

HB128 INTRODUCED



1 HB128
2 R6UBYNN-1
3 By Representative Gidley
4 RFD: Urban and Rural Development
5 First Read: 06-Feb-24



4 SYNOPSIS:

5 Under existing law, a municipal historic
6 preservation commission may recommend the designation
7 of historic properties and historic districts within
8 the territorial jurisdiction of the municipality.

9 Also under existing law, municipal historic
10 preservation commissions may not designate certain
11 highways, roads, streets, bridges, and utility
12 structures as historic properties and districts.

13 This bill would define the term "place of
14 worship" and would prohibit a municipal historic
15 preservation commission from designating a place of
16 worship as a historic property or historic district.

17 This bill would authorize a place of worship to
18 voluntarily agree to be designated as a historic
19 property or historic district.

20 This bill would retroactively exempt places of
21 worship from municipal historic designation and would
22 authorize a place of worship that was previously
23 designated as a historic property or historic district
24 to agree to that designation.

25 This bill would also make nonsubstantive,
26 technical revisions to update the existing code
27 language to current style.
28



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A BILL

TO BE ENTITLED

AN ACT

Relating to historic preservation; to amend Section 11-68-15, Code of Alabama 1975, and to add Section 11-68-16 to the Code of Alabama 1975; to prohibit a municipal historic preservation commission from designating a place of worship as a historic property or historic district; to define the term "place of worship"; to authorize a place of worship to agree to be designated as a historic property or district; to provide for retroactivity; and to make nonsubstantive, technical revisions to update the existing code language to current style.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 11-68-15, Code of Alabama 1975, is amended to read as follows:

"§11-68-15

(a) (1) ~~The provisions of this~~ This chapter ~~shall~~ does not apply to ~~a~~ any highway, road, street, bridge, or utility structure or facility, ~~nor to any highway, road, street, bridge, or utility structure or facility to be constructed or improved, including any property, building or other structure or facility to be changed, moved, demolished, acquired, or utilized in connection therewith,~~ lying or running within any



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municipality, county, ~~or county, or within an~~ historic district, or ~~an~~ area designated as historic properties under this chapter, nor to actions taken in connection therewith by public authorities or utilities charged with responsibility of constructing, maintaining, repairing, or improving any such highway, road, street, bridge, or utility structure or facility, ~~including any property, building, or other structure or facility to be changed, moved, demolished, acquired, or utilized in connection therewith; provided further, however, that where.~~

(2) For the purposes of this section, the term "utility structure or facility" includes any property, building, or other structure or facility to be changed, moved, demolished, acquired, or utilized in connection with the utility structure or facility.

(b) Pursuant to Section 11-68-16, this chapter shall not apply to places of worship.

(c) (1) Where property lying within an area designated as historic properties or as ~~an~~ a historic district, ~~pursuant to the provisions of this chapter~~ is sought to be utilized or acquired by any ~~such~~ public authority for the purpose of construction or improvement of a highway, road, bridge, utility structure or facility, or street, and ~~the provisions and requirements of~~ Section 106, et seq., of the National Historic Preservation Act of 1966, ~~(16 USCA 470)~~ 16 U.S.C. § 470, ~~are~~ is applicable to the property acquisition or utilization, the public authority or utility may utilize or acquire ~~any such~~ the property, building, or other structure or



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parts thereof, and change, move, or demolish any building or other structure in accordance with the applicable provisions, requirements, and ~~procedure~~ procedures provided for under ~~such~~ that act, including the requirements and procedure as applicable of the Advisory Council on Historic Preservation, ~~Section 36, Code of Federal Regulations 800~~ 36 C.F.R. Part 800, (16 USCA 470i), and in accordance with the provisions, requirements, and ~~procedure~~ procedures as applicable under ~~Section 4(f) of the U.S. Department of Transportation Act of 1966, as amended, 49 USCA 1653(f)~~ 49 U.S.C. § 1653(f), and under ~~23 USCA 138~~ 23 U.S.C. § 138, or any superseding statutes.

(2) In the event the foregoing ~~National Historic Preservation Act or Section 4(f)~~ federal laws and regulations are not applicable to the property, building, or other structure, they shall be exempt from ~~the provisions of~~ this chapter."

Section 2. Section 11-68-16 is added to the Code of Alabama 1975, to read as follows:

§11-68-16

(a) The Legislature finds and declares that this state does not have a compelling interest to regulate places of worship for the purposes of historical preservation or designation, as would be required to burden religious exercise under each of the following:

(1) The Alabama Religious Freedom Amendment, Section 3.01 of the Constitution of Alabama of 2022.

(2) The Free Exercise Clause of the First Amendment of



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the United States Constitution.

(3) The Religious Land Use and Institutionalized Persons Act of 2000, 42 U.S.C. § 2000cc, et seq.

(b) This chapter shall not apply to places of worship. For the purposes of this section, a place of worship includes all of the following:

(1) Churches, synagogues, mosques, and other religious institutions and their integrated auxiliaries, and conventions or associations.

(2) Any buildings, structures, or grounds owned by a place of worship, located within or adjoining the place of worship, or any satellite location that supports or may support the religious activities of the place of worship or its auxiliaries and affiliates.

(3) Any building or facility of the place of worship used for education, day care, church school, benevolence, broadcast, parking, or any other structure or appurtenances of the place of worship, regardless of use or nonuse.

(c) (1) A place of worship shall be automatically exempt from this chapter and is not required to request exemption.

(2)a. A place of worship may voluntarily agree to designation as a historic property or historic district and may choose to be subject to all or any portion of this chapter. To voluntarily opt into all or any portion of this chapter, the governing body of the place of worship shall record the designation in writing with the judge of probate of the county where the place of worship is located.

b. No municipality may designate a place of worship as



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a historic property or historic district until after the place of worship submits a recording to the judge of probate pursuant to paragraph a.

(d) (1) This section shall apply retroactively to any designation of a place of worship as a historic property or historic district made by any municipality prior to June 1, 2024.

(2) Any designation of a place of worship as a historic property or historic district made by any municipality prior to June 1, 2024, is void, unless the governing body of the place of worship records a statement with the judge of probate of the county where the place of worship is located that does all of the following:

- a. Ratifies and confirms the designation.
- b. Specifically references this section of the law.
- c. Affirmatively states that the place of worship desires to be subject to the historic property designation or inclusion within a historic district.
- d. Indicates whether the ratification is retroactive, prospective, or both.

(e) This section applies in all municipalities and may not be altered or amended by local law. Any existing local law or portion thereof in conflict with this section is specifically repealed to the extent of the conflict, and any remaining portions of the local law not in conflict shall remain in full force and effect.

Section 3. This act shall become effective on June 1, 2024.