

1 HB578  
2 139077-3  
3 By Representative Tuggle  
4 RFD: Economic Development and Tourism  
5 First Read: 20-MAR-12

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ENROLLED, An Act,

To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3, Code of Alabama 1975, relating to community development districts; to create an additional class of community development district; and to provide for the incorporation and powers of the district.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 35-8B-1, 35-8B-2, and 35-8B-3, Code of Alabama 1975, are amended to read as follows:

"§35-8B-1.

"(a) "Community development district" shall mean a private residential development that: (1) Is a size of at least 250 acres of contiguous land area; (2) has at least 100 residential sites, platted and recorded in the probate office of the county as a residential subdivision; (3) has streets that were or will be built with private funds; (4) has a social club with: (i) an 18-hole golf course of regulation size; (ii) a restaurant or eatery used exclusively for the purpose of preparing and serving meals, with a seating capacity of at least 60 patrons; (iii) 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; (iv) membership policies whereby membership is not denied or impacted by an applicant's race,

1 color, creed, religion, or national origin; and (v) a  
2 full-time management staff for the social activities of the  
3 club, including the management of the premises where food and  
4 drink are sold.

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

24 "(c) In addition to the limitations specified in  
25 Section 35-8B-3, with regard to a community development

1 district defined in subsections (a) and (b) of this section,  
2 alcoholic beverages shall be sold only for on-premises  
3 consumption, as defined in Section 35-8B-3 (3), and in regard  
4 to a community development district defined in subsection (b),  
5 alcoholic beverages shall not be sold within 3,000 feet of the  
6 south right-of-way of any state or federal highway adjacent to  
7 any such district.

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

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

23 "(e) "Community development district" also means a  
24 commercial district located in a wet county that does not  
25 authorize Sunday sales and outside the corporate limits and

1 police jurisdiction of any municipality and which has a  
 2 restaurant with a seating capacity of at least 120, a  
 3 grocery-delicatessen, riding stables and riding trails, a  
 4 community information center, outdoor programming activities,  
 5 and rural lifestyle demonstrations.

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

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

17           "§35-8B-2.

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

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

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

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

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

1           "d. The proposed name of the district, and the  
2 location and the mailing address of the principal office of  
3 the district.

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

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

22           "a. The written consent to the establishment of the  
23 district by the owner of the real property to be included in  
24 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) shall contain the following:

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

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

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

22           "d. The proposed name of the district and the  
23 location and the mailing address of the principal office of  
24 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           "~~(3)~~ (4) The articles of establishment and two  
5 copies thereof shall be delivered to the probate judge who  
6 shall, 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          "~~(4)~~ (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          "~~(5)~~ (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

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

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

24 "§35-8B-3.

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

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

24           "(2) MEMBER. Any person or entity whose membership  
25 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) consents to and approves the sale and distribution  
9 of alcoholic beverages within the district on Sundays, any  
10 person within the district licensed by the Alabama Alcoholic  
11 Beverage Control Board may sell alcoholic beverages in the  
12 district for on-premises consumption."

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

