

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

SYNOPSIS: Under existing law, there is a process for establishing community development districts that meetin certain requirements. Once established, the board of control of the district may authorize the sale of alcoholic beverages within the district by certain entities otherwise licensed by the Alcoholic Beverage Control Board.

This bill would provide for an additional type of community development district that meets certain conditions in a dry county where the sale of alcoholic beverages is not authorized. Upon formation of the district, the sale of alcoholic beverages would be authorized in the district.

A BILL
TO BE ENTITLED
AN ACT

Relating to community development districts; to amend Section 35-8B-1, as amended by Act 2021-463, 2021

1 Regular Session, and Section 35-8B-2, Code of Alabama 1975, to
2 create an additional class of community development district;
3 and to provide for incorporation and powers of the district.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

5 Section 1. Section 35-8B-1, Code of Alabama 1975, as
6 amended by Act 2021-463, 2021 Regular Session, and Section
7 35-8B-2, Code of Alabama 1975, are amended to read as follows:

8 "§35-8B-1.

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

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

8 "(b) "Community development district" also means
9 privately owned property used for social purposes that: (1) Is
10 a size of at least 250 acres of contiguous land area; (2) is
11 located in a dry county that has one or more wet
12 municipalities, but outside the corporate limits of any
13 municipality; (3) is a social club with: (i) An 18-hole golf
14 course of regulation size; (ii) a marina and boat storage
15 facility with at least 35 spaces; (iii) a clubhouse with more
16 than 20,000 square feet; (iv) a restaurant or eatery used
17 exclusively for the purpose of preparing and serving meals,
18 with a seating capacity of at least 88 patrons; (v) at least
19 600 paid-up golf or social members who have paid a membership
20 initiation fee of not less than two thousand dollars (\$2,000)
21 per family or individual membership; (vi) membership policies
22 whereby membership is not denied or impacted by an applicant's
23 race, color, creed, religion, or national origin; and (vii) a
24 full-time management staff for the social activities of the
25 club, including the management of the premises where food and
26 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 (a)(3), and in
6 regard to a community development district defined in
7 subsection (b), alcoholic beverages shall not be sold within
8 3,000 feet of the south right-of-way of any state or federal
9 highway adjacent to 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
26 recreational lake of at least 30 acres; (vi) at least 200
27 paid-up golf or club memberships paid initially by either the

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

23 "(e) "Community development district" also means a
24 commercial district located in a wet county that does not
25 authorize Sunday sales and outside the corporate limits and
26 police jurisdiction of any municipality and which has a
27 restaurant with a seating capacity of at least 120, a

1 grocery-delicatessen, riding stables and riding trails, a
2 community information center, outdoor programming activities,
3 and rural lifestyle demonstrations.

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

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

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

23 "(i) (1) "Community development district" also means
24 a commercial district that borders on a lake that is formed by
25 an impounded reservoir of a river whose source is in a federal
26 wilderness area and has a marina with not less than 30 boat
27 slips and a restaurant with seating capacity of not less than

1 100 seats of which not less than 50 seats must be inside
2 seating and is located on property where the marina and
3 restaurant are under common ownership. In addition to any
4 other requirements by law, the restaurant shall obtain a
5 business license from the local governing body having primary
6 jurisdiction of the property where the restaurant is located
7 and shall be subject to additional regulation as determined
8 necessary by the local governing body. Only one restaurant
9 license per community development district shall be allowed.

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

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

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

4 "(2) Holds concerts and other family-oriented
5 events.

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

8 "(l) "Community development district" also means a
9 commercial district located in a wet county that does not
10 authorize Sunday sales which district is composed of resort
11 property consisting of 3,000 or more contiguous acres under
12 common ownership, has a public golf course with a practice
13 area and clubhouse, has a restaurant on the property, has
14 overnight accommodations consisting of 40 or more guest
15 suites, and has a shooting range.

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

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

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

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

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

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

7 "(n) "Community development district" also means a
8 commercial district located in a wet county that does not
9 authorize Sunday sales, has a restaurant with a seating
10 capacity of at least 96 seats inside and 24 seats outside, is
11 located on a lake and adjacent to docking facilities and boat
12 slips for at least 24 boats, is licensed only to sell beer and
13 wine, and is located on property where the restaurant and boat
14 slips and docking facilities are under common ownership.

15 "(o) "Community development district" also means
16 privately owned property that meets all of the following
17 criteria:

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

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

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

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

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

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

4 "(p) "Community development district" also means an
5 area owned by an industrial development board located in a dry
6 county with a wet municipality, but in a municipality that has
7 more than 750 persons, according to the 2010 federal decennial
8 census, and the property meets all of the following:

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

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

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

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

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

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

22 "c. It has facilities on the property which employ a
23 full-time management staff for the social activities of the
24 facilities, including the management of the premises where
25 food and drink are sold.

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

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

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

7 "h. It has an amphitheater for outdoor entertainment
8 events.

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

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

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

14 "l. It has an outdoor stage.

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

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

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

1 "b. It is adjacent to a river flowing through two
2 adjoining states.

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

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

7 "e. It contains over 100 residential sites, platted
8 and recorded.

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

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

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

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

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

1 in-lieu-of-taxes payments replaced by alcohol revenues under
2 this subsection shall be distributed to T.V.A.-served
3 counties.

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

16 "§35-8B-2.

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

24 "(1) The articles of establishment of a district
25 defined in subsection (a) of Section 35-8B-1 shall contain the
26 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
26 shall serve in that office until replaced by elected members;
27 provided, the two elected members of the board of control

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

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

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

18 "b. A metes and bounds description of the external
19 boundaries of the district.

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

23 "d. The proposed name of the district and the
24 location and the mailing address of the principal office of
25 the district.

1 "e. A designation of members of the board of
2 governors of the club operating in the district who shall be
3 the members of the board of control of the district.

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

8 "a. The written consent to the establishment of the
9 district by the owner of the real property to be included
10 within the district.

11 "b. A metes and bounds description of the external
12 boundaries of the district.

13 "c. A schematic layout of the proposed district with
14 a map of the buildings and grounds to be used in common by
15 guests in the district.

16 "d. The proposed name of the district and the
17 location and the mailing address of the principal office of
18 the district.

19 "e. A designation of members of the board of
20 governors of the district who shall be elected by the owner of
21 the real property included in the district.

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

25 "a. Endorse on the articles and on each of the
26 copies the word "Filed," and the hour, day, month, and year of
27 the filing thereof.

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

3 "c. Issue a certificate of establishment to which he
4 or she shall affix one certified copy of the articles of
5 establishment, and return the certificate with a certified
6 copy of the articles of establishment affixed thereto to the
7 district.

8 "(5) Upon the filing of the articles of
9 establishment of the community development district with the
10 probate judge, the district's existence shall begin.

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

1 district if located in a municipality, and if not, to the
2 county in which is located the largest area of the community
3 development district for the purpose of providing additional
4 funds for the office of the probate judge.

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

14 Section 2. This act shall become effective
15 immediately following its passage and approval by the
16 Governor, or its otherwise becoming law.