

1 SB305  
2 191443-1  
3 By Senator Melson  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 13-FEB-18

2  
3  
4  
5  
6  
7  
8 SYNOPSIS: Under existing law, there is a process for  
9 establishing a community development district. Once  
10 established, certain entities within a community  
11 development district may sell alcoholic beverages  
12 under certain circumstances after licensure by the  
13 Alcoholic Beverage Control Board.

14 This bill would create an additional class  
15 of community development districts and authorize  
16 the sale of alcoholic beverages in one of these  
17 districts for on-premises consumption.

18  
19 A BILL  
20 TO BE ENTITLED  
21 AN ACT

22  
23 Relating to community development districts; to  
24 amend Sections 35-8B-1, 35-8B-2, and 35-8B-3, Code of Alabama  
25 1975, as amended by Act 2017-350 and Act 2017-359, 2017  
26 Regular Session; to create an additional class of community  
27 development districts; and to authorize the sale of alcoholic

1 beverages in one of these districts for on-premises  
2 consumption.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

8 "§35-8B-1.

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

20           "(c) In addition to the limitations specified in  
21 Section 35-8B-3, with regard to a community development  
22 district defined in subsections (a) and (b) of this section,  
23 alcoholic beverages shall be sold only for on-premises  
24 consumption, as defined in Section 35-8B-3 (3), and in regard  
25 to a community development district defined in subsection (b),  
26 alcoholic beverages shall not be sold within 3,000 feet of the

1 south right-of-way of any state or federal highway adjacent to  
2 any such district.

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

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

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

24 "(f) "Community development district" also means a  
25 commercial district located in a wet county that does not  
26 authorize Sunday sales, has a restaurant with a seating  
27 capacity of at least 120, is adjacent to a marina with at

1 least 34 boat slips, and is located on property where the  
2 marina and restaurant are under common ownership.

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

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

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

1 necessary by the local governing body. Only one restaurant  
2 license per community development district shall be allowed.

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

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

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

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

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

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

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

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

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

20 "(l) "Community development district" also means a  
21 commercial district located in a wet county that does not  
22 authorize Sunday sales which district is composed of resort  
23 property consisting of 3,000 or more contiguous acres under  
24 common ownership, has a public golf course with a practice  
25 area and clubhouse, has a restaurant on the property, has  
26 overnight accommodations consisting of 40 or more guest  
27 suites, and has a shooting range.



1           "(m) "Community development district" also means  
2 privately owned property that meets all of the following  
3 criteria:

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

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

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

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

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

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

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

22          ~~"(n)~~ (o) Any alcohol revenues received by a county  
23 under Act 2007-417 shall offset in an equal amount any T.V.A.  
24 in-lieu-of-taxes payments received by the county. Any T.V.A.  
25 in-lieu-of-taxes payments replaced by alcohol revenues under  
26 this subsection shall be distributed to T.V.A.-served  
27 counties.

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

13           "§35-8B-2.

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

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

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

1 agreement, contract, or option of at least 51 percent of the  
2 real property to be included in the district.

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

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

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

20 "e. A designation of five persons to be the initial  
21 members of the board of control of the district, two of whom  
22 shall serve in that office until replaced by elected members;  
23 provided, the two elected members of the board of control  
24 shall be elected by the members of the club who may vote in  
25 person or by proxy in writing at an annual meeting of the  
26 district, which date shall be specified in the petition. Each  
27 club member shall be entitled to cast one vote. The two

1 candidates receiving the highest number of votes shall be  
2 elected to the board of control for a period of one year, or  
3 until his or her successor shall be duly elected. Upon the  
4 death or resignation of a non-elected member of the board of  
5 control, the remaining board members shall elect, by majority  
6 vote at a called board meeting, a new non-elected board  
7 member.

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

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

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

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

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

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

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

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

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

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

9            "d. The proposed name of the district and the  
10 location and the mailing address of the principal office of  
11 the district.

12           "e. A designation of members of the board of  
13 governors of the district who shall be elected by the owner of  
14 the real property included in the district.

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

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

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

23           "c. Issue a certificate of establishment to which he  
24 or she shall affix one certified copy of the articles of  
25 establishment, and return such certificate with a certified  
26 copy of the articles of establishment affixed thereto to the  
27 district.

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

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

25           "(7) In lieu of all other charges and fees for a  
26 community development district formed under Section  
27 35-8B-1(e), (f), (g), (h), (i), (j), (k), ~~or~~ (l), or (m) the

1 judge of probate shall charge and collect a one-time fee for  
2 filing the articles of establishment and issuing a certificate  
3 of establishment of five hundred dollars (\$500) payable to the  
4 county in which is located the largest area of the district  
5 for the purpose of providing additional funds to the judge of  
6 probate.

7 "§35-8B-3.

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

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

1 obtain the consent and approval of any authority other than  
2 the Board of Control of the district.

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

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

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

18 "(c) If a community development district that meets  
19 the requirements of Section 35-8B-1 (m) is formed, it shall be  
20 lawful to sell and distribute alcoholic beverages in the  
21 community development district to be consumed on-site, any day  
22 of the week provided any person that sells alcoholic beverages  
23 in the district is appropriately licensed by the Alabama  
24 Alcoholic Beverage Control Board. Any licensee that sells  
25 alcoholic beverages may not limit sales based on membership to  
26 any club or marina."



1                   Section 2. This act shall become effective on the  
2 first day of the third month following its passage and  
3 approval by the Governor, or its otherwise becoming law.