

HB416 INTRODUCED



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2 By Representative Underwood (N & P)
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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

- a. Promotion of public events.
- b. Furnishing of music in any public place.
- c. Promotion of tourism within the district.
- d. Promotion of business activity related to tourism within the tourism improvement district.
- e. Marketing, sales, and economic development.
- f. Other services provided for the purpose of conferring benefits upon businesses located in the tourism improvement district which are subject to the tourism improvement district assessment.



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29 (2) AUTHORIZING ORDINANCE. An ordinance adopted by the
30 Florence City Council that authorizes the formation or renewal
31 of a tourism improvement district and the levying of benefit
32 assessments.

33 (3) BENEFIT ASSESSMENT. A levy for the purpose of
34 funding activities and improvements that will provide benefits
35 to businesses located within a tourism improvement district.

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

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

41 (6) BUSINESS OWNERS' ASSOCIATION. A new or existing
42 nonprofit corporation, entity, agency, or public corporation
43 that is under contract with the city to administer the tourism
44 improvement district and implement activities and improvements
45 specified in the tourism improvement district plan.

46 (7) CITY. The City of Florence.

47 (8) CITY COUNCIL. The City Council of the City of
48 Florence.

49 (9) IMPROVEMENT. An acquisition, construction,
50 installation, or maintenance relating to tangible property
51 that is designed to provide benefits to assessed businesses.

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

54 (11) TOURISM IMPROVEMENT DISTRICT PLAN. A plan as
55 prescribed in Section 4.

56 Section 2. The city council may create and maintain



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57 tourism improvement districts within its corporate limits
58 pursuant to this act.

59 Section 3. (a) Upon receipt of a written petition
60 signed by 60 percent or more of the business owners or
61 authorized representatives of the businesses proposed to be
62 subject to the benefit assessment, the city council may
63 initiate proceedings to form a tourism improvement district by
64 adopting a resolution expressing its intention to form a
65 tourism improvement district.

66 (1) Wherever this act requires the signature of the
67 business owner, the signature of the authorized representative
68 of the business shall suffice.

69 (2) The city has no obligation to obtain other
70 information as to the ownership of a business, and its
71 determination of ownership as reflected in its records shall
72 be conclusive for the purposes of this act in the absence of
73 contrary documentation provided by the owner or authorized
74 representative of the business.

75 (b) The petition of business owners required under
76 subsection (a) shall include a summary of a tourism
77 improvement district plan formulated pursuant to Section 4.
78 The summary shall include all of the following:

79 (1) A map showing the boundaries of the tourism
80 improvement district.

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

83 (3) The benefit assessment rate for each type or class
84 of business that will be subject to the benefit assessment. If



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85 the assessment is based on a percentage of gross business
86 revenue, the rate may not be greater than four percent.

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

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

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

93 (1) A brief description of the proposed activities and
94 improvements.

95 (2) The estimated amount of the proposed benefit
96 assessment. If the assessment is based on a percentage of
97 gross business revenue, the rate may not be greater than four
98 percent.

99 (3) A statement describing the businesses within the
100 proposed tourism improvement district that will be subject to
101 the benefit assessment.

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

105 (5) A time and place for a public hearing on the
106 establishment of the tourism improvement district and the levy
107 of the benefit assessment.

108 (d) The descriptions and statements required by
109 subdivisions (c) (1) through (4) shall be sufficient if they
110 enable a business owner to generally identify the nature and
111 extent of the activities and improvements and the location and
112 extent of the proposed tourism improvement district.



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

115 (1) A map that identifies the tourism improvement
116 district boundaries in sufficient detail to allow a business
117 owner to reasonably determine whether a business is located
118 within the tourism improvement district boundaries. The
119 boundaries of a tourism improvement district may overlap with
120 other tourism improvement districts established pursuant to
121 this act.

122 (2) The name of the proposed tourism improvement
123 district.

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

125 b. In the case of a newly formed nonprofit corporation
126 designated as the business owners' association, the
127 certificate of incorporation or by-laws shall provide that a
128 majority of the business owners' association's governing board
129 shall be business owners, or their authorized representatives,
130 who pay the tourism improvement district benefit assessment.

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

140 d. A business owners' association shall have full



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141 discretion to select the specific activities and improvements
142 within the authorized parameters of the tourism improvement
143 district plan which shall be funded with tourism improvement
144 district benefit assessment revenue, provided that there is a
145 rational relationship between the benefit of the activities
146 and improvements to each business and the assessment amount
147 levied on the business.

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

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

167 (6) The source or sources of financing, including the
168 proposed method and basis of levying the assessment, in



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169 sufficient detail to allow each business owner to calculate
170 the amount of the assessment to be levied against his or her
171 business. The assessment may be based on a percent of gross
172 business revenue, a fixed dollar amount per transaction, or
173 any other reasonable method approved by the city. If the
174 assessment is based on a percent of gross business revenue,
175 then the rate may not be greater than four percent. The
176 tourism improvement district plan may set forth increases in
177 assessments for any year of operation of the tourism
178 improvement district, except that any assessment based on a
179 percent of gross business revenue may not exceed four percent.

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

182 (8) The specific number of years, not to exceed 10,
183 during which benefit assessments will be levied, except that
184 a district that finances improvements with bonds may levy
185 assessments during the time to maturity of the bonds if that
186 period exceeds 10 years.

187 (9) Any proposed rules to be applicable to the tourism
188 improvement district.

189 (10) A definition describing the type or class of
190 businesses to be included in the tourism improvement district
191 and subject to the tourism improvement district benefit
192 assessment.

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

195 Section 5. (a) If the city council has adopted a
196 resolution of intention to establish or renew a tourism



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197 improvement district and levy a new or increased tourism
198 improvement district benefit assessment, the city council
199 shall hold a public hearing on the establishment or renewal of
200 the tourism improvement district prior to adoption of the
201 authorizing ordinance. Notice of the public hearing shall be
202 mailed to the owners of the businesses proposed to be subject
203 to the benefit assessment.

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

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



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225 shall be reflected in the tourism improvement district plan
226 prior to the city council's adoption of the ordinance creating
227 or renewing the tourism improvement district.

228 Section 7. (a) If the city council, following the
229 public hearing, decides to establish or renew a proposed
230 tourism improvement district, the city council shall adopt an
231 authorizing ordinance that shall include, but not be limited
232 to, all of the following:

233 (1) A brief description of the proposed activities and
234 improvements.

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

238 (3) A statement as to the types or classes of
239 businesses that will be subject to the benefit assessment,
240 with the time and manner of the collection of the annual
241 assessment by the city council.

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

245 (5) The number, date of adoption, and title of the
246 resolution of intention.

247 (6) The time and place where the public hearing was
248 held concerning the establishment or renewal of the tourism
249 improvement district.

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

251 (8) A statement that the businesses in the tourism
252 improvement district established by the ordinance shall be



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253 subject to any amendments to this act.

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

257 (10) A statement that the revenue from the benefit
258 assessment collected in the tourism improvement district shall
259 not be used for any purpose other than the purposes specified
260 in the tourism improvement district plan.

261 (b) The descriptions and statements required by
262 subdivisions (a) (1) through (4) need not be detailed and shall
263 be considered sufficient if they enable an owner to generally
264 identify the nature and extent of the activities and
265 improvements and the location and extent of the tourism
266 improvement district.

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

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

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

277 (2) Any business owner that will be subject to the
278 proposed benefit assessment may make a protest of the
279 establishment or renewal of a tourism improvement district
280 during the 30-day period after the ordinance is passed and



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281 before the ordinance is effective. Every protest shall be in
282 writing and shall be filed with the city council.

283 (3) The protest shall be in writing, shall be filed
284 with the city council, shall clearly identify the business
285 owned by the individual who filed the protest, and if the
286 individual is not shown in the city records as the owner of
287 the business, the protest shall include documentation that the
288 individual is the owner of the business or the authorized
289 representative.

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

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

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

303 Section 8. If a tourism improvement district expires
304 due to the time limit set pursuant to subdivision (8) of
305 Section 4, a new tourism improvement district plan may be
306 established or the expiring tourism improvement district may
307 be renewed pursuant to this act.

308 Section 9. (a) The collection of the benefit



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309 assessments levied pursuant to this act shall be made at the
310 time and in the manner set forth by the city council in the
311 authorizing ordinance. All delinquent payments for benefit
312 assessments levied pursuant to this act may be charged
313 interest and penalties. A percentage of the benefit
314 assessments will be retained by the city council to offset the
315 cost of collection as set forth in the authorizing ordinance.

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

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

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

333 Section 11. (a) The business owners' association, at
334 any time, may request that the city council modify the tourism
335 improvement district plan. Any modification of the tourism
336 improvement district plan shall be made pursuant to this act.



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337 The tourism improvement district plan shall not be modified,
338 including the levy of a new or increased benefit assessment,
339 the expansion of the district boundaries, or expansion of the
340 types or classes of business subject to the benefit
341 assessment, except by the request of the business owners'
342 association.

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

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

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

363 (c) The city council shall, prior to the public hearing
364 required by this section, adopt a resolution of intention to



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365 modify. The resolution shall state the proposed modification.
366 The public hearing shall be held not more than 45 days after
367 the adoption of the resolution of intention to modify.

368 Section 12. (a) The business owners' association shall
369 prepare a prospective report for each fiscal year, except the
370 first year, for which benefit assessments are to be levied and
371 collected to pay the costs of the activities described in the
372 report. The owners' association's first report shall be due 90
373 days after the first year of operation of the tourism
374 improvement district.

375 (b) The report shall be filed with the city council and
376 shall refer to the tourism improvement district by name,
377 specify the fiscal year to which the report applies, and, with
378 respect to that fiscal year, shall contain all of the
379 following information:

380 (1) The activities and improvements to be provided for
381 that fiscal year.

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

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

386 (c) The city council may approve the report as filed by
387 the business owners' association or may make recommendations
388 for approval to the annual report within 45 days of receiving
389 the annual report. The annual report shall be final and
390 approved within 90 days following its submission by the
391 business owners' association to the city council.

392 (d) Within 90 days after the close of the business



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393 owners' association's fiscal year, the business owners'
394 association shall have an annual audit of its books, accounts,
395 and financial transactions made by a certified public
396 accountant. The business owners' association's annual audit
397 shall be completed and filed with the city council within 120
398 days after the close of the business owners' association's
399 fiscal year.

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

404 (b) Upon renewal, any remaining revenues derived from
405 the benefit assessment, or any revenues derived from the sale
406 of assets acquired with the revenues, shall be transferred to
407 the renewed tourism improvement district.

408 (c) There is no requirement that the boundaries,
409 benefit assessment, activities, or improvements of a renewed
410 tourism improvement district be the same as the original or
411 prior tourism improvement district.

412 Section 14. (a) A tourism improvement district
413 established or renewed pursuant to this act may be dissolved
414 by adoption of an ordinance by the city council after public
415 notice and hearing required by this section when there is no
416 indebtedness, outstanding and unpaid, incurred to accomplish
417 any of the purposes of the tourism improvement district.

418 (b) During each year of operation of the tourism
419 improvement district, there shall be a 30-day period in which
420 businesses subject to the benefit assessment may request



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421 dissolution of the tourism improvement district. The first
422 period shall begin two years after the date of establishment
423 of the tourism improvement district and shall continue for 30
424 days. Each successive year of operation of the tourism
425 improvement district shall have such a 30-day period. Upon the
426 written petition of 60 percent or more of business owners or
427 their authorized representatives, the city council shall pass
428 a resolution of intention to dissolve the tourism improvement
429 district. The city council shall give public notice of any
430 hearing on dissolution.

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



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448 Section 15. Upon the dissolution or expiration without
449 renewal of a tourism improvement district, any remaining
450 revenues, after all outstanding debts are paid, derived from
451 the levy of benefit assessments or derived from the sale of
452 assets acquired with the revenues, shall be spent in
453 accordance with the tourism improvement district plan or shall
454 be refunded to the owners of the businesses then located and
455 operating within the tourism improvement district in which
456 benefit assessments were levied by applying the same method
457 and basis that was used to calculate the benefit assessments
458 levied in the fiscal year in which the tourism improvement
459 district is dissolved or expires.

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