

1 HB47
2 176440-4
3 By Representative Buskey
4 RFD: Economic Development and Tourism
5 First Read: 07-FEB-17
6 PFD: 01/25/2017

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ENROLLED, An Act,

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

"§35-8B-1.

"(a) "Community development district" shall mean a private residential development that: (1) Is a size of at least 250 acres of contiguous land area; (2) has at least 100 residential sites, platted and recorded in the probate office of the county as a residential subdivision; (3) has streets that were or will be built with private funds; (4) has a social club with: (i) an 18-hole golf course of regulation size; (ii) a restaurant or eatery used exclusively for the purpose of preparing and serving meals, with a seating capacity of at least 60 patrons; (iii) social club memberships with at least 100 paid-up members who have paid a membership initiation fee of not less than two hundred fifty dollars

1 (\$250) per membership; (iv) membership policies whereby
2 membership is not denied or impacted by an applicant's race,
3 color, creed, religion, or national origin; and (v) a
4 full-time management staff for the social activities of the
5 club, including the management of the premises where food and
6 drink are sold.

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

1 "(c) In addition to the limitations specified in
2 Section 35-8B-3, with regard to a community development
3 district defined in subsections (a) and (b) of this section,
4 alcoholic beverages shall be sold only for on-premises
5 consumption, as defined in Section 35-8B-3 (3), and in regard
6 to a community development district defined in subsection (b),
7 alcoholic beverages shall not be sold within 3,000 feet of the
8 south right-of-way of any state or federal highway adjacent to
9 any such district.

10 "(d) "Community development district" also means a
11 private residential development that may or may not include
12 additional contiguous privately-owned property used for
13 residential, social, commercial, or charitable purposes that:
14 (1) Is the size of at least 650 acres of contiguous land area,
15 but may also contain non-contiguous land if so divided by a
16 public highway which shall be made part of the district per
17 the articles of establishment; (2) is located in a dry county
18 that has one or more wet municipalities, but may be outside
19 the corporate limits of any municipality or within the
20 corporate limits of a municipality; (3) has the following: (i)
21 At least a 9-hole golf course; (ii) an amenity complex to
22 include a fitness center and a swimming pool; (iii) a
23 clubhouse with at least 7,000 square feet; (iv) a restaurant
24 or eatery used for the purpose of preparing and serving meals,
25 with a seating capacity of at least 50 patrons; (v) a

1 recreational lake of at least 30 acres; (vi) at least 200
2 paid-up golf or club memberships paid initially by either the
3 developer, residential landowners, or commercial entities
4 located within the district at the rate of at least five
5 hundred dollars (\$500) per membership provided the developer
6 reserves the right through residential and commercial lease
7 and purchase agreements to require additional membership and
8 initiation fees and further provided the developer has the
9 discretion to restrict use of the golf course to district
10 landowners and guests or at the developer's discretion to
11 extend use of the golf course to the general public subject to
12 fees set and determined by the developer which may differ from
13 fees applicable to residential and commercial lease and
14 purchase agreements; and (vii) membership policies whereby
15 membership is not denied or impacted by an applicant's race,
16 color, religion, or national origin; (4) may include a
17 multi-purpose use entertainment facility with a minimum
18 capacity to accommodate at least 7,500 patrons; and (5) may
19 include commercial establishments. Notwithstanding any other
20 provisions of law, the sale and distribution of alcoholic
21 beverages, including draft or keg beer, by licensees of the
22 Alcoholic Beverage Control Board shall be authorized in a
23 community development district defined under this subsection
24 and Section 35-8B-3 shall not apply.

1 "(e) "Community development district" also means a
2 commercial district located in a wet county that does not
3 authorize Sunday sales and outside the corporate limits and
4 police jurisdiction of any municipality and which has a
5 restaurant with a seating capacity of at least 120, a
6 grocery-delicatessen, riding stables and riding trails, a
7 community information center, outdoor programming activities,
8 and rural lifestyle demonstrations.

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

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

22 "(h) "Community development district" also means a
23 commercial district located in a dry county that shares a
24 geographic border with another state, has an elevation of at
25 least 1,500 feet, and has a recreational waterway, specialty

1 shops and restaurants, summer camps and retreat centers, an
2 art gallery, and annual festivals showcasing the area.

3 "(i) "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 "(j) "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 "(k) "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

1 overnight accommodations consisting of 40 or more guest
2 suites, and has a shooting range.

3 "~~(i)-(j)~~ (l) If a community development district is
4 located in any county, including within any wet or dry
5 municipality located within the county, the county shall
6 participate in the distribution of taxes and license fees
7 pursuant to Chapters 3 and 3A of Title 28.

8 "~~(j)-(k)~~ (m) Any alcohol revenues received by a
9 county under Act 2007-417 shall offset in an equal amount any
10 T.V.A. in-lieu-of-taxes payments received by the county. Any
11 T.V.A. in-lieu-of-taxes payments replaced by alcohol revenues
12 under this subsection shall be distributed to T.V.A.-served
13 counties.

14 "~~(k)-(l)~~ (n) If a community development district
15 established prior to June 1, 2014, becomes a new municipality
16 pursuant to Sections 11-41-1 and 11-41-2, the section
17 requiring a vote of the residents of the property described in
18 the petition, the new municipality created thereby shall be
19 wet and the sale and distribution of alcoholic beverages
20 therein shall be authorized to the full extent of any other
21 wet municipality. In addition to the other requirements for
22 incorporating into a municipality set forth in Sections
23 11-41-1 and 11-41-2, the petition shall provide notice to
24 potential voters that if the new municipality is incorporated
25 it shall be wet.

1 "§35-8B-2.

2 "The exclusive and uniform method for the
3 establishment of a community development district shall be by
4 the filing of the articles of establishment of a community
5 development district with the judge of probate of the county
6 in which the district is to be located, or if located in more
7 than one county, of the county wherein is located the largest
8 area of the community development district.

9 "(1) The articles of establishment of a district
10 defined in subsection (a) of Section 35-8B-1 shall contain the
11 following:

12 "a. The written consent to the establishment of the
13 district by the owner or owners of at least 51 percent of the
14 real property to be included in the district, or documentation
15 demonstrating that the petitioner has control by deed, trust
16 agreement, contract, or option of at least 51 percent of the
17 real property to be included in the district.

18 "b. A metes and bounds description of the external
19 boundaries of the district, with a specific metes and bounds
20 description of any real property within the external
21 boundaries of the district which is to be excluded from the
22 district.

23 "c. A schematic layout of the proposed district with
24 a map of the proposed and existing residential subdivisions,
25 streets, and roads in the district, and of the building and

1 grounds to be used in common by members of the club operating
2 in the district, together with a commitment that the owner or
3 owners of the real property located within the district will
4 bear the costs of the construction of such proposed streets
5 and roads, if such proposed roads and streets do not exist on
6 the day the articles of establishment are filed.

7 "d. The proposed name of the district, and the
8 location and the mailing address of the principal office of
9 the district.

10 "e. A designation of five persons to be the initial
11 members of the board of control of the district, two of whom
12 shall serve in that office until replaced by elected members;
13 provided, the two elected members of the board of control
14 shall be elected by the members of the club who may vote in
15 person or by proxy in writing at an annual meeting of the
16 district, which date shall be specified in the petition. Each
17 club member shall be entitled to cast one vote. The two
18 candidates receiving the highest number of votes shall be
19 elected to the board of control for a period of one year, or
20 until his or her successor shall be duly elected. Upon the
21 death or resignation of a non-elected member of the board of
22 control, the remaining board members shall elect, by majority
23 vote at a called board meeting, a new non-elected board
24 member.

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

4 "a. The written consent to the establishment of the
5 district by the owner of the real property to be included in
6 the district.

7 "b. A metes and bounds description of the external
8 boundaries of the district.

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

12 "d. The proposed name of the district and the
13 location and the mailing address of the principal office of
14 the district.

15 "e. A designation of members of the board of
16 governors of the club operating in the district who shall be
17 the members of the board of control of the district.

18 "(3) The articles of establishment of a district
19 described in Section 35-8B-1(e), (f), (g), ~~or (h), or (i)~~,
20 (i), or (j) (j), or (k) shall contain the following:

21 "a. The written consent to the establishment of the
22 district by the owner of the real property to be included
23 within the district.

24 "b. A metes and bounds description of the external
25 boundaries of the district.

1 "c. A schematic layout of the proposed district with
2 a map of the buildings and grounds to be used in common by
3 guests in the district.

4 "d. The proposed name of the district and the
5 location and the mailing address of the principal office of
6 the district.

7 "e. A designation of members of the board of
8 governors of the district who shall be elected by the owner of
9 the real property included in the district.

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

13 "a. Endorse on the articles and on each of such
14 copies the word "Filed," and the hour, day, month, and year of
15 the filing thereof.

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

18 "c. Issue a certificate of establishment to which he
19 or she shall affix one certified copy of the articles of
20 establishment, and return such certificate with a certified
21 copy of the articles of establishment affixed thereto to the
22 district.

23 " (5) Upon the filing of the articles of
24 establishment of the community development district with the
25 probate judge, the district's existence shall begin.

1 "(6) In lieu of all other charges and fees for a
2 community development district formed under Section
3 35-8B-1(a), (b), or (d), the probate judge shall charge and
4 collect for filing the articles of establishment and issuing a
5 certificate of establishment, one thousand dollars (\$1,000)
6 payable to the municipality in which is located the largest
7 area of the community development district if located in a
8 municipality, and if not, to the county in which is located
9 the largest area of the community development district and
10 three hundred fifty dollars (\$350) to the county for the
11 purpose of providing additional funds for the office of the
12 probate judge. On or before the anniversary date of the filing
13 of the articles of establishment, excluding the actual year of
14 filing, the board of control shall pay to the probate judge a
15 fee of three hundred fifty dollars (\$350) and a fee of one
16 thousand dollars (\$1,000) payable to the municipality in which
17 is located the largest area of the community development
18 district if located in a municipality, and if not, to the
19 county in which is located the largest area of the community
20 development district for the purpose of providing additional
21 funds for the office of the probate judge.

22 "(7) In lieu of all other charges and fees for a
23 community development district formed under Section
24 35-8B-1(e), (f), (g), ~~or (h), or (i),~~ (i), ~~or (j)~~ (j), or
25 (k) the judge of probate shall charge and collect a one-time

1 fee for filing the articles of establishment and issuing a
2 certificate of establishment of five hundred dollars (\$500)
3 payable to the county in which is located the largest area of
4 the district for the purpose of providing additional funds to
5 the judge of probate.

6 "§35-8B-3.

7 "(a) If a majority of the board of control of a
8 community development district formed under Section
9 35-8B-1(a), (b), or (d) consents to and approves the sale and
10 distribution of alcoholic beverages within the district, it
11 shall be lawful to sell and distribute alcoholic beverages in
12 the community development district in the following manner and
13 subject to the following terms, definitions, and conditions:

14 "(1) Upon being licensed by the Alabama Alcoholic
15 Beverage Control Board, alcoholic beverages may be sold by the
16 club of the district to members and their guests for
17 on-premises consumption only. The club shall be licensed to
18 sell alcoholic beverages to its members and their guests as a
19 club liquor retail licensee by the Alabama Alcoholic Beverage
20 Control Board, upon the club's compliance with the provisions
21 of the alcoholic beverage licensing code and the regulations
22 made thereunder. The original application shall be accompanied
23 by a certificate from the board of control of the district in
24 which the licensed club is located, consenting to and
25 approving the sale of alcoholic beverages at the club. The

1 club shall not be required to present its application or
 2 obtain the consent and approval of any authority other than
 3 the Board of Control of the district.

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

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

11 "(b) If a majority of the board of control of a
 12 community development district formed pursuant to Section
 13 35-8B-1(e), (f), (g), ~~or (h)~~, (i), ~~or (j)~~ (j), or
 14 (k) consents to and approves the sale and distribution of
 15 alcoholic beverages within the district for seven days a week,
 16 any person within the district licensed by the Alabama
 17 Alcoholic Beverage Control Board may sell alcoholic beverages
 18 in the district for on-premises consumption."

19 Section 2. This act shall become effective
 20 immediately following its passage and approval by the
 21 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 07-MAR-17.

Jeff Woodard
Clerk

Senate	27-APR-17	Amended and Passed
House	16-MAY-17	Concurred in Senate Amendment