an advisory report  
16 to the state body describing and documenting its findings. If the  
17 commission does not notify the state body within thirty days, the  
18 state body may proceed with the project.

19 If the commission finds that the project will adversely affect a  
20 listed property, the commission and the state body shall meet to  
21 discuss alternatives to the project and means of mitigating any  
22 adverse effect. The state body, in implementing its final plans, shall  
23 adopt all prudent and feasible measures that eliminate or mitigate  
24 the adverse effect.

25 The commission may enact any rules and regulations it deems  
26 necessary for the furtherance of this provision.

