

1 HB127  
2 180750-1  
3 By Representative Buskey  
4 RFD: Economic Development and Tourism  
5 First Read: 07-FEB-17

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8 SYNOPSIS: Under existing law, there is a process for  
9 establishing community development districts that  
10 meet certain requirements. Once established, the  
11 sale of alcoholic beverages is authorized within  
12 the district by certain entities otherwise licensed  
13 by the Alcoholic Beverage Control Board.

14 This bill would create an additional class  
15 of community development district and provide for  
16 the incorporation and powers of the district.

17  
18 A BILL  
19 TO BE ENTITLED  
20 AN ACT

21  
22 To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3, as  
23 amended by Act 2016-222, 2016 Regular Session, Code of Alabama  
24 1975, relating to community development districts; to create  
25 an additional class of community development district; and to  
26 provide for the incorporation and powers of the district.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 35-8B-1, 35-8B-2, and 35-8B-3,  
2 as amended by Act 2016-222, 2016 Regular Session, Code of  
3 Alabama 1975, are amended to read as follows:

4           "§35-8B-1.

5           "(a) "Community development district" shall mean a  
6 private residential development that: (1) Is a size of at  
7 least 250 acres of contiguous land area; (2) has at least 100  
8 residential sites, platted and recorded in the probate office  
9 of the county as a residential subdivision; (3) has streets  
10 that were or will be built with private funds; (4) has a  
11 social club with: (i) an 18-hole golf course of regulation  
12 size; (ii) a restaurant or eatery used exclusively for the  
13 purpose of preparing and serving meals, with a seating  
14 capacity of at least 60 patrons; (iii) social club memberships  
15 with at least 100 paid-up members who have paid a membership  
16 initiation fee of not less than two hundred fifty dollars  
17 (\$250) per membership; (iv) membership policies whereby  
18 membership is not denied or impacted by an applicant's race,  
19 color, creed, religion, or national origin; and (v) a  
20 full-time management staff for the social activities of the  
21 club, including the management of the premises where food and  
22 drink are sold.

23           "(b) "Community development district" also means  
24 privately owned property used for social purposes that: (1) Is  
25 a size of at least 250 acres of contiguous land area; (2) is  
26 located in a dry county that has one or more wet  
27 municipalities, but outside the corporate limits of any

1 municipality; (3) is a social club with: (i) An 18-hole golf  
2 course of regulation size; (ii) a marina and boat storage  
3 facility with at least 35 spaces; (iii) a clubhouse with more  
4 than 20,000 square feet; (iv) a restaurant or eatery used  
5 exclusively for the purpose of preparing and serving meals,  
6 with a seating capacity of at least 88 patrons; (v) at least  
7 600 paid-up golf or social members who have paid a membership  
8 initiation fee of not less than two thousand dollars (\$2,000)  
9 per family or individual membership; (vi) membership policies  
10 whereby membership is not denied or impacted by an applicant's  
11 race, color, creed, religion, or national origin; and (vii) a  
12 full-time management staff for the social activities of the  
13 club, including the management of the premises where food and  
14 drink are sold.

15 "(c) In addition to the limitations specified in  
16 Section 35-8B-3, with regard to a community development  
17 district defined in subsections (a) and (b) of this section,  
18 alcoholic beverages shall be sold only for on-premises  
19 consumption, as defined in Section 35-8B-3 (3), and in regard  
20 to a community development district defined in subsection (b),  
21 alcoholic beverages shall not be sold within 3,000 feet of the  
22 south right-of-way of any state or federal highway adjacent to  
23 any such district.

24 "(d) "Community development district" also means a  
25 private residential development that may or may not include  
26 additional contiguous privately-owned property used for  
27 residential, social, commercial, or charitable purposes that:

1 (1) Is the size of at least 650 acres of contiguous land area,  
2 but may also contain non-contiguous land if so divided by a  
3 public highway which shall be made part of the district per  
4 the articles of establishment; (2) is located in a dry county  
5 that has one or more wet municipalities, but may be outside  
6 the corporate limits of any municipality or within the  
7 corporate limits of a municipality; (3) has the following: (i)  
8 At least a 9-hole golf course; (ii) an amenity complex to  
9 include a fitness center and a swimming pool; (iii) a  
10 clubhouse with at least 7,000 square feet; (iv) a restaurant  
11 or eatery used for the purpose of preparing and serving meals,  
12 with a seating capacity of at least 50 patrons; (v) a  
13 recreational lake of at least 30 acres; (vi) at least 200  
14 paid-up golf or club memberships paid initially by either the  
15 developer, residential landowners, or commercial entities  
16 located within the district at the rate of at least five  
17 hundred dollars (\$500) per membership provided the developer  
18 reserves the right through residential and commercial lease  
19 and purchase agreements to require additional membership and  
20 initiation fees and further provided the developer has the  
21 discretion to restrict use of the golf course to district  
22 landowners and guests or at the developer's discretion to  
23 extend use of the golf course to the general public subject to  
24 fees set and determined by the developer which may differ from  
25 fees applicable to residential and commercial lease and  
26 purchase agreements; and (vii) membership policies whereby  
27 membership is not denied or impacted by an applicant's race,

1 color, religion, or national origin; (4) may include a  
2 multi-purpose use entertainment facility with a minimum  
3 capacity to accommodate at least 7,500 patrons; and (5) may  
4 include commercial establishments. Notwithstanding any other  
5 provisions of law, the sale and distribution of alcoholic  
6 beverages, including draft or keg beer, by licensees of the  
7 Alcoholic Beverage Control Board shall be authorized in a  
8 community development district defined under this subsection  
9 and Section 35-8B-3 shall not apply.

10 "(e) "Community development district" also means a  
11 commercial district located in a wet county that does not  
12 authorize Sunday sales and outside the corporate limits and  
13 police jurisdiction of any municipality and which has a  
14 restaurant with a seating capacity of at least 120, a  
15 grocery-delicatessen, riding stables and riding trails, a  
16 community information center, outdoor programming activities,  
17 and rural lifestyle demonstrations.

18 "(f) "Community development district" also means a  
19 commercial district located in a wet county that does not  
20 authorize Sunday sales, has a restaurant with a seating  
21 capacity of at least 120, is adjacent to a marina with at  
22 least 34 boat slips, and is located on property where the  
23 marina and restaurant are under common ownership.

24 "(g) "Community development district" also means a  
25 parcel of real property that meets all of the following  
26 criteria:

27 "(1) It is owned by the same person or entity.

1           "(2) It consists of not less than 160 acres.

2           "(3) It is located partially in a dry county and  
3 partially in a wet county.

4           "(4) It contains a lake of not less than 70 acres  
5 with a fishing resort consisting of a rental boathouse,  
6 campsites, and a community room.

7           "~~(g)~~ (h) "Community development district" also means  
8 a commercial district that includes a marina located on a  
9 river in an unincorporated area of a wet county that does not  
10 authorize seven day sales with two separate food and beverage  
11 buildings with a combined space of at least 7,500 square feet  
12 connected by a boardwalk and separated by a patio with an  
13 entertainment stage.

14           "~~(h)~~ (i) "Community development district" also means  
15 a commercial district located in a dry county that shares a  
16 geographic border with another state, has an elevation of at  
17 least 1,500 feet, and has a recreational waterway, specialty  
18 shops and restaurants, summer camps and retreat centers, an  
19 art gallery, and annual festivals showcasing the area.

20           "~~(i)~~ (j) If a community development district is  
21 located in any county, including within any wet or dry  
22 municipality located within the county, the county shall  
23 participate in the distribution of taxes and license fees  
24 pursuant to Chapters 3 and 3A of Title 28.

25           "~~(j)~~ (k) Any alcohol revenues received by a county  
26 under Act 2007-417 shall offset in an equal amount any T.V.A.  
27 in-lieu-of-taxes payments received by the county. Any T.V.A.

1 in-lieu-of-taxes payments replaced by alcohol revenues under  
2 this subsection shall be distributed to T.V.A.-served  
3 counties.

4 "~~(k)~~(l) If a community development district  
5 established prior to June 1, 2014, becomes a new municipality  
6 pursuant to Sections 11-41-1 and 11-41-2, the section  
7 requiring a vote of the residents of the property described in  
8 the petition, the new municipality created thereby shall be  
9 wet and the sale and distribution of alcoholic beverages  
10 therein shall be authorized to the full extent of any other  
11 wet municipality. In addition to the other requirements for  
12 incorporating into a municipality set forth in Sections  
13 11-41-1 and 11-41-2, the petition shall provide notice to  
14 potential voters that if the new municipality is incorporated  
15 it shall be wet.

16 "§35-8B-2.

17 "The exclusive and uniform method for the  
18 establishment of a community development district shall be by  
19 the filing of the articles of establishment of a community  
20 development district with the judge of probate of the county  
21 in which the district is to be located, or if located in more  
22 than one county, of the county wherein is located the largest  
23 area of the community development district.

24 "(1) The articles of establishment of a district  
25 defined in subsection (a) of Section 35-8B-1 shall contain the  
26 following:



1           "a. The written consent to the establishment of the  
2 district by the owner or owners of at least 51 percent of the  
3 real property to be included in the district, or documentation  
4 demonstrating that the petitioner has control by deed, trust  
5 agreement, contract, or option of at least 51 percent of the  
6 real property to be included in the district.

7           "b. A metes and bounds description of the external  
8 boundaries of the district, with a specific metes and bounds  
9 description of any real property within the external  
10 boundaries of the district which is to be excluded from the  
11 district.

12           "c. A schematic layout of the proposed district with  
13 a map of the proposed and existing residential subdivisions,  
14 streets, and roads in the district, and of the building and  
15 grounds to be used in common by members of the club operating  
16 in the district, together with a commitment that the owner or  
17 owners of the real property located within the district will  
18 bear the costs of the construction of such proposed streets  
19 and roads, if such proposed roads and streets do not exist on  
20 the day the articles of establishment are filed.

21           "d. The proposed name of the district, and the  
22 location and the mailing address of the principal office of  
23 the district.

24           "e. A designation of five persons to be the initial  
25 members of the board of control of the district, two of whom  
26 shall serve in that office until replaced by elected members;  
27 provided, the two elected members of the board of control

1 shall be elected by the members of the club who may vote in  
2 person or by proxy in writing at an annual meeting of the  
3 district, which date shall be specified in the petition. Each  
4 club member shall be entitled to cast one vote. The two  
5 candidates receiving the highest number of votes shall be  
6 elected to the board of control for a period of one year, or  
7 until his or her successor shall be duly elected. Upon the  
8 death or resignation of a non-elected member of the board of  
9 control, the remaining board members shall elect, by majority  
10 vote at a called board meeting, a new non-elected board  
11 member.

12 "(2) The articles of establishment of a district  
13 defined in subsections (b) and (d) of Section 35-8B-1 shall  
14 contain the following:

15 "a. The written consent to the establishment of the  
16 district by the owner of the real property to be included in  
17 the district.

18 "b. A metes and bounds description of the external  
19 boundaries of the district.

20 "c. A schematic layout of the proposed district with  
21 a map of the buildings and grounds to be used in common by the  
22 members of the club operating in the district.

23 "d. The proposed name of the district and the  
24 location and the mailing address of the principal office of  
25 the district.

1            "e. A designation of members of the board of  
2 governors of the club operating in the district who shall be  
3 the members of the board of control of the district.

4            "(3) The articles of establishment of a district  
5 described in Section 35-8B-1(e), (f), (g), ~~or~~ (h), or (i)  
6 shall contain the following:

7            "a. The written consent to the establishment of the  
8 district by the owner of the real property to be included  
9 within the district.

10           "b. A metes and bounds description of the external  
11 boundaries of the district.

12           "c. A schematic layout of the proposed district with  
13 a map of the buildings and grounds to be used in common by  
14 guests in the district.

15           "d. The proposed name of the district and the  
16 location and the mailing address of the principal office of  
17 the district.

18           "e. A designation of members of the board of  
19 governors of the district who shall be elected by the owner of  
20 the real property included in the district.

21           "(4) The articles of establishment and two copies  
22 thereof shall be delivered to the probate judge who shall,  
23 upon the payment of the fees hereinafter prescribed:

24           "a. Endorse on the articles and on each of such  
25 copies the word "Filed," and the hour, day, month, and year of  
26 the filing thereof.

1            "b. File the articles in his or her office and  
2 certify the two copies thereof.

3            "c. Issue a certificate of establishment to which he  
4 or she shall affix one certified copy of the articles of  
5 establishment, and return such certificate with a certified  
6 copy of the articles of establishment affixed thereto to the  
7 district.

8            "(5) Upon the filing of the articles of  
9 establishment of the community development district with the  
10 probate judge, the district's existence shall begin.

11            "(6) In lieu of all other charges and fees for a  
12 community development district formed under Section  
13 35-8B-1(a), (b), or (d), the probate judge shall charge and  
14 collect for filing the articles of establishment and issuing a  
15 certificate of establishment, one thousand dollars (\$1,000)  
16 payable to the municipality in which is located the largest  
17 area of the community development district if located in a  
18 municipality, and if not, to the county in which is located  
19 the largest area of the community development district and  
20 three hundred fifty dollars (\$350) to the county for the  
21 purpose of providing additional funds for the office of the  
22 probate judge. On or before the anniversary date of the filing  
23 of the articles of establishment, excluding the actual year of  
24 filing, the board of control shall pay to the probate judge a  
25 fee of three hundred fifty dollars (\$350) and a fee of one  
26 thousand dollars (\$1,000) payable to the municipality in which  
27 is located the largest area of the community development

1 district if located in a municipality, and if not, to the  
2 county in which is located the largest area of the community  
3 development district for the purpose of providing additional  
4 funds for the office of the probate judge.

5 "(7) In lieu of all other charges and fees for a  
6 community development district formed under Section  
7 35-8B-1(e), (f), (g), or (h), the judge of probate shall  
8 charge and collect a one-time fee for filing the articles of  
9 establishment and issuing a certificate of establishment of  
10 five hundred dollars (\$500) payable to the county in which is  
11 located the largest area of the district for the purpose of  
12 providing additional funds to the judge of probate.

13 "§35-8B-3.

14 "(a) If a majority of the board of control of a  
15 community development district formed under Section  
16 35-8B-1(a), (b), or (d) consents to and approves the sale and  
17 distribution of alcoholic beverages within the district, it  
18 shall be lawful to sell and distribute alcoholic beverages in  
19 the community development district in the following manner and  
20 subject to the following terms, definitions, and conditions:

21 "(1) Upon being licensed by the Alabama Alcoholic  
22 Beverage Control Board, alcoholic beverages may be sold by the  
23 club of the district to members and their guests for  
24 on-premises consumption only. The club shall be licensed to  
25 sell alcoholic beverages to its members and their guests as a  
26 club liquor retail licensee by the Alabama Alcoholic Beverage  
27 Control Board, upon the club's compliance with the provisions

1 of the alcoholic beverage licensing code and the regulations  
2 made thereunder. The original application shall be accompanied  
3 by a certificate from the board of control of the district in  
4 which the licensed club is located, consenting to and  
5 approving the sale of alcoholic beverages at the club. The  
6 club shall not be required to present its application or  
7 obtain the consent and approval of any authority other than  
8 the Board of Control of the district.

9 "(2) MEMBER. Any person or entity whose membership  
10 application has been approved by the club.

11 "(3) ON-PREMISES CONSUMPTION. Consumption on the  
12 property of the club, including the club house, the golf  
13 course, and other recreational facilities of the club. Sales  
14 of alcoholic beverages for on-premises consumption shall be  
15 made only by authorized charge to a member's account.

16 "(b) If a majority of the board of control of a  
17 community development district formed pursuant to Section  
18 35-8B-1(e), (f), (g), ~~or~~ (h), or (i) consents to and approves  
19 the sale and distribution of alcoholic beverages within the  
20 district for seven days a week, any person within the district  
21 licensed by the Alabama Alcoholic Beverage Control Board may  
22 sell alcoholic beverages in the district for on-premises  
23 consumption."

24 Section 2. This act shall become effective  
25 immediately following its passage and approval by the  
26 Governor, or its otherwise becoming law.