

1 HB525
2 195353-7
3 By Representatives Oliver and Warren (N & P)
4 RFD: Local Legislation
5 First Read: 30-APR-19

2
3
4
5
6
7
8
9 A BILL
10 TO BE ENTITLED
11 AN ACT
12

13 Relating to Tallapoosa County; to authorize the
14 formation of the Willow Point Estates Road Maintenance
15 District for the maintenance, repair, and construction of
16 roads and bridges in Willow Point Estates; and to authorize
17 the assessment of road maintenance charges on property owners
18 for the purposes of the district.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

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

26 (1) DISTRICT. A district to be known as the Willow
27 Point Estates Road Maintenance District created pursuant to

1 this act for the purposes of assessing and collecting road
2 maintenance charges for maintenance, repair, construction, and
3 paving of roads, bridges, and rights-of-way and collection of
4 debts in the Willow Point Estates as further defined in this
5 section and recorded in the office of the Judge of Probate of
6 Tallapoosa County.

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

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

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

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

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

- 1 (3) Willow Point Estates - Phases 2-4 and 5, Plat
2 Book 6, Page 21, 08/01/1973.
- 3 (4) Willow Point Estates - Phase 6, Plat Book 56,
4 Page 140, 05/27/1977.
- 5 (5) Willow Point Estates - Phase 7, Plat Book 7,
6 Page 57, 03/03/1986.
- 7 (6) Willow Point Estates - Amended Phase 6, Lots 37
8 and 39, Plat Book 7, Page 73, 12/09/1986.
- 9 (7) Willow Point Estates - Phase 7A, Lot 22, Plat
10 Book 7, Page 78, 01/28/1987.
- 11 (8) Willow Point Estates - Phase VIII, Plat Book 7,
12 Page 82, 04/02/1987.
- 13 (9) Willow Point Estates - Phase VII B, Plat Book 7,
14 Page 85, 05/20/1987.
- 15 (10) Willow Point Estates - Phase VII C, Plat Book
16 7, Page 90, 01/19/1988.
- 17 (11) Willow Point Estates - Amended Phase VII C,
18 Plat Book 7, Page 128, 02/16/1989.
- 19 (12) Willow Point Estates - Phase IX, Plat Book 7,
20 Page 158, 07/31/1990.
- 21 (13) Willow Point Estates - Phase X, Plat Book 7,
22 Page 162, 09/26/1990.
- 23 (14) Willow Point Estates - Phase 2-A (Being a
24 Replat of Lots 15 and 16, Block A, Willow Point Estates at
25 Plat Book 6, Page 21), Plat Book 8, Page 1, 05/21/1993.
- 26 (15) Willow Point Estates - Phase Six "B", Plat Book
27 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
25 established in Tallapoosa County in Willow Point Estates in
26 the manner provided in this act.

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

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

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

21 (d) The petition shall contain the description of
22 the area proposed to be established as a district, shall state
23 the name of the proposed district and the amount of the
24 proposed initial annual road maintenance charges, and shall
25 request the Judge of Probate of Tallapoosa County to call an
26 election on the following question: Shall there be created a
27 road maintenance district for Willow Point Estates?

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

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

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

22 Section 8. (a) When an election is held on the
23 question of the establishment of a district, the County
24 Commission of Tallapoosa County shall pay for the necessary
25 expense of advertising and conducting the election out of the
26 general funds of the county. If the district is established,

1 the district shall reimburse the county for the expenses
2 incurred by the county with respect to the election.

3 (b) After a district has been established, the
4 district shall pay the county commission the expense of any
5 election conducted by the judge of probate and held in the
6 district.

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

17 Section 10. (a) The affairs and business of the
18 district shall be managed by a board of directors. The initial
19 members of the board of directors shall be the persons
20 included in the petition. The board shall file incorporation
21 papers with the judge of probate. After incorporation, the
22 board shall adopt bylaws of the corporation.

23 (b) The term of the initial members of the board
24 shall be 12 months.

25 (c) In order to elect the members of the board of
26 directors thereafter, the initial board shall set an election
27 to be held at a meeting of the district in accordance with the

1 bylaws. Notice of the meeting shall be given as provided in
2 the bylaws. At the meeting, five board members shall be
3 elected by the qualified voters of the district. In order to
4 qualify for election to the board, the person shall be a
5 qualified property owner, or if the qualified property owner
6 is not a natural person, a natural person designated in
7 writing by the qualified property owner. Two members shall be
8 elected for two year terms and three members shall be elected
9 for three year terms. Prior to the expiration of any board
10 member's term, notice of a meeting of the district to elect a
11 successor shall be provided in accordance with the bylaws.
12 Successor board members shall be elected for terms of two
13 years each. Board members may serve successive terms without
14 limitation.

15 (d) If a vacancy occurs on the board, the board
16 shall appoint a member who meets the qualifications set out in
17 this section for membership on the board to serve for the
18 unexpired term.

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

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

23 Section 11. (a) The district shall constitute a
24 public corporation, which, subject to the bylaws of the
25 corporation, shall have the power to do any and all acts or
26 things necessary and convenient for carrying out the purposes

1 for which it is created, including, but not limited to, all of
2 the following:

3 (1) To sue and be sued.

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

5 (3) To acquire, hold, and dispose of property, real
6 and personal, tangible and intangible, or interests therein
7 and to pay therefor in cash or on credit, and to secure and
8 procure payment of all or any part of the purchase price
9 thereof on the terms and conditions as the board shall
10 determine.

11 (4) To acquire, own, operate, maintain, and improve
12 a system of roads and bridges and rights-of-way in the
13 district.

14 (5) To pledge all or any part of its revenues, or
15 mortgages, or otherwise encumber, all or any part of its
16 property for the purpose of securing the payment of the
17 principal of and interest on any of its obligations.

18 (6) To sell, lease, mortgage, or otherwise encumber
19 or dispose of all or any part of its property, as hereinafter
20 provided and to establish and maintain bank accounts for the
21 district.

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

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

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

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

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

6 (12) To perform all of the foregoing acts and to do
7 any and all of the foregoing things under, through, or by
8 means of its own officers, agents, and employees, or by
9 contracts with any person, company, corporation, federal
10 agency, or municipality.

11 (b) The property and income of the district,
12 conveyances by or to the district, and leases, mortgages, and
13 deeds of trust by or to the district shall be exempt from all
14 taxation in the State of Alabama. The district shall be exempt
15 from all taxes levied by any county, municipality, or other
16 political subdivision of the state, including, but without
17 limitation to, license and excise taxes imposed in respect of
18 the privilege of engaging in any of the activities that a
19 district may engage in. The district shall not be obligated to
20 pay or allow any fees, taxes, or costs to the judge of probate
21 with respect to its incorporation, the amendment of its
22 certificate of incorporation, or the recording of a document.

23 Section 12. (a) Any road maintenance charge shall be
24 collected on behalf of the district by the Revenue
25 Commissioner of Tallapoosa County and distributed to the board
26 of the district for the purposes of the district.

1 (b) The expenses of establishing and maintaining the
2 district shall be paid for by the proceeds of the road
3 maintenance charge, which shall be assessed and collected from
4 qualified property owners within the district. The revenues
5 collected from the district, less any costs of collection,
6 shall be used for maintenance, construction, repair, and
7 paving of roads, bridges, and rights-of-way in the district.
8 The road maintenance charge shall be a legal obligation of the
9 owner of the property served by the district and shall be due
10 at the same time as the annual property tax payment.

11 (c) To secure the collection of the road maintenance
12 charge, there shall be a lien against the property in favor of
13 the district. The board of directors of this district may
14 enforce the lien pursuant to Alabama law. Any costs of
15 collections, including any legal expenses and court cost,
16 shall be an obligation of the owner or owners of the lot if
17 enforcement of the lien enforcement is necessary. The district
18 shall be bonded for an amount sufficient to cover three times
19 the total revenue to be collected from road maintenance
20 charges on an annual basis.

21 Section 13. (a) Any future road maintenance charge
22 increase or decrease must be approved as provided herein and
23 as further provided in the bylaws. The petition for the
24 election on the question of any future increase or decrease in
25 the road maintenance charge shall be signed by 30 qualified
26 voters in the district and shall state specifically the

1 increase or decrease in the road maintenance charge proposed
2 to be assessed including the basis and manner to be assessed.

3 (b) No road maintenance charge shall be increased or
4 decreased unless the same has been first approved by a
5 majority of the votes cast by the qualified voters, with each
6 lot having one vote, in the district at an election held under
7 this act at a meeting of the district held in accordance with
8 the bylaws of the district.

9 Section 14. (a) The district may be abolished in the
10 manner provided for in this section; however, the district
11 shall not be abolished or diminished when it has any
12 indebtedness. In addition, the district shall not be abolished
13 unless the county has agreed to accept all roads in the
14 district as county roads or another road maintenance district
15 agrees to accept the roads.

16 (b) Upon the petition for abolition of the district
17 being filed with the judge of probate, the judge of probate
18 shall order an election on the abolition of the district to be
19 held in the district within the time provided for by Section
20 4. The qualified voters shall be entitled to vote in the
21 election. The petition shall be signed by at least 125
22 qualified voters of the district. The petition shall contain a
23 recital that the district is not indebted and that the county
24 or another road maintenance district has agreed to accept the
25 roads in the district, and the petition shall request the
26 judge of probate to order an election on whether the district
27 shall be abolished. Upon the officers canvassing the returns

1 of the votes and a determination that abolition of the
2 district was approved by a majority of the qualified voters at
3 the election with each lot having one vote, the district shall
4 be abolished.

5 Section 15. The provisions of this act are
6 severable. If any part of this act is declared invalid or
7 unconstitutional, that declaration shall not affect the part
8 which remains.

9 Section 16. All laws or parts of laws which conflict
10 with this act are repealed. The provisions of this act are
11 supplemental and shall not be construed to repeal any law not
12 in direct conflict herewith.

13 Section 17. This act shall become effective upon the
14 ratification of a constitutional amendment related to
15 Tallapoosa County authorizing the establishment of a road
16 maintenance district composed of certain platted subdivisions
17 in the county.