

**CODE OF ALABAMA
TITLE 41, CHAPTER 9, ARTICLE 9A
ALABAMA MEMORIAL PRESERVATION ACT OF 2017**

Section 41-9-230

Short title.

This article shall be known and may be cited as the Alabama Memorial Preservation Act of 2017.

(Act 2017-354, §1.)

Section 41-9-231

Definitions.

For the purposes of this article, the following terms shall have the following meanings:

(1) ARCHITECTURALLY SIGNIFICANT BUILDING. A building located on public property that by its very nature, inherent design, or structure constitutes a monument.

(2) COMMITTEE. The Committee on Alabama Monument Protection created by this article.

(3) MEMORIAL BUILDING. A building, structure, park, or other institution, other than a Memorial School, that is located on public property and has been erected for, or named or dedicated in honor of, an event, a person, a group, a movement, or military service.

(4) MEMORIAL SCHOOL. A K-12 or two-year postsecondary institution or facility that is located on public property and has been erected for, or named or dedicated in honor of, an event, a person, a group, a movement, or military service.

(5) MEMORIAL STREET. A street that is located on public property and has been constructed for, or named or dedicated in honor of, an event, a person, a group, a movement, or military service.

(6) MONUMENT. A statue, portrait, or marker intended at the time of dedication to be a permanent memorial to an event, a person, a group, a movement, or military service that is part of the history of the people or geography now comprising the State of Alabama. The term does not include signage bearing historical or interpretive text, commonly known as a historical marker or wayside exhibit, or portraits or plaques installed by temporary means and not intended to be permanent at the time of installation.

(7) PUBLIC PROPERTY. All property owned or leased by the State of Alabama; any county, municipal, or metropolitan government in the state; or any other entity created by act of the Legislature to perform any public function.

(Act 2017-354, §2.)

Section 41-9-232

Limitations on relocation, removal, alteration, etc., of certain architecturally significant buildings, memorials, monuments, etc.

(a) No architecturally significant building, memorial building, memorial street, or monument which is located on public property and has been so situated for 40 or more years may be relocated, removed, altered, renamed, or otherwise disturbed.

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

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

(Act 2017-354, §3.)

Section 41-9-233

Prohibition against preventing government entity from taking proper and appropriate actions.

No person may prevent the governmental entity having responsibility for maintaining any architecturally significant building, memorial building, memorial school, memorial street, or monument from taking proper and appropriate measures, and exercising proper and appropriate means, for the protection, preservation, care, repair, or restoration of those monuments, streets, or buildings.

(Act 2017-354, §4.)

Section 41-9-234

Committee on Alabama Monument Protection.

(a) There is created the Committee on Alabama Monument Protection.

(b) The legislative members of the committee shall be appointed and reappointed at the beginning of each legislative quadrennium. The members of the committee appointed pursuant to subdivisions (3) to (5), inclusive, shall serve for terms of four years, with the exception of their initial terms, which shall be staggered as provided in subsection (d). Each term of a member appointed pursuant to subdivisions (3) to (5), inclusive, shall expire on September 30. The appointing authorities shall coordinate their appointments to assure committee membership is inclusive and reflects the racial, gender, geographic, urban, rural, and economic diversity of the state. The membership of the committee shall include all of the following:

(1) Two members of the House of Representatives, one from the majority party and one from the minority party, appointed by the Speaker of the House of Representatives.

(2) Two members of the Senate, one from the majority party and one from the minority party, appointed by the President Pro Tempore of the Senate.

(3) One member of the public, appointed by the Speaker of the House of Representatives.

(4) One member of the public, appointed by the President Pro Tempore of the Senate.

(5) Two members of the public, appointed by the Governor.

(6) One actively serving county commissioner appointed by the Governor.

(7) One actively serving mayor or member of the municipal governing body of a Class 1, Class 2, or Class 3 municipality appointed by the Governor.

(8) One actively serving mayor or member of the municipal governing body of a Class 4 to Class 8, inclusive, municipality appointed by the Governor.

(c) To assist the appointing authorities in the process of appointing public members to the committee, each of the following entities may submit a list of names to the Speaker of the House of Representatives, President Pro Tempore of the Senate, and Governor for consideration for appointment:

(1) The Department of Archives and History.

(2) The Alabama Historical Commission.

(3) The Alabama Historical Association.

(4) The Alabama Trust for Historic Preservation.

(5) The Black Heritage Council.

(d) The initial members of the committee shall be appointed before September 1, 2017, and shall hold an organizational meeting of the committee before October 1, 2017. At the organizational meeting of the committee, the membership of the committee shall select a chair and a vice chair, who shall serve in that position for one year, and the public members appointed pursuant to subdivisions (3) to (5), inclusive, of subsection (b) shall draw lots to determine which one of those members shall serve an initial term of two years expiring on September 30, 2019, which two of those members shall serve an initial term of three years expiring on September 30, 2020, and which two of those members shall serve an initial term of four years expiring on September 30, 2021. The committee shall meet at least once each year, during the month of October, to select a chair and vice chair to serve for the following year. Thereafter, the committee shall meet at the call of the chair or any majority of the members of the committee. The committee shall have a continuing existence and may meet, act, and conduct committee business at any place within this state.

(e) Initial committee members appointed pursuant to subdivisions (3) to (5), inclusive, of subsection (b), shall begin serving immediately upon appointment. Each committee member appointed pursuant to subdivisions (3) to (5), inclusive, of subsection (b), is subject to confirmation by the Senate during the legislative session in which the appointment is made or, if the appointment is made when the Legislature is not in session, during the next special or regular session. An appointee may serve in the position pending confirmation by the Senate. Failure of the Senate to act on the appointment during the session in which the appointment is made or, if the appointment is made while the Legislature is not in session, during the next special or regular session, shall constitute confirmation by the Senate. Each member of the committee shall serve after the expiration of his or her term until his or her successor is appointed and may be appointed to more than one term.

(f) The committee shall perform all duties prescribed by this article. The chair of the committee may create advisory subcommittees and appoint members thereto, which may include members of the committee, representatives from governmental agencies, and members of the public with interest and expertise in the objectives of the committee. The committee shall create no more than two active advisory subcommittees at any given time unless the committee votes unanimously for additional subcommittees.

(g) Each legislative member of the committee or any subcommittee, if created, shall be entitled to the legislative compensation, per diem, and travel as provided in Amendment 871 to the Constitution of Alabama of 1901, now appearing as Section 49.01 of the Official Recompilation of the Constitution of Alabama of 1901, as amended.

(Act 2017-354, §5.)

Section 41-9-235

Petition for waiver; emergencies; violations; judicial review.

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

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

b. Written documentation of the origin of the architecturally significant building, memorial building, memorial school, memorial street, or monument, the intent of the sponsoring entity at the time of dedication, and any subsequent alteration, renaming, or other disturbance of the architecturally significant building, memorial building, memorial street, or monument.

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

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

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

(b) In the event there is a need for emergency repairs or construction at the site of or to the architecturally significant building, memorial building, memorial street, or monument or on adjacent property, the controlling entity may temporarily relocate or otherwise protect the architecturally significant building, memorial building, memorial street, or monument without seeking a waiver under the process provided in this section; provided the architecturally significant building, memorial building, memorial street, or monument shall be returned to its prior location or condition, or both, as soon as safely and reasonably possible, and no later than one year after the completion of the repair or construction. If the repair or construction is expected to take more than one year, the controlling entity shall seek a waiver under the process specified in this section.

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

(d) If the Attorney General determines that an entity exercising control of public property has renamed a memorial school or has relocated, removed, altered, renamed, or otherwise

disturbed an architecturally significant building, memorial building, memorial street, or monument from that public property without first obtaining a waiver from the committee as required by this article, or failed to comply with the conditions and instructions issued by the committee upon the grant of a waiver pursuant to this section, the entity shall be fined twenty-five thousand dollars (\$25,000) for each violation. The fine shall be collected by the Attorney General, forwarded by his or her office to the State Treasurer, and deposited into the Alabama State Historic Preservation Fund created in Section 41-9-255.

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

(Act 2017-354, §6.)

Section 41-9-236

Exceptions.

This article does not apply to any of the following:

(1) Art and artifacts in the collections of museums, archives, and libraries.

(2) Any architecturally significant building, memorial building, memorial street, or monument that is any of the following:

a. Located on public property under the control of, or acquired by, the State Department of Transportation, which may interfere with the construction, maintenance, or operation of the public transportation system. The department shall strive to ensure that any architecturally significant building, memorial building, memorial street, or monument is preserved to the greatest extent possible.

b. Located on public property under the control of, or acquired by, a county or municipal body or a university, which may interfere with the construction, maintenance, or operation of the public transportation system. The governing body of the county, municipality, or university shall strive to ensure that any architecturally significant building, memorial building, memorial street, or monument is preserved to the greatest extent possible.

c. Located on public property operated or used by a utility, which may interfere with providing utility service. The utility shall strive to ensure that any architecturally significant building, memorial building, memorial street, or monument is preserved to the greatest extent possible.

d. Located on public property under the control of, or acquired by, the Alabama State Port Authority, which may interfere with the construction, maintenance, or operation of the port infrastructure or port related activities. The authority shall strive to ensure that any

architecturally significant building, memorial building, memorial street, or monument is preserved to the greatest extent possible.

(Act 2017-354, §7.)

Section 41-9-237

Rulemaking authority.

The Committee on Alabama Monument Protection, pursuant to the Alabama Administrative Procedure Act, shall adopt rules as necessary to provide for the implementation of this article including, but not limited to, further defining an architecturally significant building.

(Act 2017-354, §8.)