

1 HB89
2 155714-1
3 By Representative Ison
4 RFD: State Government
5 First Read: 14-JAN-14
6 PFD: 01/06/2014

SYNOPSIS: Under existing law, community development districts may consent to and approve the sale and distribution of alcoholic beverages within the district.

This bill would provide that if a municipality annexes a community development district or if a community development district is incorporated as a municipality, the territory of the community development district remains wet and any remaining portion of the municipality, at the discretion of the governing body of the municipality, shall be wet.

A BILL
TO BE ENTITLED
AN ACT

To amend Section 35-8B-1, Code of Alabama 1975, as amended by Act 2012-327, 2012 Regular Session, to provide that if a municipality annexes a community development district or

1 if a community development district is incorporated as a
2 municipality, the territory of the community development
3 district remains wet and any remaining portion of the
4 municipality, at the discretion of the governing body of the
5 municipality, shall be wet.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. Section 35-8B-1, Code of Alabama 1975, as
8 amended by Act 2012-327, 2012 Regular Session, is amended to
9 read as 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) If a community development district is located
26 in any county, including within any wet or dry municipality
27 located within the county, the county shall participate in the

1 distribution of taxes and license fees pursuant to Chapters 3
2 and 3A of Title 28.

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

9 "(h) If a community development district established
10 prior to the effective date of this act becomes a new
11 municipality pursuant to Sections 11-41-1 and 11-41-2, Code of
12 Alabama 1975, the section requiring a vote of the residents of
13 the property described in the petition, the new municipality
14 created thereby shall be wet and the sale and distribution of
15 alcoholic beverages therein shall be authorized to the full
16 extent of any other wet municipality. In addition to the other
17 requirements for incorporating into a municipality set forth
18 in Sections 11-41-1 and 11-41-2, Code of Alabama 1975, the
19 petition shall provide notice to potential voters that if the
20 new municipality is incorporated it shall be wet."

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