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3 SENATE GA COMMITTEE SUBSTITUTE FOR SB127
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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 require a controlling
17 governmental entity that replaces a memorial
18 building to maintain the original name or erect a
19 marker memorializing the name.

20 This bill would provide that a petition for
21 waiver is deemed denied if the Committee on Alabama
22 Monument Protection fails to act on an application
23 for waiver within 90 days.

24 This bill would also revise the penalties
25 for violations.
26

27 A BILL

1 TO BE ENTITLED

2 AN ACT

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4 To amend Sections 41-9-233 and 41-9-235, Code of
5 Alabama 1975, relating to the Alabama Memorial Preservation
6 Act of 2017; to require a controlling governmental entity that
7 replaces a memorial building to maintain the original name or
8 erect a marker memorializing the name; to provide that a
9 petition for waiver is deemed denied if the Committee on
10 Alabama Monument Protection fails to act on an application for
11 waiver within 90 days; and to revise penalties for violations.
12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 41-9-233 and 41-9-235, Code of
14 Alabama 1975, are amended to read as follows:

15 "§41-9-233.

16 "(a) No person may prevent the governmental entity
17 having responsibility for maintaining any architecturally
18 significant building, memorial building, memorial school,
19 memorial street, or monument from taking proper and
20 appropriate measures, and exercising proper and appropriate
21 means, for the protection, preservation, care, repair, or
22 restoration of those monuments, streets, or buildings.

23 "(b) No person may prevent the governmental entity
24 having responsibility for maintaining any architecturally
25 significant building or memorial building from razing the
26 building so long as any replacement building or resulting park
27 or green space maintains the name of the original building. If

1 the building is not replaced, the governmental entity shall
2 erect a marker to memorialize the person for whom the memorial
3 building was named.

4 "§41-9-235.

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

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

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

25 "c. Written commentary from any heritage,
26 historical, genealogical, or preservation organizations with

1 interest in the decision of the controlling entity, and from
2 the general public.

3 "d. A written statement of any facts that were not
4 known at the time of the origin of the architecturally
5 significant building, memorial building, memorial school,
6 memorial street, or monument, but are known now, that the
7 committee should consider in granting the waiver. The absence
8 of such facts should serve as a presumption against the
9 granting of a waiver by the committee.

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

16 "(b) In the event there is a need for emergency
17 repairs or construction at the site of or to the
18 architecturally significant building, memorial building,
19 memorial street, or monument or on adjacent property, the
20 controlling entity may temporarily relocate or otherwise
21 protect the architecturally significant building, memorial
22 building, memorial street, or monument without seeking a
23 waiver under the process provided in this section; provided
24 the architecturally significant building, memorial building,
25 memorial street, or monument shall be returned to its prior
26 location or condition, or both, as soon as safely and
27 reasonably possible, and no later than one year after the

1 completion of the repair or construction. If the repair or
2 construction is expected to take more than one year, the
3 controlling entity shall seek a waiver under the process
4 specified in this section.

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

9 "(d) If the Attorney General determines that an
10 entity exercising control of public property has renamed a
11 memorial school or has relocated, removed, altered, renamed,
12 or otherwise disturbed an architecturally significant
13 building, memorial building, memorial street, or monument from
14 that public property without first obtaining a waiver from the
15 committee as required by this article, or failed to comply
16 with the conditions and instructions issued by the committee
17 upon the grant of a waiver pursuant to this section, the
18 entity shall be fined ~~twenty-five thousand dollars (\$25,000)~~
19 five thousand dollars (\$5,000) for each day that the violation
20 continues and until the entity has taken full restorative
21 action to comply with the requirements of this article. Upon
22 written request of the entity, and the submission of
23 supporting documentation that restoration has begun, the
24 Attorney General may stay the fine pending complete
25 restoration. The fine shall be collected by the Attorney
26 General, forwarded by his or her office to the State

1 Treasurer, and deposited into the Alabama State Historic
2 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.