

SB322 INTRODUCED



1 SB322
2 QNHYK55-1
3 By Senators Waggoner, Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 09-Apr-25



SYNOPSIS:

Existing law provides for multiple types of community development districts.

This bill would allow a certain type of community development district to be annexed by a municipality upon petition by the district's board and approval by the municipality's governing body.

This bill would also provide further specifications on articles of establishment of a certain type of community development district.

A BILL
TO BE ENTITLED
AN ACT

Relating to community development districts; to amend Sections 35-8B-1 and 35-8B-2, Code of Alabama 1975, as last amended by Act 2024-365 of the 2024 Regular Session, to authorize the annexation of a certain type of community development district by a wet municipality in the county where the district is situated; and to further provide for the establishment of a certain type of community development district.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



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Section 1. Sections 35-8B-1 and 35-8B-2, Code of Alabama 1975, as last amended by Act 2024-365 of the 2024 Regular Session, are amended to read as follows:

"§35-8B-1

(a) (1) "Community development district" means a private residential development that meets all of the following criteria:

a. Is a size of at least 250 acres of contiguous land area.

b. Has at least 100 residential sites, platted and recorded in the probate office of the county as a residential subdivision.

c. Has streets that were or will be built with private funds.

d. Has a social club with all of the following:

1. An 18-hole golf course of regulation size.

2. A restaurant or eatery used exclusively for the purpose of preparing and serving meals, with a seating capacity of at least 60 patrons.

3. 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.

4. Membership policies whereby membership is not denied or impacted by an applicant's race, color, creed, religion, or national origin.

5. A full-time management staff for the social activities of the club, including the management of the premises where food and drink are sold.



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

(b) "Community development district" also means privately owned property used for social purposes that meets all of the following criteria:

(1) Is a size of at least 250 acres of contiguous land area.

(2) Is located in a dry county that has one or more wet municipalities, but outside the corporate limits of any municipality.

(3) Is a social club with all of the following:

a. An 18-hole golf course of regulation size.

b. A marina and boat storage facility with at least 35 spaces.

c. A clubhouse with more than 20,000 square feet.

d. A restaurant or eatery used exclusively for the purpose of preparing and serving meals, with a seating capacity of at least 88 patrons.

e. At least 600 paid-up golf or social members who have paid a membership initiation fee of not less than two thousand dollars (\$2,000) per family or individual membership.

f. Membership policies whereby membership is not denied or impacted by an applicant's race, color, creed, religion, or



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national origin.

g. A full-time management staff for the social activities of the club, including the management of the premises where food and drink are sold.

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

(d)(1) "Community development district" also means a private residential development that may or may not include additional contiguous privately-owned property used for residential, social, commercial, or charitable purposes that meets all of the following criteria:

a. Is the size of at least 650 acres of contiguous land area, but may also contain noncontiguous land if so divided by a public highway which shall be made part of the district per the articles of establishment.

b. Is located in a dry county that has one or more wet municipalities, but may be outside the corporate limits of any municipality or within the corporate limits of a municipality.

c. Has all of the following:

1. At least a 9-hole golf course.

2. An amenity complex to include a fitness center and a



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swimming pool.

3. A clubhouse with at least 7,000 square feet.

4. A restaurant or eatery used for the purpose of preparing and serving meals, with a seating capacity of at least 50 patrons.

5. A recreational lake of at least 30 acres.

6. At least 200 paid-up golf or club memberships paid initially by either the developer, residential landowners, or commercial entities located within the district at the rate of at least five hundred dollars (\$500) per membership provided the developer reserves the right through residential and commercial lease and purchase agreements to require additional membership and initiation fees and further provided the developer has the discretion to restrict use of the golf course to district landowners and guests or at the developer's discretion to extend use of the golf course to the general public subject to fees set and determined by the developer which may differ from fees applicable to residential and commercial lease and purchase agreements.

7. Membership policies whereby membership is not denied or impacted by an applicant's race, color, religion, or national origin.

d. May include a multi-purpose use entertainment facility with a minimum capacity to accommodate at least 7,500 patrons.

e. May include commercial establishments.

(2) Notwithstanding any other provisions of law, the sale and distribution of alcoholic beverages, including draft



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or keg beer, by licensees of the Alcoholic Beverage Control Board shall be authorized in a community development district defined under this subsection, and Section 35-8B-3 shall not apply.

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

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

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

(h) "Community development district" also means a commercial district located in a dry county that shares a geographic border with another state, has an elevation of at



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169 least 1,500 feet, and has a recreational waterway, specialty
170 shops and restaurants, summer camps and retreat centers, an
171 art gallery, and annual festivals showcasing the area.

172 (i)(1) "Community development district" also means a
173 commercial district that borders on a lake that is formed by
174 an impounded reservoir of a river whose source is in a federal
175 wilderness area and has a marina with not less than 30 boat
176 slips and a restaurant with seating capacity of not less than
177 100 seats of which not less than 50 seats must be inside
178 seating and is located on property where the marina and
179 restaurant are under common ownership. In addition to any
180 other requirements by law, the restaurant shall obtain a
181 business license from the local governing body having primary
182 jurisdiction of the property where the restaurant is located
183 and shall be subject to additional regulation as determined
184 necessary by the local governing body. Only one restaurant
185 license per community development district shall be allowed.

186 (2) The sale of any alcoholic beverages in any
187 community development district established under this
188 subsection shall be subject to a tax levied by the county on
189 any sale at the same rate as the tax on any sale of liquor in
190 the largest municipality in the county in which the district
191 is established and shall be distributed as provided in Section
192 35-8B-5.

193 (j) "Community development district" also means a
194 parcel of real property that meets all of the following
195 criteria:

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



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

198 (3) It is located partially in a dry county and
199 partially in a wet county.

200 (4) It contains a lake of not less than 70 acres with a
201 fishing resort consisting of a rental boathouse, campsites,
202 and a community room.

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

205 (1) Consists of at least 1,600 acres.

206 (2) Holds concerts and other family-oriented events.

207 (3) Is located in a dry county with at least one wet
208 municipality.

209 (l) "Community development district" also means a
210 commercial district located in a wet county that does not
211 authorize Sunday sales which district is composed of resort
212 property consisting of 3,000 or more contiguous acres under
213 common ownership, has a public golf course with a practice
214 area and clubhouse, has a restaurant on the property, has
215 overnight accommodations consisting of 40 or more guest
216 suites, and has a shooting range.

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

221 (1) The development was originally developed by
222 entities owned by the same family.

223 (2) It consists of not less than 180 acres located in a
224 dry county which borders an adjoining state and has an



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elevation of not less than 1,100 feet.

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

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

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

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

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

(1) It is used for social purposes.

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

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

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



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

254 (6) It has a restaurant or eatery used for the purpose
255 of preparing and serving meals, with a seating capacity of at
256 least 40 patrons.

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

262 (1) The property is in a county bordering on two other
263 states.

264 (2) The property is on a bluff overlooking a river
265 flowing through two adjoining states.

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

268 (q)(1) "Community development district" also means
269 privately owned property that meets all of the following
270 criteria:

271 a. It is located in a dry county that has one or more
272 wet municipalities, but outside the corporate limits of any
273 municipality.

274 b. It consists of at least 60 acres.

275 c. It has facilities on the property which employ a
276 full-time management staff for the social activities of the
277 facilities, including the management of the premises where
278 food and drink are sold.

279 d. It has a restaurant or eatery used for the purpose
280 of preparing and serving meals, with a seating capacity of at



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least 500 patrons operated on the property.

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

f. It has overnight accommodations with the capacity to sleep at least 70 individuals.

g. It has at least five fishing ponds.

h. It has an amphitheater for outdoor entertainment events.

i. It has a chapel for wedding services.

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

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

l. It has an outdoor stage.

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

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

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

b. It is adjacent to a river flowing through two



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adjoining states.

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

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

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

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

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

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

(s) (1) "Community development district" also means a commercial district or resort that borders on a lake that is formed by an impounded reservoir of a river whose source is in a federal wilderness area that meets the following criteria:

a. Is a size of at least 500 or more acres of contiguous land area;

b. Is located in a dry county that has one or more wet municipalities, but is located outside the corporate limits of any wet municipality;

c. Has a hotel or lodge or rental homes with a minimum



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337 of 100 rooms;

338 d. Has at least one 18-hole golf course of regulation
339 size;

340 e. Has a marina with not less than 50 boat slips or
341 storage spaces;

342 f. Has a clubhouse;

343 g. Has more than one restaurant, bar, or tavern or
344 other eatery used exclusively for the purpose of preparing and
345 serving meals or beverages or both, seven days per week, with
346 at least one restaurant having a seating capacity for at least
347 50 patrons;

348 h. Has a conference center; and

349 i. Has membership policies that provide that membership
350 is not denied or impacted by an applicant's race, color,
351 creed, religion, or national origin.

352 (2) In a community development district as defined in
353 this subsection, alcoholic beverages shall be sold only by
354 licensees of the Alabama Alcoholic Beverage Control Board for
355 consumption, including Sunday sales, within or on a licensee's
356 property and as otherwise provided herein. An Alcoholic
357 Beverage Control licensee in the district may operate a
358 resort-owned luxury fine dining dinner cruise and special
359 events yacht which may serve meals or alcoholic beverages, or
360 both, while on the water, provided, the following minimum
361 criteria are met: (i) length of not less than 60 feet; (ii)
362 U.S. Coast Guard approved seating capacity of not less than
363 40; and (iii) operated by a USCG licensed captain. The
364 restaurant or tavern shall obtain a business license from the



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local governing body having primary jurisdiction of the property where the restaurant is located and shall be subject to additional regulation as determined necessary by the local governing body.

(3)a. Notwithstanding any other provision of law relating to annexations, the community development district defined in this subsection may be annexed by a wet municipality in the same county upon petition by the district's board and approval by the municipality's governing body; provided, however, at least 30 days prior to the approval of the annexation by the municipality's governing body a plat or map of the territory being annexed is furnished to the judge of probate of the county where the proposed annexation is located.

b. An annexation conducted pursuant to this subdivision does not require contiguity between the community development district and the annexing municipality.

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

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



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

"§35-8B-2

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

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

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



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

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

d. The proposed name of the district, and the location and the mailing address of the principal office of the district.

e. A designation of five persons to be the initial members of the board of control of the district, two of whom shall serve in that office until replaced by elected members; provided, the two elected members of the board of control shall be elected by the members of the club who may vote in person or by proxy in writing at an annual meeting of the district, which date shall be specified in the petition. Each club member shall be entitled to cast one vote. The two candidates receiving the highest number of votes shall be elected to the board of control for a period of one year, or until his or her successor shall be duly elected. Upon the



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death or resignation of a non-elected member of the board of control, the remaining board members shall elect, by majority vote at a called board meeting, a new non-elected board member.

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

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

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

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

d. The proposed name of the district and the location and the mailing address of the principal office of the district.

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

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

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



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

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

d. The proposed name of the district and the location and the mailing address of the principal office of the district.

e. 1. Except for a district described in Section 35-8B-1(s), a designation of members of the board of governors of the district who shall be elected by the owner of the real property included in the district.

2. For a district described in Section 35-8B-1(s), a designation of three natural persons to serve as members of the board of governors of the district, who shall be elected by the majority vote of the owners of the real property located in the district. The members of the board of governors shall each serve for a period of four years or until his or her successor is duly elected.

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

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

b. File the articles in his or her office and certify the two copies thereof; and

c. Issue a certificate of establishment to which he or



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she shall affix one certified copy of the articles of establishment, and return the certificate with a certified copy of the articles of establishment affixed thereto to the district.

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

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



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

Section 2. This act shall become effective on October 1, 2025.