

1 HB503  
2 192978-1  
3 By Representatives Johnson (R) and Boyd  
4 RFD: Economic Development and Tourism  
5 First Read: 08-MAR-18

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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 provide for an additional  
15 type of community development district which meets  
16 certain conditions in a wet county which does not  
17 authorize the sale of alcoholic beverages on  
18 Sunday. Upon incorporation and approval of the  
19 board, the sale of alcoholic beverages would be  
20 authorized in the district on Sunday.

21  
22 A BILL  
23 TO BE ENTITLED  
24 AN ACT

25  
26 To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3,  
27 Code of Alabama 1975, as amended by Act 2017-350 and Act

1 2017-359 of the 2017 Regular Session, relating to community  
2 development districts; to create an additional class of  
3 community development district; and to provide for the  
4 incorporation and powers of the district.

5 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

6 Section 1. Sections 35-8B-1, 35-8B-2, and 35-8B-3,  
7 Code of Alabama 1975, as amended by Act 2017-350 and Act  
8 2017-359 of the 2017 Regular Session, are amended to read as  
9 follows:

10 "§35-8B-1.

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

1 club, including the management of the premises where food and  
2 drink are sold.

3 "(b) "Community development district" also means  
4 privately owned property used for social purposes that: (1) Is  
5 a size of at least 250 acres of contiguous land area; (2) is  
6 located in a dry county that has one or more wet  
7 municipalities, but outside the corporate limits of any  
8 municipality; (3) is a social club with: (i) An 18-hole golf  
9 course of regulation size; (ii) a marina and boat storage  
10 facility with at least 35 spaces; (iii) a clubhouse with more  
11 than 20,000 square feet; (iv) a restaurant or eatery used  
12 exclusively for the purpose of preparing and serving meals,  
13 with a seating capacity of at least 88 patrons; (v) at least  
14 600 paid-up golf or social members who have paid a membership  
15 initiation fee of not less than two thousand dollars (\$2,000)  
16 per family or individual membership; (vi) membership policies  
17 whereby membership is not denied or impacted by an applicant's  
18 race, color, creed, religion, or national origin; and (vii) 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 "(c) In addition to the limitations specified in  
23 Section 35-8B-3, with regard to a community development  
24 district defined in subsections (a) and (b) of this section,  
25 alcoholic beverages shall be sold only for on-premises  
26 consumption, as defined in Section 35-8B-3 (3), and in regard  
27 to a community development district defined in subsection (b),

1 alcoholic beverages shall not be sold within 3,000 feet of the  
2 south right-of-way of any state or federal highway adjacent to  
3 any such district.

4 "(d) "Community development district" also means a  
5 private residential development that may or may not include  
6 additional contiguous privately-owned property used for  
7 residential, social, commercial, or charitable purposes that:  
8 (1) Is the size of at least 650 acres of contiguous land area,  
9 but may also contain non-contiguous land if so divided by a  
10 public highway which shall be made part of the district per  
11 the articles of establishment; (2) is located in a dry county  
12 that has one or more wet municipalities, but may be outside  
13 the corporate limits of any municipality or within the  
14 corporate limits of a municipality; (3) has the following: (i)  
15 At least a 9-hole golf course; (ii) an amenity complex to  
16 include a fitness center and a swimming pool; (iii) a  
17 clubhouse with at least 7,000 square feet; (iv) a restaurant  
18 or eatery used for the purpose of preparing and serving meals,  
19 with a seating capacity of at least 50 patrons; (v) a  
20 recreational lake of at least 30 acres; (vi) at least 200  
21 paid-up golf or club memberships paid initially by either the  
22 developer, residential landowners, or commercial entities  
23 located within the district at the rate of at least five  
24 hundred dollars (\$500) per membership provided the developer  
25 reserves the right through residential and commercial lease  
26 and purchase agreements to require additional membership and  
27 initiation fees and further provided the developer has the

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

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

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

1 capacity of at least 120, is adjacent to a marina with at  
2 least 34 boat slips, and is located on property where the  
3 marina and restaurant are under common ownership.

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

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

17 "(i) "Community development district" also means a  
18 commercial district which borders on a lake which is formed by  
19 an impounded reservoir of a river whose source is in a federal  
20 wilderness area and has a marina with not less than 30 boat  
21 slips and a restaurant with seating capacity of not less than  
22 100 seats of which not less than 50 seats must be inside  
23 seating and is located on property where the marina and  
24 restaurant are under common ownership. In addition to any  
25 other requirements by law, the restaurant shall obtain a  
26 business license from the local governing body having primary  
27 jurisdiction of the property where the restaurant is located

1 and shall be subject to additional regulation as determined  
2 necessary by the local governing body. Only one restaurant  
3 license per community development district shall be allowed.

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

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

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

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

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

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

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

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

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

21 "(l) "Community development district" also means a  
22 commercial district located in a wet county that does not  
23 authorize Sunday sales which district is composed of resort  
24 property consisting of 3,000 or more contiguous acres under  
25 common ownership, has a public golf course with a practice  
26 area and clubhouse, has a restaurant on the property, has



1 overnight accommodations consisting of 40 or more guest  
2 suites, and has a shooting range.

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

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

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

22 "(o)(p) If a community development district  
23 established prior to June 1, 2014, becomes a new municipality  
24 pursuant to Sections 11-41-1 and 11-41-2, the section  
25 requiring a vote of the residents of the property described in  
26 the petition, the new municipality created thereby shall be  
27 wet and the sale and distribution of alcoholic beverages

1       therein shall be authorized to the full extent of any other  
2       wet municipality. In addition to the other requirements for  
3       incorporating into a municipality set forth in Sections  
4       11-41-1 and 11-41-2, the petition shall provide notice to  
5       potential voters that if the new municipality is incorporated  
6       it shall be wet.

7               "§35-8B-2.

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

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

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

24              "b. A metes and bounds description of the external  
25       boundaries of the district, with a specific metes and bounds  
26       description of any real property within the external

1 boundaries of the district which is to be excluded from the  
2 district.

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

12 "d. The proposed name of the district, and the  
13 location and the mailing address of the principal office of  
14 the district.

15 "e. A designation of five persons to be the initial  
16 members of the board of control of the district, two of whom  
17 shall serve in that office until replaced by elected members;  
18 provided, the two elected members of the board of control  
19 shall be elected by the members of the club who may vote in  
20 person or by proxy in writing at an annual meeting of the  
21 district, which date shall be specified in the petition. Each  
22 club member shall be entitled to cast one vote. The two  
23 candidates receiving the highest number of votes shall be  
24 elected to the board of control for a period of one year, or  
25 until his or her successor shall be duly elected. Upon the  
26 death or resignation of a non-elected member of the board of  
27 control, the remaining board members shall elect, by majority

1 vote at a called board meeting, a new non-elected board  
2 member.

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

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

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

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

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

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

20 "(3) The articles of establishment of a district  
21 described in Section 35-8B-1(e), (f), (g), (h), (i), (j), (k),  
22 ~~or~~ (l), or (m) shall contain the following:

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

26 "b. A metes and bounds description of the external  
27 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  
3 guests 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 district who shall be elected by the owner of  
9 the real property included in the district.

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

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

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

18           "c. Issue a certificate of establishment to which he  
19 or she shall affix one certified copy of the articles of  
20 establishment, and return such certificate with a certified  
21 copy of the articles of establishment affixed thereto to the  
22 district.

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

26           " (6) In lieu of all other charges and fees for a  
27 community development district formed under Section

1 35-8B-1(a), (b), or (d), the probate judge shall charge and  
2 collect for filing the articles of establishment and issuing a  
3 certificate of establishment, one thousand dollars (\$1,000)  
4 payable to the municipality in which is located the largest  
5 area of the community development district if located in a  
6 municipality, and if not, to the county in which is located  
7 the largest area of the community development district and  
8 three hundred fifty dollars (\$350) to the county for the  
9 purpose of providing additional funds for the office of the  
10 probate judge. On or before the anniversary date of the filing  
11 of the articles of establishment, excluding the actual year of  
12 filing, the board of control shall pay to the probate judge a  
13 fee of three hundred fifty dollars (\$350) and a fee of one  
14 thousand dollars (\$1,000) payable to the municipality in which  
15 is located the largest area of the community development  
16 district if located in a municipality, and if not, to the  
17 county in which is located the largest area of the community  
18 development district for the purpose of providing additional  
19 funds for the office of the probate judge.

20 "(7) In lieu of all other charges and fees for a  
21 community development district formed under Section  
22 35-8B-1(e), (f), (g), (h), (i), (j), (k), ~~or~~ (l), or (m), the  
23 judge of probate shall charge and collect a one-time fee for  
24 filing the articles of establishment and issuing a certificate  
25 of establishment of five hundred dollars (\$500) payable to the  
26 county in which is located the largest area of the district

1 for the purpose of providing additional funds to the judge of  
2 probate.

3 "§35-8B-3.

4 "(a) If a majority of the board of control of a  
5 community development district formed under Section  
6 35-8B-1(a), (b), or (d) consents to and approves the sale and  
7 distribution of alcoholic beverages within the district, it  
8 shall be lawful to sell and distribute alcoholic beverages in  
9 the community development district in the following manner and  
10 subject to the following terms, definitions, and conditions:

11 "(1) Upon being licensed by the Alabama Alcoholic  
12 Beverage Control Board, alcoholic beverages may be sold by the  
13 club of the district to members and their guests for  
14 on-premises consumption only. The club shall be licensed to  
15 sell alcoholic beverages to its members and their guests as a  
16 club liquor retail licensee by the Alabama Alcoholic Beverage  
17 Control Board, upon the club's compliance with the provisions  
18 of the alcoholic beverage licensing code and the regulations  
19 made thereunder. The original application shall be accompanied  
20 by a certificate from the board of control of the district in  
21 which the licensed club is located, consenting to and  
22 approving the sale of alcoholic beverages at the club. The  
23 club shall not be required to present its application or  
24 obtain the consent and approval of any authority other than  
25 the Board of Control of the district.

26 "(2) MEMBER. Any person or entity whose membership  
27 application has been approved by the club.

1           "(3) ON-PREMISES CONSUMPTION. Consumption on the  
2 property of the club, including the club house, the golf  
3 course, and other recreational facilities of the club. Sales  
4 of alcoholic beverages for on-premises consumption shall be  
5 made only by authorized charge to a member's account.

6           "(b) If a majority of the board of control of a  
7 community development district formed pursuant to Section  
8 35-8B-1(e), (f), (g), (h), (i), (j), (k), ~~or~~ (l), or (m)  
9 consents to and approves the sale and distribution of  
10 alcoholic beverages within the district for seven days a week,  
11 any person within the district licensed by the Alabama  
12 Alcoholic Beverage Control Board may sell alcoholic beverages  
13 in the district for on-premises consumption."

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