

# HB128 INTRODUCED



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



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SYNOPSIS:

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

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

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

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

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

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



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A BILL

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TO BE ENTITLED

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AN ACT

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36 Relating to historic preservation; to amend Section  
37 11-68-15, Code of Alabama 1975, and to add Section 11-68-16 to  
38 the Code of Alabama 1975; to prohibit a municipal historic  
39 preservation commission from designating a place of worship as  
40 a historic property or historic district; to define the term  
41 "place of worship"; to authorize a place of worship to agree  
42 to be designated as a historic property or district; to  
43 provide for retroactivity; and to make nonsubstantive,  
44 technical revisions to update the existing code language to  
45 current style.

46 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

49 "§11-68-15

50 (a) (1) This chapter shall does  
51 not apply to a any highway, road, street, bridge, or utility  
52 structure or facility, ~~nor to any highway, road, street,~~  
53 ~~bridge, or utility structure or facility to be constructed or~~  
54 ~~improved, including any property, building or other structure~~  
55 ~~or facility to be changed, moved, demolished, acquired, or~~  
56 ~~utilized in connection therewith,~~ lying or running within any



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

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

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

74 (c) (1) Where property lying within an area designated  
75 as historic properties or as ~~an~~ a historic district, ~~pursuant~~  
76 ~~to the provisions of this chapter~~ is sought to be utilized or  
77 acquired by any ~~such~~ public authority for the purpose of  
78 construction or improvement of a highway, road, bridge,  
79 utility structure or facility, or street, and ~~the provisions~~  
80 ~~and requirements of~~ Section 106, et seq., of the National  
81 Historic Preservation Act of 1966, ~~(16 USCA 470)~~ 16 U.S.C. §  
82 470, are is applicable to the property acquisition or  
83 utilization, the public authority or utility may utilize or  
84 acquire ~~any such~~ the property, building, or other structure or



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85 parts thereof, and change, move, or demolish any building or  
86 other structure in accordance with the applicable provisions,  
87 requirements, and ~~procedure~~ procedures provided for under ~~such~~  
88 that act, including the requirements and procedure as  
89 applicable of the Advisory Council on Historic Preservation,  
90 ~~Section 36, Code of Federal Regulations 800~~ 36 C.F.R. Part  
91 800, (16 USCA 470i), and in accordance with the provisions,  
92 requirements, and ~~procedure~~ procedures as applicable under  
93 ~~Section 4(f) of the U.S. Department of Transportation Act of~~  
94 ~~1966, as amended, 49 USCA 1653(f)~~ 49 U.S.C. § 1653(f), and  
95 under ~~23 USCA 138~~ 23 U.S.C. § 138, or any superseding  
96 statutes.

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

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

104 §11-68-16

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

110 (1) The Alabama Religious Freedom Amendment, Section  
111 3.01 of the Constitution of Alabama of 2022.

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



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113 the United States Constitution.

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

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

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

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

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

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

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

140 b. No municipality may designate a place of worship as



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

144 (d) (1) This section shall apply retroactively to any  
145 designation of a place of worship as a historic property or  
146 historic district made by any municipality prior to June 1,  
147 2024.

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

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

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

167 Section 3. This act shall become effective on June 1,  
168 2024.