

1 HB32
2 187652-1
3 By Representative Crawford
4 RFD: Economic Development and Tourism
5 First Read: 09-JAN-18
6 PFD: 11/07/2017

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8 SYNOPSIS: Under existing law, there is a process for
9 establishing a community development district. Once
10 established, certain entities within a community
11 development district may sell alcoholic beverages
12 under certain circumstances after licensure by the
13 Alcoholic Beverage Control Board.

14 This bill would create an additional class
15 of community development districts and authorize
16 the sale of alcoholic beverages in one of these
17 districts for on-premises and off-premises
18 consumption.

19
20 A BILL
21 TO BE ENTITLED
22 AN ACT

23
24 Relating to community development districts; to
25 amend Sections 35-8B-1 and 35-8B-3, Code of Alabama 1975, as
26 amended by Act 2017-350 and Act 2017-359, 2017 Regular
27 Session; to create an additional class of community

1 development districts; and to authorize the sale of alcoholic
2 beverages in one of these districts for on-premises and
3 off-premises consumption.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Sections 35-8B-1 and 35-8B-3, Code of
6 Alabama 1975, as amended by Act 2017-350 and Act 2017-359,
7 2017 Regular Session, are amended to read as follows:

8 "§35-8B-1.

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

1 "(b) "Community development district" also means
2 privately owned property used for social purposes that: (1) Is
3 a size of at least 250 acres of contiguous land area; (2) is
4 located in a dry county that has one or more wet
5 municipalities, but outside the corporate limits of any
6 municipality; (3) is a social club with: (i) An 18-hole golf
7 course of regulation size; (ii) a marina and boat storage
8 facility with at least 35 spaces; (iii) a clubhouse with more
9 than 20,000 square feet; (iv) a restaurant or eatery used
10 exclusively for the purpose of preparing and serving meals,
11 with a seating capacity of at least 88 patrons; (v) at least
12 600 paid-up golf or social members who have paid a membership
13 initiation fee of not less than two thousand dollars (\$2,000)
14 per family or individual membership; (vi) membership policies
15 whereby membership is not denied or impacted by an applicant's
16 race, color, creed, religion, or national origin; and (vii) a
17 full-time management staff for the social activities of the
18 club, including the management of the premises where food and
19 drink are sold.

20 "(c) In addition to the limitations specified in
21 Section 35-8B-3, with regard to a community development
22 district defined in subsections (a) and (b) of this section,
23 alcoholic beverages shall be sold only for on-premises
24 consumption, as defined in Section 35-8B-3 (3), and in regard
25 to a community development district defined in subsection (b),
26 alcoholic beverages shall not be sold within 3,000 feet of the

1 south right-of-way of any state or federal highway adjacent to
2 any such district.

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

1 landowners and guests or at the developer's discretion to
2 extend use of the golf course to the general public subject to
3 fees set and determined by the developer which may differ from
4 fees applicable to residential and commercial lease and
5 purchase agreements; and (vii) membership policies whereby
6 membership is not denied or impacted by an applicant's race,
7 color, religion, or national origin; (4) may include a
8 multi-purpose use entertainment facility with a minimum
9 capacity to accommodate at least 7,500 patrons; and (5) may
10 include commercial establishments. Notwithstanding any other
11 provisions of law, the sale and distribution of alcoholic
12 beverages, including draft or keg beer, by licensees of the
13 Alcoholic Beverage Control Board shall be authorized in a
14 community development district defined under this subsection
15 and Section 35-8B-3 shall not apply.

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

24 "(f) "Community development district" also means a
25 commercial district located in a wet county that does not
26 authorize Sunday sales, has a restaurant with a seating
27 capacity of at least 120, is adjacent to a marina with at

1 least 34 boat slips, and is located on property where the
2 marina and restaurant are under common ownership.

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

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

16 "(i) "Community development district" also means a
17 commercial district which borders on a lake which is formed by
18 an impounded reservoir of a river whose source is in a federal
19 wilderness area and has a marina with not less than 30 boat
20 slips and a restaurant with seating capacity of not less than
21 100 seats of which not less than 50 seats must be inside
22 seating and is located on property where the marina and
23 restaurant are under common ownership. In addition to any
24 other requirements by law, the restaurant shall obtain a
25 business license from the local governing body having primary
26 jurisdiction of the property where the restaurant is located
27 and shall be subject to additional regulation as determined

1 necessary by the local governing body. Only one restaurant
2 license per community development district shall be allowed.

3 "(j) "Community development district" also means a
4 parcel of real property that meets all of the following
5 criteria:

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

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

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

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

13 "(k) "Community development district" also means a
14 parcel of real property that meets all of the following:

15 "(1) Consists of at least 1,600 acres.

16 "(2) Holds concerts and other family-oriented
17 events.

18 "(3) Is located in a dry county with at least one
19 wet municipality.

20 "(l) "Community development district" also means a
21 commercial district located in a wet county that does not
22 authorize Sunday sales which district is composed of resort
23 property consisting of 3,000 or more contiguous acres under
24 common ownership, has a public golf course with a practice
25 area and clubhouse, has a restaurant on the property, has
26 overnight accommodations consisting of 40 or more guest
27 suites, and has a shooting range.

1 "(m) "Community development district" also means
2 privately owned property that meets all of the following
3 criteria:

4 "(1) It is used for social purposes.

5 "(2) It is located in a dry county that has one or
6 more wet municipalities, but outside the corporate limits of
7 any municipality.

8 "(3) It has a marina and a boat storage facility
9 with at least 150 spaces.

10 "(4) It has a shipstore with at least 2,200 square
11 feet.

12 "(5) It is adjacent to a lake of at least 100,000
13 acres.

14 "(6) It has a restaurant or eatery used for the
15 purpose of preparing and serving meals, with a seating
16 capacity of at least 40 patrons.

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

22 ~~"(n)~~ (o) Any alcohol revenues received by a county
23 under Act 2007-417 shall offset in an equal amount any T.V.A.
24 in-lieu-of-taxes payments received by the county. Any T.V.A.
25 in-lieu-of-taxes payments replaced by alcohol revenues under
26 this subsection shall be distributed to T.V.A.-served
27 counties.

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

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), (h), (i), (j), (k), or (l) consents to
19 and approves the sale and distribution of alcoholic beverages
20 within the district for seven days a week, any person within
21 the district licensed by the Alabama Alcoholic Beverage
22 Control Board may sell alcoholic beverages in the district for
23 on-premises consumption.

24 "(c) If a community development district that meets
25 the requirements of Section 35-8B-1 (m) is formed, it shall be
26 lawful to sell and distribute alcoholic beverages in the
27 community development district for on-premises and

1 off-premises consumption any day of the week provided any
2 person that sells alcoholic beverages in the district is
3 appropriately licensed by the Alabama Alcoholic Beverage
4 Control Board. Any licensee that sells alcoholic beverages for
5 off-premises consumption may not limit sales based on
6 membership to any club or marina."

7 Section 2. This act shall become effective on the
8 first day of the third month following its passage and
9 approval by the Governor, or its otherwise becoming law.