

1 SB349  
2 195353-10  
3 By Senator Chambliss (N & P)  
4 RFD: Local Legislation  
5 First Read: 30-APR-19

1 SB349

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3  
4 With Notice and Proof

5  
6 ENROLLED, An Act,

7 Relating to Tallapoosa County; to authorize the  
8 formation of the Willow Point Estates Road Maintenance  
9 District for the maintenance, repair, and construction of  
10 roads and bridges in Willow Point Estates; and to authorize  
11 the assessment of road maintenance charges on property owners  
12 for the purposes of the district.

13 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

14 Section 1. This act shall be operative in the Willow  
15 Point Estates as further defined and recorded in the office of  
16 the Judge of Probate of Tallapoosa County.

17 Section 2. This act shall be operative in the Willow  
18 Point Estates as further defined and recorded in the office of  
19 the Judge of Probate of Tallapoosa County.

20 (1) DISTRICT. A district to be known as the Willow  
21 Point Estates Road Maintenance District created pursuant to  
22 this act for the purposes of assessing and collecting road  
23 maintenance charges for maintenance, repair, construction, and  
24 paving of roads, bridges, and rights-of-way and collection of  
25 debts in the Willow Point Estates as further defined in this

1 section and recorded in the office of the Judge of Probate of  
2 Tallapoosa County.

3 (2) QUALIFIED PROPERTY OWNER. A person, firm,  
4 corporation, or other legal entity which owns a lot or lots or  
5 a legal interest in a lot located in the Willow Point Estates  
6 and legal ownership as evidenced by a properly recorded deed  
7 in the Office of Judge of Probate of Tallapoosa County.

8 (3) QUALIFIED VOTER. A qualified property owner  
9 identified as such in the most recent tax assessment rolls in  
10 Willow Point Estates. For purposes of any election under this  
11 act, each lot shall be entitled to one vote. If a qualified  
12 property owner is not a natural person, that qualified  
13 property owner must designate in writing a natural person as  
14 its voting representative.

15 (4) WILLOW POINT ESTATES. All recorded phases and  
16 lots in the subdivisions known as Willow Point Estates or  
17 Willow Point recorded in the office of the Judge of Probate of  
18 Tallapoosa County, which includes, but are not limited to the  
19 following:

20 (1) Willow Point Estates - Phase 1, Plat Book 5,  
21 Page 196, 06/22/1972.

22 (2) Willow Point Estates - Phase 3, Plat Book 5,  
23 Page 201, 08/23/1972.

24 (3) Willow Point Estates - Phases 2-4 and 5, Plat  
25 Book 6, Page 21, 08/01/1973.

1                   (4) Willow Point Estates - Phase 6, Plat Book 56,  
2 Page 140, 05/27/1977.

3                   (5) Willow Point Estates - Phase 7, Plat Book 7,  
4 Page 57, 03/03/1986.

5                   (6) Willow Point Estates - Amended Phase 6, Lots 37  
6 and 39, Plat Book 7, Page 73, 12/09/1986.

7                   (7) Willow Point Estates - Phase 7A, Lot 22, Plat  
8 Book 7, Page 78, 01/28/1987.

9                   (8) Willow Point Estates - Phase VIII, Plat Book 7,  
10 Page 82, 04/02/1987.

11                   (9) Willow Point Estates - Phase VII B, Plat Book 7,  
12 Page 85, 05/20/1987.

13                   (10) Willow Point Estates - Phase VII C, Plat Book  
14 7, Page 90, 01/19/1988.

15                   (11) Willow Point Estates - Amended Phase VII C,  
16 Plat Book 7, Page 128, 02/16/1989.

17                   (12) Willow Point Estates - Phase IX, Plat Book 7,  
18 Page 158, 07/31/1990.

19                   (13) Willow Point Estates - Phase X, Plat Book 7,  
20 Page 162, 09/26/1990.

21                   (14) Willow Point Estates - Phase 2-A (Being a  
22 Replat of Lots 15 and 16, Block A, Willow Point Estates at  
23 Plat Book 6, Page 21), Plat Book 8, Page 1, 05/21/1993.

24                   (15) Willow Point Estates - Phase Six "B", Plat Book  
25 8, Page 72, 02/06/1997.

1           (16) Willow Point Estates - Replat of Lot 17, 18,  
2 and 19 Willow Point Estates, Phase II 4 and 5, Plat Book 9,  
3 Page 27, 09/15/1999.

4           (17) Willow Point Estates - Phase 3A, (Being a  
5 Replat of Lot 7 of Willow Point Estates at Plat Book 5, Page  
6 201), Plat Book 10, Page 17, 01/17/2002.

7           (18) Willow Point Estates - Resurvey of Lot #1,  
8 Phase 1, Plat Book 10, Page 39, 07/16/2003.

9           (19) Willow Point Estates - Phase II-B, (Being a  
10 Replat of Lots 1-6, Willow Point Estates, Block C, Phase 2, at  
11 Plat Bk 6, Page 21), Plat Book 10, Page 50, 12/15/2003.

12           (20) Willow Point Estates - Phase VII-D, (Being a  
13 Replat of Lots 20 and 21 of Willow Point Estates, Phase VII at  
14 Plat Bk 7, Page 57), Plat Book 12, Page 91, 06/08/2016.

15           (21) Willow Point - Phase XI, Plat Book 8, Page 57,  
16 06/19/96.

17           (22) Willow Point - Phase XII, Plat Book 8, Page 58,  
18 06/19/96.

19           (23) Willow Point - Phase XII-A, Plat Book 10, Page  
20 56, 04/23/04.

21           (24) Glynmere at Willow Point, Plat Book 11, Page  
22 22, 11/04/05.

23           Section 3. A district for road maintenance to be  
24 known as the Willow Point Road Maintenance District may be

1 established in Tallapoosa County in Willow Point Estates in  
2 the manner provided in this act.

3 Section 4. (a) Upon a petition being filed in the  
4 Office of the Judge of Probate of Tallapoosa County, the judge  
5 of probate of the county shall order an election to be held in  
6 the proposed district on the question of the formation of the  
7 district.

8 (b) The petition shall be signed by 30 qualified  
9 voters within the boundaries of the Willow Point Estates. The  
10 petition shall include the names of five proposed members of  
11 the initial board of directors and the amount of the initial  
12 proposed annual road maintenance charge. Notwithstanding the  
13 foregoing, the district shall not be established unless the  
14 owner of the roads in Willow Point Estates, with the exception  
15 of subdivision (24) Glynmere at Willow Point, joins in the  
16 petition and agrees to transfer ownership of the roads to the  
17 district in the event that the district is created.

18 (c) When filed in the Office of the Judge of Probate  
19 of Tallapoosa County, the petition shall be accompanied by a  
20 filing fee in the amount of five hundred dollars (\$500) to be  
21 applied to defray the costs of compiling a list of qualified  
22 voters.

23 (d) The petition shall contain the description of  
24 the area proposed to be established as a district, shall state  
25 the name of the proposed district and the amount of the

1 proposed initial annual road maintenance charges, and shall  
2 request the Judge of Probate of Tallapoosa County to call an  
3 election on the following question: Shall there be created a  
4 road maintenance district for Willow Point Estates?

5 Section 5. When a petition for the holding of an  
6 election is filed with the judge of probate, the judge of  
7 probate shall order the election sought by the petition to be  
8 held on a day not less than 60 days nor more than 180 calendar  
9 days from the date on which the judge of probate enters the  
10 order. An election pertaining to the establishment of a  
11 district or portion thereof may not be held more often than  
12 once every year.

13 Section 6. The election laws governing the  
14 furnishing of supplies, appointment of election officers,  
15 absentee balloting, and canvassing returns at a general  
16 election shall apply to any election conducted by the judge of  
17 probate and held pursuant to this act. The election may be  
18 conducted by paper ballot.

19 Section 7. The judge of probate shall give notice of  
20 an election held under this act by publishing for three weeks,  
21 at least once a week, on the same day of each week, in a  
22 newspaper of general circulation in the territory where the  
23 election is to be held. The notice shall state the day when  
24 the election will be held and the question to be submitted to  
25 the qualified voters of the district.

1           Section 8. (a) When an election is held on the  
2 question of the establishment of a district, the County  
3 Commission of Tallapoosa County shall pay for the necessary  
4 expense of advertising and conducting the election out of the  
5 general funds of the county. If the district is established,  
6 the district shall reimburse the county for the expenses  
7 incurred by the county with respect to the election.

8           (b) After a district has been established, the  
9 district shall pay the county commission the expense of any  
10 election conducted by the judge of probate and held in the  
11 district.

12           Section 9. No district shall be created unless it is  
13 approved by the majority of the qualified voters voting in the  
14 proposed district. Upon the officers canvassing the returns of  
15 the election certifying that the creation of the district was  
16 approved by the majority of the qualified voters voting in the  
17 election, the proposed district shall be created and  
18 constitute a public corporation upon filing of incorporation  
19 papers pursuant to Section 10. The Judge of Probate of  
20 Tallapoosa County shall certify the results of the election to  
21 the Secretary of State.

22           Section 10. (a) The affairs and business of the  
23 district shall be managed by a board of directors. The initial  
24 members of the board of directors shall be the persons  
25 included in the petition. The board shall file incorporation



1 papers with the judge of probate. After incorporation, the  
2 board shall adopt bylaws of the corporation.

3 (b) The term of the initial members of the board  
4 shall be 12 months.

5 (c) In order to elect the members of the board of  
6 directors thereafter, the initial board shall set an election  
7 to be held at a meeting of the district in accordance with the  
8 bylaws. Notice of the meeting shall be given as provided in  
9 the bylaws. At the meeting, five board members shall be  
10 elected by the qualified voters of the district. In order to  
11 qualify for election to the board, the person shall be a  
12 qualified property owner, or if the qualified property owner  
13 is not a natural person, a natural person designated in  
14 writing by the qualified property owner. Two members shall be  
15 elected for two year terms and three members shall be elected  
16 for three year terms. Prior to the expiration of any board  
17 member's term, notice of a meeting of the district to elect a  
18 successor shall be provided in accordance with the bylaws.  
19 Successor board members shall be elected for terms of two  
20 years each. Board members may serve successive terms without  
21 limitation.

22 (d) If a vacancy occurs on the board, the board  
23 shall appoint a member who meets the qualifications set out in  
24 this section for membership on the board to serve for the  
25 unexpired term.

1           (e) The board of directors shall elect annually from  
2 its members a president, a secretary, and a treasurer.

3           (f) The members of the board of directors shall not  
4 be entitled to any compensation for their services.

5           Section 11. (a) The district shall constitute a  
6 public corporation, which, subject to the bylaws of the  
7 corporation, shall have the power to do any and all acts or  
8 things necessary and convenient for carrying out the purposes  
9 for which it is created, including, but not limited to, all of  
10 the following:

11           (1) To sue and be sued.

12           (2) To have a seal and alter the same at pleasure.

13           (3) To acquire, hold, and dispose of property, real  
14 and personal, tangible and intangible, or interests therein  
15 and to pay therefor in cash or on credit, and to secure and  
16 procure payment of all or any part of the purchase price  
17 thereof on the terms and conditions as the board shall  
18 determine.

19           (4) To acquire, own, operate, maintain, and improve  
20 a system of roads and bridges and rights-of-way in the  
21 district.

22           (5) To pledge all or any part of its revenues, or  
23 mortgages, or otherwise encumber, all or any part of its  
24 property for the purpose of securing the payment of the  
25 principal of and interest on any of its obligations.

1           (6) To sell, lease, mortgage, or otherwise encumber  
2 or dispose of all or any part of its property, as hereinafter  
3 provided and to establish and maintain bank accounts for the  
4 district.

5           (7) To contract debts, borrow money, and to issue or  
6 assume the payment of obligations.

7           (8) To levy and collect road maintenance charges as  
8 provided in this act, subject to the other provisions of this  
9 act.

10          (9) To negotiate and enter into contracts for road,  
11 bridge, and right-of-way maintenance with any entity.

12          (10) To employ agents, servants, and attorneys.

13          (11) To take other actions reasonable and necessary  
14 to effectuate the purposes of the corporation.

15          (12) To perform all of the foregoing acts and to do  
16 any and all of the foregoing things under, through, or by  
17 means of its own officers, agents, and employees, or by  
18 contracts with any person, company, corporation, federal  
19 agency, or municipality.

20          (b) The property and income of the district,  
21 conveyances by or to the district, and leases, mortgages, and  
22 deeds of trust by or to the district shall be exempt from all  
23 taxation in the State of Alabama. The district shall be exempt  
24 from all taxes levied by any county, municipality, or other  
25 political subdivision of the state, including, but without

1 limitation to, license and excise taxes imposed in respect of  
2 the privilege of engaging in any of the activities that a  
3 district may engage in. The district shall not be obligated to  
4 pay or allow any fees, taxes, or costs to the judge of probate  
5 with respect to its incorporation, the amendment of its  
6 certificate of incorporation, or the recording of a document.

7 Section 12. (a) Any road maintenance charge shall be  
8 collected on behalf of the district by the Revenue  
9 Commissioner of Tallapoosa County and distributed to the board  
10 of the district for the purposes of the district.

11 (b) The expenses of establishing and maintaining the  
12 district shall be paid for by the proceeds of the road  
13 maintenance charge, which shall be assessed and collected from  
14 qualified property owners within the district. The revenues  
15 collected from the district, less any costs of collection,  
16 shall be used for maintenance, construction, repair, and  
17 paving of roads, bridges, and rights-of-way in the district.  
18 The road maintenance charge shall be a legal obligation of the  
19 owner of the property served by the district and shall be due  
20 at the same time as the annual property tax payment.

21 (c) To secure the collection of the road maintenance  
22 charge, there shall be a lien against the property in favor of  
23 the district. The board of directors of this district may  
24 enforce the lien pursuant to Alabama law. Any costs of  
25 collections, including any legal expenses and court cost,

1 shall be an obligation of the owner or owners of the lot if  
2 enforcement of the lien enforcement is necessary. The district  
3 shall be bonded for an amount sufficient to cover three times  
4 the total revenue to be collected from road maintenance  
5 charges on an annual basis.

6 Section 13. (a) Any future road maintenance charge  
7 increase or decrease must be approved as provided herein and  
8 as further provided in the bylaws. The petition for the  
9 election on the question of any future increase or decrease in  
10 the road maintenance charge shall be signed by 30 qualified  
11 voters in the district and shall state specifically the  
12 increase or decrease in the road maintenance charge proposed  
13 to be assessed including the basis and manner to be assessed.

14 (b) No road maintenance charge shall be increased or  
15 decreased unless the same has been first approved by a  
16 majority of the votes cast by the qualified voters, with each  
17 lot having one vote, in the district at an election held under  
18 this act at a meeting of the district held in accordance with  
19 the bylaws of the district.

20 Section 14. (a) The district may be abolished in the  
21 manner provided for in this section; however, the district  
22 shall not be abolished or diminished when it has any  
23 indebtedness. In addition, the district shall not be abolished  
24 unless the county has agreed to accept all roads in the

1 district as county roads or another road maintenance district  
2 agrees to accept the roads.

3 (b) Upon the petition for abolition of the district  
4 being filed with the judge of probate, the judge of probate  
5 shall order an election on the abolition of the district to be  
6 held in the district within the time provided for by Section  
7 4. The qualified voters shall be entitled to vote in the  
8 election. The petition shall be signed by at least 125  
9 qualified voters of the district. The petition shall contain a  
10 recital that the district is not indebted and that the county  
11 or another road maintenance district has agreed to accept the  
12 roads in the district, and the petition shall request the  
13 judge of probate to order an election on whether the district  
14 shall be abolished. Upon the officers canvassing the returns  
15 of the votes and a determination that abolition of the  
16 district was approved by a majority of the qualified voters at  
17 the election with each lot having one vote, the district shall  
18 be abolished.

19 Section 15. The provisions of this act are  
20 severable. If any part of this act is declared invalid or  
21 unconstitutional, that declaration shall not affect the part  
22 which remains.

23 Section 16. All laws or parts of laws which conflict  
24 with this act are repealed. The provisions of this act are

1 supplemental and shall not be construed to repeal any law not  
2 in direct conflict herewith.

3 Section 17. This act shall become effective upon the  
4 ratification of a constitutional amendment related to  
5 Tallapoosa County authorizing the establishment of a road  
6 maintenance district composed of certain platted subdivisions  
7 in the county.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB349

Senate 07-MAY-19

I hereby certify that the within Act originated in and passed the Senate.

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 14-MAY-19

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By: Senator Chambliss