

EASEMENT LANGUAGE INCLUDED IN PENSION BILL

August 4, 2006 - Late in the evening on August 3, the Senate passed H.R.4, the “Pension Protection Act of 2006” that included “general reforms” proscribing changes to the conservation easement program in historic districts. Easement-related changes within the bill:

- 1) When easements are granted in historic districts, the entire exterior of a given property is covered by the easement and restricted from changes inconsistent with the historic character of the property. The easement restricts changes to the front, sides and rear of a building, including changes in building height.
- 2) After the legislation is enacted, the taxpayer/easement donor includes the following in their tax return for the taxable year of the contribution:
 - a. A qualified appraisal
 - b. Photographs of the entire exterior of the building
 - c. A description of all restrictions on the development of the building
- 3) Deductions for structures and land in registered historic districts are disallowed
- 4) A \$500 filing fee is required for easement contributions in excess of \$10,000

These changes reflect bills proposed in the House and Senate last year. The new bill includes one surprise – a reduction in the easement deduction when the federal rehabilitation tax credit is used in the same project. Preservation Action is looking into how this amendment came into being and is gaining insights on the finer points of the reduction. Stay tuned for more details.

The bill was introduced in the House on July 28th and approved in a 279-131 vote the same day. The Senate did not amend the House bill, and passed the legislation in a 93 – 5 vote. The measure now moves to the White House for final approval.