

1 SB390
2 151208-3
3 By Senator Keahey
4 RFD: Governmental Affairs
5 First Read: 04-APR-13

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

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11 To amend Section 35-8B-1, Code of Alabama 1975, as
12 amended by Act 2012-327, 2012 Regular Session, to provide that
13 if a municipality annexes a community development district or
14 if a community development district is incorporated as a
15 municipality, the territory of the community development
16 district remains wet and any remaining portion of the
17 municipality, at the discretion of the governing body of the
18 municipality, shall be wet.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. Section 35-8B-1, Code of Alabama 1975, as
21 amended by Act 2012-327, 2012 Regular Session, is amended to
22 read as follows:

23 "§35-8B-1.

24 "(a) "Community development district" shall mean a
25 private residential development that: (1) Is a size of at
26 least 250 acres of contiguous land area; (2) has at least 100
27 residential sites, platted and recorded in the probate office

1 of the county as a residential subdivision; (3) has streets
2 that were or will be built with private funds; (4) has a
3 social club with: (i) an 18-hole golf course of regulation
4 size; (ii) a restaurant or eatery used exclusively for the
5 purpose of preparing and serving meals, with a seating
6 capacity of at least 60 patrons; (iii) social club memberships
7 with at least 100 paid-up members who have paid a membership
8 initiation fee of not less than two hundred fifty dollars
9 (\$250) per membership; (iv) membership policies whereby
10 membership is not denied or impacted by an applicant's race,
11 color, creed, religion, or national origin; and (v) 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 "(b) "Community development district" also means
16 privately owned property used for social purposes that: (1) Is
17 a size of at least 250 acres of contiguous land area; (2) is
18 located in a dry county that has one or more wet
19 municipalities, but outside the corporate limits of any
20 municipality; (3) is a social club with: (i) An 18-hole golf
21 course of regulation size; (ii) a marina and boat storage
22 facility with at least 35 spaces; (iii) a clubhouse with more
23 than 20,000 square feet; (iv) a restaurant or eatery used
24 exclusively for the purpose of preparing and serving meals,
25 with a seating capacity of at least 88 patrons; (v) at least
26 600 paid-up golf or social members who have paid a membership
27 initiation fee of not less than two thousand dollars (\$2,000)

1 per family or individual membership; (vi) membership policies
2 whereby membership is not denied or impacted by an applicant's
3 race, color, creed, religion, or national origin; and (vii) 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 "(c) In addition to the limitations specified in
8 Section 35-8B-3, with regard to a community development
9 district defined in subsections (a) and (b) of this section,
10 alcoholic beverages shall be sold only for on-premises
11 consumption, as defined in Section 35-8B-3 (3), and in regard
12 to a community development district defined in subsection (b),
13 alcoholic beverages shall not be sold within 3,000 feet of the
14 south right-of-way of any state or federal highway adjacent to
15 any such district.

16 "(d) "Community development district" also means a
17 private residential development that may or may not include
18 additional contiguous privately-owned property used for
19 residential, social, commercial, or charitable purposes that:
20 (1) Is the size of at least 650 acres of contiguous land area,
21 but may also contain non-contiguous land if so divided by a
22 public highway which shall be made part of the district per
23 the articles of establishment; (2) is located in a dry county
24 that has one or more wet municipalities, but may be outside
25 the corporate limits of any municipality or within the
26 corporate limits of a municipality; (3) has the following: (i)
27 At least a 9-hole golf course; (ii) an amenity complex to

1 include a fitness center and a swimming pool; (iii) a
2 clubhouse with at least 7,000 square feet; (iv) a restaurant
3 or eatery used for the purpose of preparing and serving meals,
4 with a seating capacity of at least 50 patrons; (v) a
5 recreational lake of at least 30 acres; (vi) at least 200
6 paid-up golf or club memberships paid initially by either the
7 developer, residential landowners, or commercial entities
8 located within the district at the rate of at least five
9 hundred dollars (\$500) per membership provided the developer
10 reserves the right through residential and commercial lease
11 and purchase agreements to require additional membership and
12 initiation fees and further provided the developer has the
13 discretion to restrict use of the golf course to district
14 landowners and guests or at the developer's discretion to
15 extend use of the golf course to the general public subject to
16 fees set and determined by the developer which may differ from
17 fees applicable to residential and commercial lease and
18 purchase agreements; and (vii) membership policies whereby
19 membership is not denied or impacted by an applicant's race,
20 color, religion, or national origin; (4) may include a
21 multi-purpose use entertainment facility with a minimum
22 capacity to accommodate at least 7,500 patrons; and (5) may
23 include commercial establishments. Notwithstanding any other
24 provisions of law, the sale and distribution of alcoholic
25 beverages, including draft or keg beer, by licensees of the
26 Alcoholic Beverage Control Board shall be authorized in a

1 community development district defined under this subsection
2 and Section 35-8B-3 shall not apply.

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

11 "(f) If a community development district is located
12 in any county, including within any wet or dry municipality
13 located within the county, the county shall participate in the
14 distribution of taxes and license fees pursuant to Chapters 3
15 and 3A of Title 28.

16 "(g) Any alcohol revenues received by a county under
17 Act 2007-417 shall offset in an equal amount any T.V.A.
18 in-lieu-of-taxes payments received by the county. Any T.V.A.
19 in-lieu-of-taxes payments replaced by alcohol revenues under
20 this subsection shall be distributed to T.V.A.-served
21 counties.

22 "(h) If a new municipality is created according to
23 Alabama law and includes the entire territory comprising a
24 community development district, the territory of the community
25 development district remains wet, and, at the discretion of
26 the governing body of the newly incorporated municipality, the
27 entirety of the newly incorporated municipality shall be wet

1 and the sale and distribution of alcoholic beverages therein
2 shall be authorized to the full extent of any other wet
3 municipality."

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

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Senate

Read for the first time and referred to the Senate
committee on Governmental Affairs..... 04-APR-13

Read for the second time and placed on the calen-
dar 1 amendment..... 18-APR-13

Read for the third time and passed as amended 07-MAY-13

Yeas 21
Nays 7
Abstaining 1

Patrick Harris
Secretary