

1 SB230  
2 188777-2  
3 By Senator Livingston  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 25-JAN-18

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4 ENGROSSED

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7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3,  
12 Code of Alabama 1975, as amended by Act 2017-350 and Act  
13 2017-359 of the 2017 Regular Session, relating to community  
14 development districts; to create an additional class of  
15 community development district; and to provide for the  
16 incorporation and powers of the district.

17 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

18 Section 1. Sections 35-8B-1, 35-8B-2, and 35-8B-3,  
19 Code of Alabama 1975, as amended by Act 2017-350 and Act  
20 2017-359 of the 2017 Regular Session, are amended to read as  
21 follows:

22 "§35-8B-1.

23 "(a) "Community development district" shall mean a  
24 private residential development that: (1) Is a size of at  
25 least 250 acres of contiguous land area; (2) has at least 100  
26 residential sites, platted and recorded in the probate office  
27 of the county as a residential subdivision; (3) has streets

1 that were or will be built with private funds; (4) has a  
2 social club with: (i) an 18-hole golf course of regulation  
3 size; (ii) a restaurant or eatery used exclusively for the  
4 purpose of preparing and serving meals, with a seating  
5 capacity of at least 60 patrons; (iii) social club memberships  
6 with at least 100 paid-up members who have paid a membership  
7 initiation fee of not less than two hundred fifty dollars  
8 (\$250) per membership; (iv) membership policies whereby  
9 membership is not denied or impacted by an applicant's race,  
10 color, creed, religion, or national origin; and (v) a  
11 full-time management staff for the social activities of the  
12 club, including the management of the premises where food and  
13 drink are sold.

14 "(b) "Community development district" also means  
15 privately owned property used for social purposes that: (1) Is  
16 a size of at least 250 acres of contiguous land area; (2) is  
17 located in a dry county that has one or more wet  
18 municipalities, but outside the corporate limits of any  
19 municipality; (3) is a social club with: (i) An 18-hole golf  
20 course of regulation size; (ii) a marina and boat storage  
21 facility with at least 35 spaces; (iii) a clubhouse with more  
22 than 20,000 square feet; (iv) a restaurant or eatery used  
23 exclusively for the purpose of preparing and serving meals,  
24 with a seating capacity of at least 88 patrons; (v) at least  
25 600 paid-up golf or social members who have paid a membership  
26 initiation fee of not less than two thousand dollars (\$2,000)  
27 per family or individual membership; (vi) membership policies

1       whereby membership is not denied or impacted by an applicant's  
2       race, color, creed, religion, or national origin; and (vii) 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               "(c) In addition to the limitations specified in  
7       Section 35-8B-3, with regard to a community development  
8       district defined in subsections (a) and (b) of this section,  
9       alcoholic beverages shall be sold only for on-premises  
10      consumption, as defined in Section 35-8B-3 (3), and in regard  
11      to a community development district defined in subsection (b),  
12      alcoholic beverages shall not be sold within 3,000 feet of the  
13      south right-of-way of any state or federal highway adjacent to  
14      any such district.

15              "(d) "Community development district" also means a  
16      private residential development that may or may not include  
17      additional contiguous privately-owned property used for  
18      residential, social, commercial, or charitable purposes that:  
19      (1) Is the size of at least 650 acres of contiguous land area,  
20      but may also contain non-contiguous land if so divided by a  
21      public highway which shall be made part of the district per  
22      the articles of establishment; (2) is located in a dry county  
23      that has one or more wet municipalities, but may be outside  
24      the corporate limits of any municipality or within the  
25      corporate limits of a municipality; (3) has the following: (i)  
26      At least a 9-hole golf course; (ii) an amenity complex to  
27      include a fitness center and a swimming pool; (iii) a

1 clubhouse with at least 7,000 square feet; (iv) a restaurant  
2 or eatery used for the purpose of preparing and serving meals,  
3 with a seating capacity of at least 50 patrons; (v) a  
4 recreational lake of at least 30 acres; (vi) at least 200  
5 paid-up golf or club memberships paid initially by either the  
6 developer, residential landowners, or commercial entities  
7 located within the district at the rate of at least five  
8 hundred dollars (\$500) per membership provided the developer  
9 reserves the right through residential and commercial lease  
10 and purchase agreements to require additional membership and  
11 initiation fees and further provided the developer has the  
12 discretion to restrict use of the golf course to district  
13 landowners and guests or at the developer's discretion to  
14 extend use of the golf course to the general public subject to  
15 fees set and determined by the developer which may differ from  
16 fees applicable to residential and commercial lease and  
17 purchase agreements; and (vii) membership policies whereby  
18 membership is not denied or impacted by an applicant's race,  
19 color, religion, or national origin; (4) may include a  
20 multi-purpose use entertainment facility with a minimum  
21 capacity to accommodate at least 7,500 patrons; and (5) may  
22 include commercial establishments. Notwithstanding any other  
23 provisions of law, the sale and distribution of alcoholic  
24 beverages, including draft or keg beer, by licensees of the  
25 Alcoholic Beverage Control Board shall be authorized in a  
26 community development district defined under this subsection  
27 and Section 35-8B-3 shall not apply.

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

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

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

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

1           "(i) "Community development district" also means a  
2 commercial district which borders on a lake which is formed by  
3 an impounded reservoir of a river whose source is in a federal  
4 wilderness area and has a marina with not less than 30 boat  
5 slips and a restaurant with seating capacity of not less than  
6 100 seats of which not less than 50 seats must be inside  
7 seating and is located on property where the marina and  
8 restaurant are under common ownership. In addition to any  
9 other requirements by law, the restaurant shall obtain a  
10 business license from the local governing body having primary  
11 jurisdiction of the property where the restaurant is located  
12 and shall be subject to additional regulation as determined  
13 necessary by the local governing body. Only one restaurant  
14 license per community development district shall be allowed.

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

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

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

20           "(3) It is located partially in a dry county and  
21 partially in a wet county.

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

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

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

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

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

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

13           "(m) "Community development district" also means a  
14 parcel of land that is in a resort area consisting of a lodge  
15 for overnight accommodations and homesites which includes  
16 vacation rentals and that meets all of the following:

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

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

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

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



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

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

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

15                  "~~(o)~~(p) If a community development district  
16                  established prior to June 1, 2014, becomes a new municipality  
17                  pursuant to Sections 11-41-1 and 11-41-2, the section  
18                  requiring a vote of the residents of the property described in  
19                  the petition, the new municipality created thereby shall be  
20                  wet and the sale and distribution of alcoholic beverages  
21                  therein shall be authorized to the full extent of any other  
22                  wet municipality. In addition to the other requirements for  
23                  incorporating into a municipality set forth in Sections  
24                  11-41-1 and 11-41-2, the petition shall provide notice to  
25                  potential voters that if the new municipality is incorporated  
26                  it shall be wet.

27                  "§35-8B-2.

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

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

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

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

22           "c. A schematic layout of the proposed district with  
23 a map of the proposed and existing residential subdivisions,  
24 streets, and roads in the district, and of the building and  
25 grounds to be used in common by members of the club operating  
26 in the district, together with a commitment that the owner or  
27 owners of the real property located within the district will

1 bear the costs of the construction of such proposed streets  
2 and roads, if such proposed roads and streets do not exist on  
3 the day the articles of establishment are filed.

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

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

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

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

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

6            "d. The proposed name of the district and the  
7 location and the mailing address of the principal office of  
8 the district.

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

12           " (3) The articles of establishment of a district  
13 described in Section 35-8B-1(e), (f), (g), (h), (i), (j), (k),  
14 ~~or~~ (l), or (m) shall 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  
17 within 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  
22 guests 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 district who shall be elected by the owner of  
3 the real property included in the district.

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

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

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

12 "c. Issue a certificate of establishment to which he  
13 or she shall affix one certified copy of the articles of  
14 establishment, and return such certificate with a certified  
15 copy of the articles of establishment affixed thereto to the  
16 district.

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

20 "(6) In lieu of all other charges and fees for a  
21 community development district formed under Section  
22 35-8B-1(a), (b), or (d), the probate judge shall charge and  
23 collect for filing the articles of establishment and issuing a  
24 certificate of establishment, one thousand dollars (\$1,000)  
25 payable to the municipality in which is located the largest  
26 area of the community development district if located in a  
27 municipality, and if not, to the county in which is located

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

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

23 "§35-8B-3.

24 "(a) If a majority of the board of control of a  
25 community development district formed under Section  
26 35-8B-1(a), (b), or (d) consents to and approves the sale and  
27 distribution of alcoholic beverages within the district, it

1 shall be lawful to sell and distribute alcoholic beverages in  
2 the community development district in the following manner and  
3 subject to the following terms, definitions, and conditions:

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

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

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

26 "(b) If a majority of the board of control of a  
27 community development district formed pursuant to Section

1 35-8B-1(e), (f), (g), (h), (i), (j), (k), ~~or~~ (l), or (m)  
2 consents to and approves the sale and distribution of  
3 alcoholic beverages within the district for seven days a week,  
4 any person within the district licensed by the Alabama  
5 Alcoholic Beverage Control Board may sell alcoholic beverages  
6 in the district for on-premises consumption."

7 Section 2. This act shall become effective  
8 immediately following its passage and approval by the  
9 Governor, or its otherwise becoming law.



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Senate

Read for the first time and referred to the Senate  
committee on Fiscal Responsibility and Economic  
Development..... 25-JAN-18

Read for the second time and placed on the calen-  
dar..... 08-FEB-18

Read for the third time and passed as amended .... 22-FEB-18

Yeas 28  
Nays 0

Patrick Harris,  
Secretary.