

[First Reprint]
SENATE, No. 579

STATE OF NEW JERSEY

INTRODUCED JANUARY 29, 1996

By Senator SCHLUTER

1 AN ACT concerning historic places and amending P.L.1970, c.268.

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3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

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6 1. Section 4 of P.L.1970, c.268 (C.13:1B-15.131) is amended to
7 read as follows:

8 4. ¹a. ¹The State, a county, or a municipality, or [an] any agency
9 or instrumentality [of any] thereof, shall not undertake any project
10 [which] that will encroach upon, damage or destroy any area, site,
11 structure or object included in the Register of Historic Places without
12 application to, and the prior written authorization or consent of, the
13 Commissioner of Environmental Protection. The commissioner shall
14 solicit the advice and recommendations of the Historic Sites Council
15 in connection with any such application ¹[and [may] shall direct the
16 conduct of a public hearing or hearings thereon within 120 days of
17 receiving the application and prior to granting or denying authorization
18 or consent]¹. ¹An applicant shall provide written notice, by certified
19 mail, to all affected local government units, any agencies or
20 instrumentalities thereof concerned with historic preservation, and any
21 recognized organization concerned with historic preservation in the
22 State and in the affected municipality that an application has been
23 submitted to the commissioner for authorization or consent as required
24 pursuant to this section. The written notice shall contain a statement
25 that indicates that the entity receiving the notice or any person may
26 request, in writing, that the commissioner conduct a public hearing or
27 hearings on the encroachment application. If the commissioner
28 receives a written request for a public hearing from such an entity or
29 from at least three persons, the commissioner shall conduct a public
30 hearing or hearings on the encroachment application. If the
31 commissioner does not receive a written request for a public hearing

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AEG committee amendments adopted January 23, 1997.

1 from such an entity or from at least three persons, the commissioner
2 may, on the commissioner's own initiative, conduct a public hearing or
3 hearings on the encroachment application or determine that a public
4 hearing is unnecessary.¹

5 Preference shall be given to holding the public hearing or hearings
6 in the municipality wherein the area, site, structure or object included
7 in the Register of Historic Places that would be affected by the
8 application is located, or in a municipality as close thereto as can
9 reasonably be arranged. The commissioner shall provide at least 10
10 days notice of any such public hearing to all affected local government
11 units, any agencies or instrumentalities thereof concerned with historic
12 preservation, and any recognized organization concerned with historic
13 preservation in the State and in the affected municipality.

14 The commissioner shall adopt, pursuant to the "Administrative
15 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
16 regulations necessary to implement the public hearing and notice
17 requirements of this section.

18 ¹b.¹ The failure of the commissioner to authorize, consent or deny
19 any such ¹encroachment¹ application ¹submitted pursuant to this
20 section¹ within 120 days of application therefor shall constitute ¹[his]
21 the commissioner's¹ consent thereto. ¹However, notwithstanding the
22 provisions of this subsection to the contrary, if a public hearing or
23 hearings is held, as provided pursuant to subsection a. of this section,
24 on or after the 90th day of that 120-day period, the commissioner shall
25 have 30 days after the date of the last such hearing within which to
26 authorize, consent or deny the encroachment application, or failure to
27 do so shall constitute the commissioner's consent thereto.¹

28 (cf: P.L.1970, c.268, s.4)

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30 2. This act shall take effect immediately.

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35 Requires public hearing and notification to certain entities in certain
36 cases prior to allowing governmental encroachment upon historic
37 places.