

1 HB347
2 216818-2
3 By Representative Moore (P)
4 RFD: Economic Development and Tourism
5 First Read: 15-FEB-22

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ENROLLED, An Act,

Relating to community development districts; to amend Section 35-8B-1, as amended by Act 2021-463, 2021 Regular Session, and Section 35-8B-2, Code of Alabama 1975, to create an additional class of community development district; and to provide for incorporation and powers of the district.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Section 35-8B-1, Code of Alabama 1975, as amended by Act 2021-463, 2021 Regular Session, and Section 35-8B-2, Code of Alabama 1975, are amended to read as follows:

"§35-8B-1.

"(a) (1) "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 (\$250) per membership; (iv) membership policies whereby

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

6 "(2) The sale of any alcoholic beverages in any
7 community development district established under this
8 subsection shall be subject to a tax levied by the county on
9 any sale at the same rate as the tax on any sale of beer and
10 wine in the largest municipality in the county in which the
11 district is established and shall be distributed as provided
12 in Section 35-8B-5.

13 "(b) "Community development district" also means
14 privately owned property used for social purposes that: (1) Is
15 a size of at least 250 acres of contiguous land area; (2) is
16 located in a dry county that has one or more wet
17 municipalities, but outside the corporate limits of any
18 municipality; (3) is a social club with: (i) An 18-hole golf
19 course of regulation size; (ii) a marina and boat storage
20 facility with at least 35 spaces; (iii) a clubhouse with more
21 than 20,000 square feet; (iv) a restaurant or eatery used
22 exclusively for the purpose of preparing and serving meals,
23 with a seating capacity of at least 88 patrons; (v) at least
24 600 paid-up golf or social members who have paid a membership
25 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 (a) (3), and in
12 regard to a community development district defined in
13 subsection (b), alcoholic beverages shall not be sold within
14 3,000 feet of the south right-of-way of any state or federal
15 highway adjacent to 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

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

1 provisions of law, the sale and distribution of alcoholic
2 beverages, including draft or keg beer, by licensees of the
3 Alcoholic Beverage Control Board shall be authorized in a
4 community development district defined under this subsection
5 and Section 35-8B-3 shall not apply.

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

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

20 "(g) "Community development district" also means a
21 commercial district that includes a marina located on a river
22 in an unincorporated area of a wet county that does not
23 authorize seven-day sales with two separate food and beverage
24 buildings with a combined space of at least 7,500 square feet

1 connected by a boardwalk and separated by a patio with an
2 entertainment stage.

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

9 "(i) (1) "Community development district" also means
10 a commercial district that borders on a lake that is formed by
11 an impounded reservoir of a river whose source is in a federal
12 wilderness area and has a marina with not less than 30 boat
13 slips and a restaurant with seating capacity of not less than
14 100 seats of which not less than 50 seats must be inside
15 seating and is located on property where the marina and
16 restaurant are under common ownership. In addition to any
17 other requirements by law, the restaurant shall obtain a
18 business license from the local governing body having primary
19 jurisdiction of the property where the restaurant is located
20 and shall be subject to additional regulation as determined
21 necessary by the local governing body. Only one restaurant
22 license per community development district shall be allowed.

23 "(2) The sale of any alcoholic beverages in any
24 community development district established under this
25 subsection shall be subject to a tax levied by the county on

1 any sale at the same rate as the tax on any sale of beer and
2 wine in the largest municipality in the county in which the
3 district is established and shall be distributed as provided
4 in Section 35-8B-5.

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

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

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

10 "(3) It is located partially in a dry county and
11 partially in a wet county.

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

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

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

18 "(2) Holds concerts and other family-oriented
19 events.

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

22 "(l) "Community development district" also means a
23 commercial district located in a wet county that does not
24 authorize Sunday sales which district is composed of resort
25 property consisting of 3,000 or more contiguous acres under

1 common ownership, has a public golf course with a practice
2 area and clubhouse, has a restaurant on the property, has
3 overnight accommodations consisting of 40 or more guest
4 suites, and has a shooting range.

5 "(m) "Community development district" also means a
6 parcel of land in a resort area consisting of a lodge for
7 overnight accommodations and homesites that include vacation
8 rentals and meets all of the following:

9 "(1) The development was originally developed by
10 entities owned by the same family.

11 "(2) It consists of not less than 180 acres located
12 in a dry county which borders an adjoining state and has an
13 elevation of not less than 1,100 feet.

14 "(3) It has a lodge providing overnight
15 accommodations, including a dining facility with a seating
16 capacity of not less than 50 which is open to the public.

17 "(4) It contains a platted subdivision of not less
18 than 90 homesites, including homes available for vacation
19 rental with plans for additional development.

20 "(5) It is located on a bluff over the backwaters of
21 a major river that flows through an adjoining state and flows
22 through or borders on another adjoining state.

23 "(n) "Community development district" also means a
24 commercial district located in a wet county that does not
25 authorize Sunday sales, has a restaurant with a seating

1 capacity of at least 96 seats inside and 24 seats outside, is
2 located on a lake and adjacent to docking facilities and boat
3 slips for at least 24 boats, is licensed only to sell beer and
4 wine, and is located on property where the restaurant and boat
5 slips and docking facilities are under common ownership.

6 "(o) "Community development district" also means
7 privately owned property that meets all of the following
8 criteria:

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

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

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

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

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

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

22 "(p) "Community development district" also means an
23 area owned by an industrial development board located in a dry
24 county with a wet municipality, but in a municipality that has

1 more than 750 persons, according to the 2010 federal decennial
2 census, and the property meets all of the following:

3 "(1) The property is in a county bordering on two
4 other states.

5 "(2) The property is on a bluff overlooking a river
6 flowing through two adjoining states.

7 "(3) The property would be used only for a hotel
8 having not less than 50 rooms and a restaurant.

9 "(q) (1) "Community development district" also means
10 privately owned property that meets all of the following
11 criteria:

12 "a. It is located in a dry county that has one or
13 more wet municipalities, but outside the corporate limits of
14 any municipality.

15 "b. It consists of at least 60 acres.

16 "c. It has facilities on the property which employ a
17 full-time management staff for the social activities of the
18 facilities, including the management of the premises where
19 food and drink are sold.

20 "d. It has a restaurant or eatery used for the
21 purpose of preparing and serving meals, with a seating
22 capacity of at least 500 patrons operated on the property.

23 "e. It has concerts and other family-oriented events
24 held on the property.

25 "g. It has at least five fishing ponds.

1 "h. It has an amphitheater for outdoor entertainment
2 events.

3 "i. It has a chapel for wedding services.

4 "j. It has an RV park with a capacity of at least
5 four RVs.

6 "k. It has five reception halls with a seating
7 capacity of at least 1,900 individuals.

8 "l. It has an outdoor stage.

9 "(2) The sale of any alcoholic beverages in any
10 community development district established under this
11 subsection shall be subject to a tax levied by the county on
12 any sale at the same rate as the tax on any sale of beer and
13 wine in the largest municipality in the county in which the
14 district is established and shall be distributed as provided
15 in Section 35-8B-5.

16 "(r) (1) "Community development district" also means
17 property that meets all of the following criteria:

18 "a. It is located in a dry county that shares a
19 border with another state and which contains at least one wet
20 municipality, but the property is located outside the
21 corporate limits of any municipality.

22 "b. It is adjacent to a river flowing through two
23 adjoining states.

24 "c. It has at least one restaurant with a seating
25 capacity of at least 40 patrons.

1 "d. It contains a contiguous land area of private
2 residential development amounting to more than 250 acres.

3 "e. It contains over 100 residential sites, platted
4 and recorded.

5 "f. It contains streets that are, or will be, built
6 with private funds.

7 "g. It contains an 18-hole public golf course of
8 regulation size, which offers an annual subscription or
9 membership to cover the cost of greens fees.

10 "(2) Notwithstanding any other provisions of law,
11 the sale and distribution of alcoholic beverages, including
12 draft or keg beer, by licensees of the Alcoholic Beverage
13 Control Board shall be authorized in a community development
14 district defined under this subsection and Section 35-8B-3
15 shall not apply.

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

21 ~~"(s)~~(t) Any alcohol revenues received by a county
22 under Act 2007-417 shall offset in an equal amount any T.V.A.
23 in-lieu-of-taxes payments received by the county. Any T.V.A.
24 in-lieu-of-taxes payments replaced by alcohol revenues under

1 this subsection shall be distributed to T.V.A.-served
2 counties.

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

15 "§35-8B-2.

16 "The exclusive and uniform method for the
17 establishment of a community development district shall be by
18 the filing of the articles of establishment of a community
19 development district with the judge of probate of the county
20 in which the district is to be located, or if located in more
21 than one county, of the county wherein is located the largest
22 area of the community development district.

23 "(1) The articles of establishment of a district
24 defined in subsection (a) of Section 35-8B-1 shall contain the
25 following:

1 "a. The written consent to the establishment of the
2 district by the owner or owners of at least 51 percent of the
3 real property to be included in the district, or documentation
4 demonstrating that the petitioner has control by deed, trust
5 agreement, contract, or option of at least 51 percent of the
6 real property to be included in the district.

7 "b. A metes and bounds description of the external
8 boundaries of the district, with a specific metes and bounds
9 description of any real property within the external
10 boundaries of the district, which is to be excluded from the
11 district.

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

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 five persons to be the initial
25 members of the board of control of the district, two of whom

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

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

17 "a. The written consent to the establishment of the
18 district by the owner of the real property to be included in
19 the district.

20 "b. A metes and bounds description of the external
21 boundaries of the district.

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

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 members of the board of
5 governors of the club operating in the district who shall be
6 the members of the board of control of the district.

7 "(3) The articles of establishment of a district
8 described in Section 35-8B-1(e), (f), (g), (h), (i), (j), (k),
9 (l), (m), (n), (o), (p), ~~or~~ (q), or (r) shall contain the
10 following:

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

14 "b. A metes and bounds description of the external
15 boundaries of the district.

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

19 "d. The proposed name of the district and the
20 location and the mailing address of the principal office of
21 the district.

22 "e. A designation of members of the board of
23 governors of the district who shall be elected by the owner of
24 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 the
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 the 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

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

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

22 Section 2. This act shall become effective
23 immediately following its passage and approval by the
24 Governor, or its otherwise becoming law.

