

1 HB489
2 176440-1
3 By Representative Buskey
4 RFD: Economic Development and Tourism
5 First Read: 05-APR-16

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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 Section 35-8B-1, 35-8B-2, and 35-8B-3, Code
23 of Alabama 1975, relating to community development districts;
24 to create an additional class of community development
25 district; and to provide for the incorporation and powers of
26 the district.

27 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Section 35-8B-1, 35-8B-2, and 35-8B-3,
2 Code of Alabama 1975, are amended to read as follows:

3 "§35-8B-1.

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

22 "(b) "Community development district" also means
23 privately owned property used for social purposes that: (1) Is
24 a size of at least 250 acres of contiguous land area; (2) is
25 located in a dry county that has one or more wet
26 municipalities, but outside the corporate limits of any
27 municipality; (3) is a social club with: (i) An 18-hole golf

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

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

23 "(d) "Community development district" also means a
24 private residential development that may or may not include
25 additional contiguous privately-owned property used for
26 residential, social, commercial, or charitable purposes that:
27 (1) Is the size of at least 650 acres of contiguous land area,

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

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

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

17 "(f) "Community development district" also means a
18 parcel of real property that meets all of the following
19 criteria:

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

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

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

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

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

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

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

24 "§35-8B-2.

25 "The exclusive and uniform method for the
26 establishment of a community development district shall be by
27 the filing of the articles of establishment of a community

1 development district with the judge of probate of the county
2 in which the district is to be located, or if located in more
3 than one county, of the county wherein is located the largest
4 area of the community development district.

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

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

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

19 "c. A schematic layout of the proposed district with
20 a map of the proposed and existing residential subdivisions,
21 streets, and roads in the district, and of the building and
22 grounds to be used in common by members of the club operating
23 in the district, together with a commitment that the owner or
24 owners of the real property located within the district will
25 bear the costs of the construction of such proposed streets
26 and roads, if such proposed roads and streets do not exist on
27 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) or (f) shall contain the
12 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 35-8B-1(e)
13 or (f), the judge of probate shall charge and collect a
14 one-time fee for filing the articles of establishment and
15 issuing a certificate of establishment of five hundred dollars
16 (\$500) payable to the county in which is located the largest
17 area of the district for the purpose of providing additional
18 funds to the judge of probate.

19 "§35-8B-3.

20 "(a) If a majority of the Board of Control of a
21 community development district formed under Section
22 35-8B-1(a), (b), or (d) consents to and approves the sale and
23 distribution of alcoholic beverages within the district, it
24 shall be lawful to sell and distribute alcoholic beverages in
25 the community development district in the following manner and
26 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) or (f) consents to and approves the sale and
26 distribution of alcoholic beverages within the district ~~on~~
27 ~~Sundays~~ 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.