

1 HB57  
2 179006-2  
3 By Representative Johnson (R)  
4 RFD: Economic Development and Tourism  
5 First Read: 07-FEB-17  
6 PFD: 01/25/2017

2  
3  
4  
5  
6  
7  
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 provide for an additional  
15 type of community development district which meets  
16 certain conditions in a wet county which does not  
17 authorize Sunday sales of alcoholic beverages. Upon  
18 incorporation and approval of the board, the Sunday  
19 sale of alcoholic beverages would be authorized in  
20 the district.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 To amend Section 35-8B-1, 35-8B-2, and 35-8B-3, Code  
27 of Alabama 1975, as amended by Act 2016-222 of the 2016

1 Regular Session, relating to community development districts;  
2 to create an additional class of community development  
3 district; and to provide for the incorporation and powers of  
4 the district.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

9 "§35-8B-1.

10 "(a) "Community development district" shall mean a  
11 private residential development that: (1) Is a size of at  
12 least 250 acres of contiguous land area; (2) has at least 100  
13 residential sites, platted and recorded in the probate office  
14 of the county as a residential subdivision; (3) has streets  
15 that were or will be built with private funds; (4) has a  
16 social club with: (i) an 18-hole golf course of regulation  
17 size; (ii) a restaurant or eatery used exclusively for the  
18 purpose of preparing and serving meals, with a seating  
19 capacity of at least 60 patrons; (iii) social club memberships  
20 with at least 100 paid-up members who have paid a membership  
21 initiation fee of not less than two hundred fifty dollars  
22 (\$250) per membership; (iv) membership policies whereby  
23 membership is not denied or impacted by an applicant's race,  
24 color, creed, religion, or national origin; and (v) a  
25 full-time management staff for the social activities of the  
26 club, including the management of the premises where food and  
27 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 located in a wet county that does not  
18 authorize Sunday sales which district is composed of resort  
19 property consisting of 3,000 or more contiguous acres under  
20 common ownership, has a public golf course with a practice  
21 area and clubhouse, has a restaurant on the property, has  
22 overnight accommodations consisting of 40 or more guest  
23 suites, and has a shooting range.

24 "~~(i)~~(j) If a community development district is  
25 located in any county, including within any wet or dry  
26 municipality located within the county, the county shall

1 participate in the distribution of taxes and license fees  
2 pursuant to Chapters 3 and 3A of Title 28.

3 "~~(j)~~ (k) Any alcohol revenues received by a county  
4 under Act 2007-417 shall offset in an equal amount any T.V.A.  
5 in-lieu-of-taxes payments received by the county. Any T.V.A.  
6 in-lieu-of-taxes payments replaced by alcohol revenues under  
7 this subsection shall be distributed to T.V.A.-served  
8 counties.

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

21 "§35-8B-2.

22 "The exclusive and uniform method for the  
23 establishment of a community development district shall be by  
24 the filing of the articles of establishment of a community  
25 development district with the judge of probate of the county  
26 in which the district is to be located, or if located in more



1 than one county, of the county wherein is located the largest  
2 area of the community development district.

3 "(1) The articles of establishment of a district  
4 defined in subsection (a) of Section 35-8B-1 shall contain the  
5 following:

6 "a. The written consent to the establishment of the  
7 district by the owner or owners of at least 51 percent of the  
8 real property to be included in the district, or documentation  
9 demonstrating that the petitioner has control by deed, trust  
10 agreement, contract, or option of at least 51 percent of the  
11 real property to be included in the district.

12 "b. A metes and bounds description of the external  
13 boundaries of the district, with a specific metes and bounds  
14 description of any real property within the external  
15 boundaries of the district which is to be excluded from the  
16 district.

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

1           "d. The proposed name of the district, and the  
2 location and the mailing address of the principal office of  
3 the district.

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

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

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

25           "b. A metes and bounds description of the external  
26 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 the  
3 members of the club operating 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 club operating in the district who shall be  
9 the members of the board of control of the district.

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

13            "a. The written consent to the establishment of the  
14 district by the owner of the real property to be included  
15 within the district.

16            "b. A metes and bounds description of the external  
17 boundaries of the district.

18            "c. A schematic layout of the proposed district with  
19 a map of the buildings and grounds to be used in common by  
20 guests in the district.

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 members of the board of  
25 governors of the district who shall be elected by the owner of  
26 the real property included in the district.

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

4           "a. Endorse on the articles and on each of such  
5 copies the word "Filed," and the hour, day, month, and year of  
6 the filing thereof.

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

9           "c. Issue a certificate of establishment to which he  
10 or she shall affix one certified copy of the articles of  
11 establishment, and return such certificate with a certified  
12 copy of the articles of establishment affixed thereto to the  
13 district.

14           "(5) Upon the filing of the articles of  
15 establishment of the community development district with the  
16 probate judge, the district's existence shall begin.

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

1 probate judge. On or before the anniversary date of the filing  
2 of the articles of establishment, excluding the actual year of  
3 filing, the board of control shall pay to the probate judge a  
4 fee of three hundred fifty dollars (\$350) and a fee of one  
5 thousand dollars (\$1,000) payable to the municipality in which  
6 is located the largest area of the community development  
7 district if located in a municipality, and if not, to the  
8 county in which is located the largest area of the community  
9 development district for the purpose of providing additional  
10 funds for the office of the probate judge.

11 "(7) In lieu of all other charges and fees for a  
12 community development district formed under Section  
13 35-8B-1(e), (f), (g), ~~or~~ (h), or (i), the judge of probate  
14 shall charge and collect a one-time fee for filing the  
15 articles of establishment and issuing a certificate of  
16 establishment of five hundred dollars (\$500) payable to the  
17 county in which is located the largest area of the district  
18 for the purpose of providing additional funds to the judge of  
19 probate.

20 "§35-8B-3.

21 "(a) If a majority of the board of control of a  
22 community development district formed under Section  
23 35-8B-1(a), (b), or (d) consents to and approves the sale and  
24 distribution of alcoholic beverages within the district, it  
25 shall be lawful to sell and distribute alcoholic beverages in  
26 the community development district in the following manner and  
27 subject to the following terms, definitions, and conditions:

1           "(1) Upon being licensed by the Alabama Alcoholic  
2 Beverage Control Board, alcoholic beverages may be sold by the  
3 club of the district to members and their guests for  
4 on-premises consumption only. The club shall be licensed to  
5 sell alcoholic beverages to its members and their guests as a  
6 club liquor retail licensee by the Alabama Alcoholic Beverage  
7 Control Board, upon the club's compliance with the provisions  
8 of the alcoholic beverage licensing code and the regulations  
9 made thereunder. The original application shall be accompanied  
10 by a certificate from the board of control of the district in  
11 which the licensed club is located, consenting to and  
12 approving the sale of alcoholic beverages at the club. The  
13 club shall not be required to present its application or  
14 obtain the consent and approval of any authority other than  
15 the Board of Control of the district.

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

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

23           "(b) If a majority of the board of control of a  
24 community development district formed pursuant to Section  
25 35-8B-1(e), (f), (g), ~~or~~ (h), or (i) consents to and approves  
26 the sale and distribution of alcoholic beverages within the  
27 district for seven days a week, any person within the district

1 licensed by the Alabama Alcoholic Beverage Control Board may  
2 sell alcoholic beverages in the district for on-premises  
3 consumption."

4 Section 2. This act shall become effective  
5 immediately following its passage and approval by the  
6 Governor, or its otherwise becoming law.