

HB416 ENROLLED



1 99G0PP-2
2 By Representative Underwood (N & P)
3 RFD: Local Legislation
4 First Read: 02-May-23
5 2023 Regular Session



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1 Enrolled, An Act,

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4 Relating to the City of Florence; to establish a
5 procedure for the establishment, operation, modification,
6 renewal, and dissolution of tourism improvement districts.

7 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

8 Section 1. For purposes of this act, the following
9 terms have the following meanings:

10 (1) ACTIVITY. Includes, but is not limited to, all of
11 the following that benefit businesses in the tourism
12 improvement district:

13 a. Promotion of public events.

14 b. Furnishing of music in any public place.

15 c. Promotion of tourism within the district.

16 d. Promotion of business activity related to tourism
17 within the tourism improvement district.

18 e. Marketing, sales, and economic development.

19 f. Other services provided for the purpose of
20 conferring benefits upon businesses located in the tourism
21 improvement district which are subject to the tourism
22 improvement district assessment.

23 (2) AUTHORIZING ORDINANCE. An ordinance adopted by the
24 Florence City Council that authorizes the formation or renewal
25 of a tourism improvement district and the levying of benefit
26 assessments.

27 (3) BENEFIT ASSESSMENT. A levy for the purpose of
28 funding activities and improvements that will provide benefits



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29 to businesses located within a tourism improvement district.

30 (4) BUSINESS. Any business establishment of the types
31 or classes that are described in the tourism improvement
32 district plan and the authorizing ordinance.

33 (5) BUSINESS OWNER. A person recognized by the city as
34 the owner of the business.

35 (6) BUSINESS OWNERS' ASSOCIATION. A new or existing
36 nonprofit corporation, entity, agency, or public corporation
37 that is under contract with the city to administer the tourism
38 improvement district and implement activities and improvements
39 specified in the tourism improvement district plan.

40 (7) CITY. The City of Florence.

41 (8) CITY COUNCIL. The City Council of the City of
42 Florence.

43 (9) IMPROVEMENT. An acquisition, construction,
44 installation, or maintenance relating to tangible property
45 that is designed to provide benefits to assessed businesses.

46 (10) TOURISM IMPROVEMENT DISTRICT. A tourism
47 improvement district established pursuant to this act.

48 (11) TOURISM IMPROVEMENT DISTRICT PLAN. A plan as
49 prescribed in Section 4.

50 Section 2. The city council may create and maintain
51 tourism improvement districts within its corporate limits
52 pursuant to this act.

53 Section 3. (a) Upon receipt of a written petition
54 signed by 60 percent or more of the business owners or
55 authorized representatives of the businesses proposed to be
56 subject to the benefit assessment, the city council may



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57 initiate proceedings to form a tourism improvement district by
58 adopting a resolution expressing its intention to form a
59 tourism improvement district.

60 (1) Wherever this act requires the signature of the
61 business owner, the signature of the authorized representative
62 of the business shall suffice.

63 (2) The city has no obligation to obtain other
64 information as to the ownership of a business, and its
65 determination of ownership as reflected in its records shall
66 be conclusive for the purposes of this act in the absence of
67 contrary documentation provided by the owner or authorized
68 representative of the business.

69 (b) The petition of business owners required under
70 subsection (a) shall include a summary of a tourism
71 improvement district plan formulated pursuant to Section 4.
72 The summary shall include all of the following:

73 (1) A map showing the boundaries of the tourism
74 improvement district.

75 (2) The types or classes of businesses that will be
76 subject to the benefit assessment.

77 (3) The benefit assessment rate for each type or class
78 of business that will be subject to the benefit assessment. If
79 the assessment is based on a percentage of gross business
80 revenue, the rate may not be greater than four percent.

81 (4) Information specifying where the complete tourism
82 improvement district plan may be obtained.

83 (5) Information specifying that the complete tourism
84 improvement district plan shall be furnished upon request.



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85 (c) The resolution of intention described in subsection
86 (a) shall contain all of the following:

87 (1) A brief description of the proposed activities and
88 improvements.

89 (2) The estimated amount of the proposed benefit
90 assessment. If the assessment is based on a percentage of
91 gross business revenue, the rate may not be greater than four
92 percent.

93 (3) A statement describing the businesses within the
94 proposed tourism improvement district that will be subject to
95 the benefit assessment.

96 (4) A description of the boundaries of the proposed
97 tourism improvement district, which may be made by reference
98 to any plan or map that is on file with the city council.

99 (5) A time and place for a public hearing on the
100 establishment of the tourism improvement district and the levy
101 of the benefit assessment.

102 (d) The descriptions and statements required by
103 subdivisions (c)(1) through (4) shall be sufficient if they
104 enable a business owner to generally identify the nature and
105 extent of the activities and improvements and the location and
106 extent of the proposed tourism improvement district.

107 Section 4. A tourism improvement district plan shall
108 include, but not be limited to, all of the following:

109 (1) A map that identifies the tourism improvement
110 district boundaries in sufficient detail to allow a business
111 owner to reasonably determine whether a business is located
112 within the tourism improvement district boundaries. The



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113 boundaries of a tourism improvement district may overlap with
114 other tourism improvement districts established pursuant to
115 this act.

116 (2) The name of the proposed tourism improvement
117 district.

118 (3) a. The name of the business owners' association.

119 b. In the case of a newly formed nonprofit corporation
120 designated as the business owners' association, the
121 certificate of incorporation or by-laws shall provide that a
122 majority of the business owners' association's governing board
123 shall be business owners, or their authorized representatives,
124 who pay the tourism improvement district benefit assessment.

125 c. Where an existing nonprofit corporation is
126 designated as the business owners' association, the nonprofit
127 corporation shall create a committee, with a majority of
128 members being business owners, or their authorized
129 representatives, who pay the tourism improvement district
130 benefit assessment, and who shall be charged with managing the
131 funds raised by the tourism improvement district and
132 fulfilling the obligations of the tourism improvement district
133 plan.

134 d. A business owners' association shall have full
135 discretion to select the specific activities and improvements
136 within the authorized parameters of the tourism improvement
137 district plan which shall be funded with tourism improvement
138 district benefit assessment revenue, provided that there is a
139 rational relationship between the benefit of the activities
140 and improvements to each business and the assessment amount



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141 levied on the business.

142 (4) The activities and improvements proposed for each
143 year of operation of the tourism improvement district and the
144 estimated cost of those activities and improvements.
145 Improvements shall have an estimated useful life of five years
146 or more. If the activities and improvements proposed for each
147 year of operation are the same, the plan shall include a
148 description of the first year's proposed activities and
149 improvements and a statement that the same activities and
150 improvements are proposed for subsequent years.

151 (5) The estimated annual amount proposed to be expended
152 for activities and improvements during each year of operation
153 of the tourism improvement district. This amount may be
154 estimated based upon the assessment rate. If the estimated
155 annual amount proposed to be expended in each year of
156 operation of the tourism improvement district is not
157 significantly different from year to year, the amount proposed
158 to be expended in the initial year and a statement that a
159 similar amount applies to subsequent years shall satisfy the
160 requirements of this subdivision.

161 (6) The source or sources of financing, including the
162 proposed method and basis of levying the assessment, in
163 sufficient detail to allow each business owner to calculate
164 the amount of the assessment to be levied against his or her
165 business. The assessment may be based on a percent of gross
166 business revenue, a fixed dollar amount per transaction, or
167 any other reasonable method approved by the city. If the
168 assessment is based on a percent of gross business revenue,



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169 then the rate may not be greater than four percent. The
170 tourism improvement district plan may set forth increases in
171 assessments for any year of operation of the tourism
172 improvement district, except that any assessment based on a
173 percent of gross business revenue may not exceed four percent.

174 (7) The time and manner of collecting the benefit
175 assessments and any interest or penalties for nonpayment.

176 (8) The specific number of years, not to exceed 10,
177 during which benefit assessments will be levied, except that
178 a district that finances improvements with bonds may levy
179 assessments during the time to maturity of the bonds if that
180 period exceeds 10 years.

181 (9) Any proposed rules to be applicable to the tourism
182 improvement district.

183 (10) A definition describing the type or class of
184 businesses to be included in the tourism improvement district
185 and subject to the tourism improvement district benefit
186 assessment.

187 (11) Any other item or matter required to be
188 incorporated in the plan by the city council.

189 Section 5. (a) If the city council has adopted a
190 resolution of intention to establish or renew a tourism
191 improvement district and levy a new or increased tourism
192 improvement district benefit assessment, the city council
193 shall hold a public hearing on the establishment or renewal of
194 the tourism improvement district prior to adoption of the
195 authorizing ordinance. Notice of the public hearing shall be
196 mailed to the owners of the businesses proposed to be subject



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197 to the benefit assessment.

198 (b) The city council shall provide at least 30 days'
199 written notice of the public hearing at which the city council
200 proposes to establish or renew the tourism improvement
201 district and levy the benefit assessment.

202 Section 6. At the conclusion of the public hearing to
203 establish or renew a tourism improvement district, the city
204 council may adopt, revise, change, reduce, or modify the
205 proposed tourism improvement district benefit assessment, the
206 boundaries of the tourism improvement district, or the types
207 or classes of businesses within the tourism improvement
208 district which would be subject to the benefit assessment.
209 Proposed benefit assessments may only be revised by reducing
210 them, either independently or together in a uniform manner.
211 The proposed tourism improvement district boundary may only be
212 revised to exclude territory that will not benefit from the
213 proposed activities and improvements. The types or classes of
214 businesses that will be subject to the proposed benefit
215 assessment may only be revised to exclude the business types
216 or classes that will not benefit from the proposed activities
217 and improvements. Any modifications, revisions, reductions, or
218 changes to the proposed tourism improvement district plan
219 shall be reflected in the tourism improvement district plan
220 prior to the city council's adoption of the ordinance creating
221 or renewing the tourism improvement district.

222 Section 7. (a) If the city council, following the
223 public hearing, decides to establish or renew a proposed
224 tourism improvement district, the city council shall adopt an



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225 authorizing ordinance that shall include, but not be limited
226 to, all of the following:

227 (1) A brief description of the proposed activities and
228 improvements.

229 (2) The amount of the proposed benefit assessment. If
230 the assessment is based on a percent of gross business
231 revenue, the rate may not be greater than four percent.

232 (3) A statement as to the types or classes of
233 businesses that will be subject to the benefit assessment,
234 with the time and manner of the collection of the annual
235 assessment by the city council.

236 (4) A description of the boundaries of the tourism
237 improvement district, which may be made by reference to any
238 plan or map that is on file with the city council.

239 (5) The number, date of adoption, and title of the
240 resolution of intention.

241 (6) The time and place where the public hearing was
242 held concerning the establishment or renewal of the tourism
243 improvement district.

244 (7) The number of protests that were received.

245 (8) A statement that the businesses in the tourism
246 improvement district established by the ordinance shall be
247 subject to any amendments to this act.

248 (9) A statement that the activities and improvements to
249 be conferred on businesses in the tourism improvement district
250 will be funded by the proceeds of the benefit assessment.

251 (10) A statement that the revenue from the benefit
252 assessment collected in the tourism improvement district shall



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253 not be used for any purpose other than the purposes specified
254 in the tourism improvement district plan.

255 (b) The descriptions and statements required by
256 subdivisions (a) (1) through (4) need not be detailed and shall
257 be considered sufficient if they enable an owner to generally
258 identify the nature and extent of the activities and
259 improvements and the location and extent of the tourism
260 improvement district.

261 (c) The adoption of the authorizing ordinance shall
262 authorize the levy of benefit assessments in each of the years
263 referred to in the tourism improvement district plan.

264 (d) The city council shall enter into a contract with a
265 business owners' association to carry out the purposes of the
266 district.

267 (e) (1) The authorizing ordinance shall take effect 30
268 days after passage unless written protests are received from
269 more than 50 percent of business owners or their authorized
270 representatives.

271 (2) Any business owner that will be subject to the
272 proposed benefit assessment may make a protest of the
273 establishment or renewal of a tourism improvement district
274 during the 30-day period after the ordinance is passed and
275 before the ordinance is effective. Every protest shall be in
276 writing and shall be filed with the city council.

277 (3) The protest shall be in writing, shall be filed
278 with the city council, shall clearly identify the business
279 owned by the individual who filed the protest, and if the
280 individual is not shown in the city records as the owner of



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281 the business, the protest shall include documentation that the
282 individual is the owner of the business or the authorized
283 representative.

284 (4) A written protest that does not comply with this
285 subsection shall not be counted in determining a majority
286 protest, but the city council may waive any irregularity in
287 the form or content of any written protest.

288 (5) A written protest may be withdrawn in writing at
289 any time before the ordinance's effective date.

290 (6) If written protests are received from more than 50
291 percent of business owners or their authorized
292 representatives, and protests are not withdrawn so as to
293 reduce the protests to 50 percent or less before the
294 ordinance's effective date, the ordinance establishing or
295 renewing the district will not go into effect and the city
296 shall not levy the assessment.

297 Section 8. If a tourism improvement district expires
298 due to the time limit set pursuant to subdivision (8) of
299 Section 4, a new tourism improvement district plan may be
300 established or the expiring tourism improvement district may
301 be renewed pursuant to this act.

302 Section 9. (a) The collection of the benefit
303 assessments levied pursuant to this act shall be made at the
304 time and in the manner set forth by the city council in the
305 authorizing ordinance. All delinquent payments for benefit
306 assessments levied pursuant to this act may be charged
307 interest and penalties. A percentage of the benefit
308 assessments will be retained by the city council to offset the



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309 cost of collection as set forth in the authorizing ordinance.

310 (b) Any delinquent payments for benefit assessments,
311 along with any interest or penalties, shall constitute a debt
312 owed to the city council and may be collectable by the city
313 council as a debt under law.

314 (c) Any delinquent payments for benefit assessments,
315 interest, or penalties recovered under this section shall be
316 expended in the same manner as provided in the authorizing
317 ordinance for proceeds of the benefit assessment.

318 Section 10. Bonds may be issued by the city or the
319 business owners' association to pay for improvements in the
320 tourism improvement district, provided that any bond issue is
321 not included in the city's indebtedness for the purpose of
322 Section 225 of the Constitution of Alabama of 2022, and
323 otherwise complies with any applicable provision imposed by
324 law. Benefit assessments levied in two or more tourism
325 improvement districts may be pledged to secure a single bond
326 issue to finance tourism improvement district improvements.

327 Section 11. (a) The business owners' association, at
328 any time, may request that the city council modify the tourism
329 improvement district plan. Any modification of the tourism
330 improvement district plan shall be made pursuant to this act.
331 The tourism improvement district plan shall not be modified,
332 including the levy of a new or increased benefit assessment,
333 the expansion of the district boundaries, or expansion of the
334 types or classes of business subject to the benefit
335 assessment, except by the request of the business owners'
336 association.



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337 (b) Upon the written request of the business owners'
338 association, the city council may modify the tourism
339 improvement district plan by adopting a resolution determining
340 to make the modifications after conducting one public hearing
341 on the proposed modifications. If the modification includes
342 the levy of a new or increased benefit assessment, expansion
343 of the tourism improvement district's boundaries, or expansion
344 of the types or classes of business subject to the benefit
345 assessment, the city council shall comply with the procedures
346 required by Sections 5 and 6 and the majority protest
347 procedure provided by Section 7(e). Notice of all other public
348 hearings pursuant to this section shall comply with both of
349 the following:

350 (1) The resolution of intention to modify shall be
351 published once at least seven days before the public hearing
352 in a newspaper of general circulation in the city.

353 (2) A complete copy of the resolution of intention to
354 modify shall be mailed by first class mail, at least 10 days
355 before the public hearing, to each business owner affected by
356 the proposed modification.

357 (c) The city council shall, prior to the public hearing
358 required by this section, adopt a resolution of intention to
359 modify. The resolution shall state the proposed modification.
360 The public hearing shall be held not more than 45 days after
361 the adoption of the resolution of intention to modify.

362 Section 12. (a) The business owners' association shall
363 prepare a prospective report for each fiscal year, except the
364 first year, for which benefit assessments are to be levied and



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365 collected to pay the costs of the activities described in the
366 report. The owners' association's first report shall be due 90
367 days after the first year of operation of the tourism
368 improvement district.

369 (b) The report shall be filed with the city council and
370 shall refer to the tourism improvement district by name,
371 specify the fiscal year to which the report applies, and, with
372 respect to that fiscal year, shall contain all of the
373 following information:

374 (1) The activities and improvements to be provided for
375 that fiscal year.

376 (2) An estimate of the cost of providing the activities
377 and improvements for that fiscal year.

378 (3) The estimated amount of any surplus or deficit
379 revenues to be carried over from a previous fiscal year.

380 (c) The city council may approve the report as filed by
381 the business owners' association or may make recommendations
382 for approval to the annual report within 45 days of receiving
383 the annual report. The annual report shall be final and
384 approved within 90 days following its submission by the
385 business owners' association to the city council.

386 (d) Within 90 days after the close of the business
387 owners' association's fiscal year, the business owners'
388 association shall have an annual audit of its books, accounts,
389 and financial transactions made by a certified public
390 accountant. The business owners' association's annual audit
391 shall be completed and filed with the city council within 120
392 days after the close of the business owners' association's



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393 fiscal year.

394 Section 13. (a) Any tourism improvement district
395 previously established whose term has expired, or shall
396 expire, may be renewed by following the procedures for
397 establishment as provided in this act.

398 (b) Upon renewal, any remaining revenues derived from
399 the benefit assessment, or any revenues derived from the sale
400 of assets acquired with the revenues, shall be transferred to
401 the renewed tourism improvement district.

402 (c) There is no requirement that the boundaries,
403 benefit assessment, activities, or improvements of a renewed
404 tourism improvement district be the same as the original or
405 prior tourism improvement district.

406 Section 14. (a) A tourism improvement district
407 established or renewed pursuant to this act may be dissolved
408 by adoption of an ordinance by the city council after public
409 notice and hearing required by this section when there is no
410 indebtedness, outstanding and unpaid, incurred to accomplish
411 any of the purposes of the tourism improvement district.

412 (b) During each year of operation of the tourism
413 improvement district, there shall be a 30-day period in which
414 businesses subject to the benefit assessment may request
415 dissolution of the tourism improvement district. The first
416 period shall begin two years after the date of establishment
417 of the tourism improvement district and shall continue for 30
418 days. Each successive year of operation of the tourism
419 improvement district shall have such a 30-day period. Upon the
420 written petition of 60 percent or more of business owners or



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421 their authorized representatives, the city council shall pass
422 a resolution of intention to dissolve the tourism improvement
423 district. The city council shall give public notice of any
424 hearing on dissolution.

425 (c) The city council, prior to the public hearing
426 required by this section, shall adopt a resolution of
427 intention to dissolve the tourism improvement district. The
428 resolution shall state the reason for the potential
429 dissolution, shall state the time and place of the public
430 hearing, and shall contain a proposal to dispose of any assets
431 acquired with the revenues of the assessments levied within
432 the tourism improvement district. The notice of the hearing on
433 dissolution required by this section shall be given by mail to
434 the owner of each business subject to benefit assessments in
435 the tourism improvement district. The city council shall
436 conduct the public hearing not less than 30 days after mailing
437 the notice to the business owners. The public hearing shall be
438 held not more than 60 days after the adoption of the
439 resolution of intention. At the conclusion of the public
440 hearing, the city council may adopt an ordinance dissolving
441 the tourism improvement district.

442 Section 15. Upon the dissolution or expiration without
443 renewal of a tourism improvement district, any remaining
444 revenues, after all outstanding debts are paid, derived from
445 the levy of benefit assessments or derived from the sale of
446 assets acquired with the revenues, shall be spent in
447 accordance with the tourism improvement district plan or shall
448 be refunded to the owners of the businesses then located and



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449 operating within the tourism improvement district in which
450 benefit assessments were levied by applying the same method
451 and basis that was used to calculate the benefit assessments
452 levied in the fiscal year in which the tourism improvement
453 district is dissolved or expires.

454 Section 16. This act shall become effective on the
455 first day of the third month following its passage and
456 approval by the Governor, or its otherwise becoming law.



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Speaker of the House of Representatives

President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in and was passed by the House 09-May-23.

John Treadwell
Clerk

Senate

18-May-23

Passed