

Department of Legislative Services
Maryland General Assembly
2025 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1255

(Delegates McComas and Buckel)

Environment and Transportation

Education, Energy, and the Environment

Land Use - Historic Preservation Commission - Right of Appeal

This bill, under Title 8 of the Land Use Article, authorizes a local jurisdiction to authorize any person aggrieved by a decision of a local historic preservation commission or historic district commission to appeal the decision to the board of appeals of the local jurisdiction, the appropriate circuit court, or both. The bill's authorization is in addition to an existing right for such a person to appeal the decision in the manner provided for an appeal from the decision of the local jurisdiction's planning commission.

Fiscal Summary

State Effect: The bill does not materially affect State finances.

Local Effect: The bill does not materially affect local government finances.

Small Business Effect: Minimal.

Analysis

Current Law:

Local Historic Preservation

Under Title 8 (Historic Preservation) of the Land Use Article (within Division I of the article), local jurisdictions are given certain powers to preserve historically significant sites, structures, and districts, including the ability to designate boundaries for sites, structures, or districts that are considered to be of historic, archeological, or architectural significance by following procedures applicable to local zoning. Before a person may make exterior

changes to a site or structure within a designated district which would affect the historic, archeological, or architectural significance of the site or structure, any portion of which is visible or intended to be visible from a public way, an application must be filed with the historic preservation (or district) commission for approval or rejection before beginning the project.

Title 8 applies directly to commission counties and municipalities that exercise planning and zoning authority (see this Department of Legislative Services [fact sheet](#) regarding application of provisions of Division I of the Land Use Article). However, under the Express Powers Act (Title 10 of the Local Government Article), charter and code counties are authorized to enact laws for historic and landmark zoning and preservation (1) generally; (2) in accordance with Title 8 of the Land Use Article; or (3) to be administered generally by a historic district commission. Such a law may provide for appeals or judicial review. Baltimore City is separately authorized, under Title 10 (Baltimore City Zoning) of the Land Use Article, to enact laws for historic and landmark zoning and preservation.

Appeal of a Commission Decision under Title 8

Section 8-308, under Title 8 of the Land Use Article, authorizes any person aggrieved by a decision of a historic preservation (or district) commission to appeal the decision in the manner provided for an appeal from the decision of the planning commission of the local jurisdiction.

Local Board of Appeals – and – Circuit Court Review

Under Title 4 (Zoning) of the Land Use Article (within Division I), § 4-305 authorizes a board of appeals to, among other things, hear and decide appeals when it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer or unit under Division I or of any local law adopted under the division.

In addition, § 4-406 authorizes a local legislative body to allow judicial review by the circuit court of any matter arising under the planning and zoning laws of the local jurisdiction.

Additional Comments: In a 1982 opinion, the Attorney General advised the Town of Easton that, in a jurisdiction that had created a historic district commission (under a provision of Article 66B that has since been recodified under Title 8 of the Land Use Article), § 4.07(d) of Article 66B (since recodified as § 4-305 of the Land Use Article) gave the local board of appeals the power to hear and decide appeals from decisions of the historic district commission. *67 Md. Op. Att'y Gen.* 409 (1982). The opinion also advised

that § 4.08(f) of Article 66B (since recodified as § 4-406 of the Land Use Article) allowed a local legislative body to provide an alternative right of appeal of local historic district commission decisions directly to the circuit court.

Chapter 426 of 2012, which recodified Article 66B under the Land Use Article, included a revisor's note regarding § 8-308 of the Land Use Article that read:

The Land Use Article Review Committee notes, for consideration by the General Assembly, that under this section it is unclear: (1) whether an appeal is always available through the local board of appeals; (2) whether a local jurisdiction may divest an applicant of the opportunity to appeal to the local board of appeals rather than seeking judicial review; and (3) who bears the costs of an action in direct judicial review compared with consideration by the board of appeals. The committee recommends establishing a clear appellate path for these matters, indicating whether or not there is a local option or requirement to proceed through the local board of appeal, or whether direct judicial review is always available.

Additional Information

Recent Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Baltimore City; Harford, Montgomery, and Wicomico counties; Maryland Association of Counties; Maryland-National Capital Park and Planning Commission; Maryland Municipal League; Town of Bel Air; Maryland Department of Planning; Department of Legislative Services

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