

Hon. Sara C. Bronin
Chair

Jordan E. Tannenbaum
Vice Chairman

Reid J. Nelson
Executive Director



February 9, 2024

The Honorable Kathleen Passidomo, President
Florida Senate
The Capitol
404 South Monroe Street
Tallahassee, FL 32399

The Honorable Paul Renner, Speaker
Florida House of Representatives
420 The Capitol
402 South Monroe Street
Tallahassee, FL 32399

Dear President Passidomo and Speaker Renner:

Among its duties, the federal Advisory Council on Historic Preservation (ACHP) has been tasked by Congress with advising state and local legislators, and the general public, on pending state and local laws that may affect historic preservation. The National Historic Preservation Act created the ACHP, charged the agency with advising the President and Congress on historic preservation matters, and authorized the ACHP to advise on state and local legislation. In the latter capacity, the ACHP offers the following comments on the proposed Resiliency and Safe Structures Act (SB 1526/HB 1647), legislation that would have severe and irreparable consequences for Florida's coastal heritage.

Resiliency

Demolition is not the only resiliency option for nonconforming buildings. The bill would prevent local governments from prohibiting or restricting demolition of existing buildings that do not meet the base flood elevation requirements for new construction issued by the National Flood Insurance Program (NFIP). This provision would apply to the many historic buildings that are not exempted under the bill. However, the NFIP actually recognizes the importance of retaining historic buildings where possible because of their unique contributions to the character and economic vitality of local communities. NFIP guidance allows for variances to program requirements for the rehabilitation of historic buildings to help preserve their historic character, while at the same time encouraging flood mitigation measures for historic buildings to minimize the impacts of flooding.¹ Likewise, the Secretary of the Interior has issued guidelines on flood adaptation for rehabilitating historic buildings.²

This federal policy and guidance reflect the reality that historic buildings can be made more resilient to coastal flooding, with how best to do so worked out through case-by-case consultation and review. Blanket demolition approval of nonconforming buildings is not needed and would inevitably lead to the unnecessary loss of historic buildings important to residents of coastal Florida.

¹ [National Flood Insurance Program Floodplain Management Bulletin on Historic Structures](#) (FEMA P-467-2, May 2008). [Variances and the National Flood Insurance Program](#) (FEMA P-993, July 2014). [Floodproofing Non-Residential Buildings](#) (FEMA P-936, July 2013).

² [The Secretary of the Interior's Guidelines on Flood Adaptation for Rehabilitating Historic Buildings](#) (National Park Service, 2021).

Safety

Demolition is not the only option for buildings deemed unsafe by local building officials. The bill would prevent local governments from prohibiting or restricting demolition of buildings that local building officials determine are “unsafe.” However, the bill does not acknowledge that buildings may be determined to be unsafe for many reasons, ranging from code violations that can be fixed relatively easily to imminent structural failure. This provision would apply to the many historic buildings that are not exempted under the bill, despite the fact that there are countless examples in Florida and across the country of code deficiencies in historic buildings being successfully resolved through case-by-case consultation and review, even in buildings with major structural issues. Wholesale demolition approval of “unsafe” buildings is not needed and would result in the completely avoidable loss of historic buildings that help define the coastal communities of Florida.

Exemption for Historic Properties

The full range of historic properties—designated at the national, state, and/or local levels—merit exemption from unrestricted demolition. The ACHP applauds inclusion in the bill of the addition of an exemption for certain historic buildings. Unfortunately, however, the bill’s exemption applies only to a subset of nationally designated buildings. As detailed below, Florida contains many other buildings recognized as historic by federal, state, and/or local governments that likewise merit exemption.

- The bill would exempt individual historic buildings listed on the National Register of Historic Places and contributing buildings in National Register-listed historic districts. However, in lieu of being listed on the National Register, historic buildings and districts also can be determined eligible for listing. For the purposes of many federal programs (including the NFIP), National Register-eligible buildings and districts are treated the same for policy and program purposes as listed properties. Consistency suggests that National Register-eligible properties also be exempted under the bill.
- The bill’s exemption for historic districts applies only to those designated before January 1, 2000. This provision appears to suggest that any district worthy of National Register recognition would already have been designated 24 years ago. However, this simply is not the case. More than 125 historic districts in Florida have been listed on the National Register since that date. Establishing a cutoff date is not consistent with the fact that the National Register is an evolving list, with the ongoing potential for identification of new historic districts by virtue of the passage of time and changing perceptions of historic significance.
- The bill does not exempt historic buildings designated by the State of Florida and/or local municipalities. Historic buildings are designated as part of a tiered system at the national, state, and/or local levels. It is very important to note that the tiers do not necessarily equate to relative significance, and that state and/or locally designated historic buildings are not necessarily less worthy of protection than nationally designated ones. Not exempting state and/or locally designated historic buildings under the bill will put at risk a large number of important historic buildings. They deserve the same protection offered by the bill’s exemption provision to National Register-listed and eligible buildings.

Preventing local communities from prohibiting or restricting demolition of locally designated historic buildings in their communities could potentially have unintended consequences for federal funding support for local historic preservation programs. Local governments that establish and implement historic preservation ordinances in accordance with federal and state standards can be

designated as Certified Local Governments (CLGs) and become eligible to compete annually for federal historic preservation grant funding. Florida currently has 85 CLGs. However, since the bill does not exempt locally designated historic buildings from the prohibition on local governments preventing or restricting demolitions, the bill conflicts with the responsibilities of CLGs to support preservation of historic properties through implementation of their local preservation ordinances. The National Park Service administers the CLG program, not the ACHP, so we cannot speak authoritatively on the impact this inconsistency might have on the participation of Florida CLGs in the CLG program, but we feel it important to flag the issue for consideration.

In conclusion, based on the issues discussed above, the ACHP urges reconsideration of the scope of the Resiliency and Safe Structures Act as it applies to historic properties. Florida's historic buildings are important for so many reasons. They are physical manifestations of the state's rich history, improve the quality of life for residents, and play an important role in tourism to the state. There are viable options to demolition to ensure that historic buildings are resilient in the face of climate impacts and safe for continued use by residents and visitors. And all the state's historic buildings—whether designated at the national, state, and/or local level—deserve the protection afforded by local governments being able to shape the future of those properties in their communities.

The ACHP would be happy to meet to discuss these issues further or provide other additional feedback. Please feel free to contact me if the ACHP can be of any assistance during further consideration of the Resiliency and Safe Structures Act. In addition, your staffs may wish to follow up with ACHP Executive Director Reid Nelson at rmelson@achp.gov. Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sara C. Bronin', with a long horizontal flourish extending to the right.

Sara C. Bronin
Chair