

1 SB127  
2 204202-2  
3 By Senator Allen  
4 RFD: Governmental Affairs  
5 First Read: 04-FEB-20

1  
2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, the Alabama Memorial  
9 Preservation Act of 2017 prohibits architecturally  
10 significant buildings, memorial buildings, memorial  
11 streets, or monuments that are located on public  
12 property, and have been so situated for 40 or more  
13 years, from being relocated, removed, altered,  
14 renamed, or otherwise disturbed and provides  
15 penalties for violations.

16 This bill would include architecturally  
17 significant buildings, memorial buildings, memorial  
18 streets, or monuments, that have been so situated  
19 for 40 or more years, under the jurisdiction of the  
20 Committee on Alabama Monument Protection.

21 This bill would also revise the penalties  
22 for violations.

23  
24 A BILL  
25 TO BE ENTITLED  
26 AN ACT  
27

1           To amend Sections 41-9-232 and 41-9-235, Code of  
2 Alabama 1975, relating to the Alabama Memorial Preservation  
3 Act of 2017; to expand the jurisdiction of the Committee on  
4 Alabama Monument Protection to include architecturally  
5 significant buildings, memorial buildings, memorial streets,  
6 or monuments, that have been so situated for 40 or more years;  
7 and to revise penalties for violations.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9           Section 1. Sections 41-9-232 and 41-9-235, Code of  
10 Alabama 1975, are amended to read as follows:

11           "§41-9-232.

12           "(a) No architecturally significant building,  
13 memorial building, memorial street, or monument which is  
14 located on public property and has been so situated for 40 or  
15 more years may be relocated, removed, altered, renamed, or  
16 otherwise disturbed except as provided in Section 41-9-235.

17           "(b) No architecturally significant building,  
18 memorial building, memorial street, or monument which is  
19 located on public property and has been so situated for at  
20 least 20 years, and less than 40 years, may be relocated,  
21 removed, altered, renamed, or otherwise disturbed except as  
22 provided in Section 41-9-235.

23           "(c) No memorial school which is located on public  
24 property and has been so situated for 20 or more years may be  
25 renamed except as provided in Section 41-9-235.

26           "§41-9-235.

1           "(a) (1) Any entity exercising control of public  
2 property on which an architecturally significant building,  
3 memorial building, memorial school, memorial street, or  
4 monument is located may petition the committee for a waiver  
5 from subsection (a), subsection (b), or subsection (c) of  
6 Section 41-9-232 through an application including, at a  
7 minimum, all of the following:

8           "a. A resolution by the controlling entity seeking a  
9 waiver for the renaming of a memorial school or for the  
10 relocation, removal, alteration, renaming, or other  
11 disturbance of the architecturally significant building,  
12 memorial building, memorial street, or monument and the  
13 reasons therefor.

14           "b. Written documentation of the origin of the  
15 architecturally significant building, memorial building,  
16 memorial school, memorial street, or monument, the intent of  
17 the sponsoring entity at the time of dedication, and any  
18 subsequent alteration, renaming, or other disturbance of the  
19 architecturally significant building, memorial building,  
20 memorial street, or monument.

21           "c. Written commentary from any heritage,  
22 historical, genealogical, or preservation organizations with  
23 interest in the decision of the controlling entity, and from  
24 the general public.

25           "d. A written statement of any facts that were not  
26 known at the time of the origin of the architecturally  
27 significant building, memorial building, memorial school,

1 memorial street, or monument, but are known now, that the  
2 committee should consider in granting the waiver. The absence  
3 of such facts should serve as a presumption against the  
4 granting of a waiver by the committee.

5 "(2) A petition for a waiver to relocate, remove,  
6 alter, rename, or otherwise disturb an architecturally  
7 significant building, memorial building, memorial school,  
8 memorial street, or monument that has been so situated for 40  
9 or more years, as provided in subsection (a) of Section  
10 41-9-232, shall raise a rebuttable presumption against the  
11 relocation, removal, alteration, renaming, or disturbance.

12 ~~"(2)(a)~~ (3) If the committee grants a waiver, the  
13 committee may provide reasonable conditions and instructions  
14 to ensure that the architecturally significant building,  
15 memorial building, memorial school, memorial street, or  
16 monument is restored or preserved to the greatest extent  
17 possible.

18 "(b) In the event there is a need for emergency  
19 repairs or construction at the site of or to the  
20 architecturally significant building, memorial building,  
21 memorial street, or monument or on adjacent property, the  
22 controlling entity may temporarily relocate or otherwise  
23 protect the architecturally significant building, memorial  
24 building, memorial street, or monument without seeking a  
25 waiver under the process provided in this section; provided  
26 the architecturally significant building, memorial building,  
27 memorial street, or monument shall be returned to its prior

1 location or condition, or both, as soon as safely and  
2 reasonably possible, and no later than one year after the  
3 completion of the repair or construction. If the repair or  
4 construction is expected to take more than one year, the  
5 controlling entity shall seek a waiver under the process  
6 specified in this section.

7 "(c) If the committee fails to act on a completed  
8 application for a waiver within 90 days after the application  
9 is submitted to the committee, the waiver shall be deemed  
10 granted.

11 "(d) If the Attorney General determines that an  
12 entity exercising control of public property has renamed a  
13 memorial school or has relocated, removed, altered, renamed,  
14 or otherwise disturbed an architecturally significant  
15 building, memorial building, memorial street, or monument from  
16 that public property without first obtaining a waiver from the  
17 committee as required by this article, or failed to comply  
18 with the conditions and instructions issued by the committee  
19 upon the grant of a waiver pursuant to this section, the  
20 entity shall be fined ~~twenty-five thousand dollars (\$25,000)~~  
21 ten thousand dollars (\$10,000) for each day that the violation  
22 continues and until the original name of the memorial school  
23 has been restored or the architecturally significant building,  
24 memorial building, memorial street, or monument has been  
25 restored to its original condition. The fine shall be  
26 collected by the Attorney General, forwarded by his or her

1 office to the State Treasurer, and deposited into the Alabama  
2 State Historic Preservation Fund created in Section 41-9-255.

3 "(e) Judicial review of the final decision of the  
4 committee may be sought pursuant to the Alabama Administrative  
5 Procedure Act, Chapter 22 of this title."

6 Section 2. This act shall become effective  
7 immediately following its passage and approval by the  
8 Governor, or its otherwise becoming law.