

SB322 ENROLLED



1 SB322
2 HG9FR68-3
3 By Senators Waggoner, Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 09-Apr-25



1 Enrolled, An Act,

2

3

4 Relating to community development districts; to amend
5 Sections 35-8B-1 and 35-8B-2, Code of Alabama 1975, as last
6 amended by Act 2024-365 of the 2024 Regular Session, to
7 authorize the annexation of a certain type of community
8 development district by a wet municipality in the county where
9 the district is situated; and to further provide for the
10 establishment of a certain type of community development
11 district.

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

13 Section 1. Sections 35-8B-1 and 35-8B-2, Code of
14 Alabama 1975, as last amended by Act 2024-365 of the 2024
15 Regular Session, are amended to read as follows:

16 "§35-8B-1

17 (a) (1) "Community development district" means a private
18 residential development that meets all of the following
19 criteria:

20 a. Is a size of at least 250 acres of contiguous land
21 area.

22 b. Has at least 100 residential sites, platted and
23 recorded in the probate office of the county as a residential
24 subdivision.

25 c. Has streets that were or will be built with private
26 funds.

27 d. Has a social club with all of the following:

28 1. An 18-hole golf course of regulation size.



29 2. A restaurant or eatery used exclusively for the
30 purpose of preparing and serving meals, with a seating
31 capacity of at least 60 patrons.

32 3. Social club memberships with at least 100 paid-up
33 members who have paid a membership initiation fee of not less
34 than two hundred fifty dollars (\$250) per membership.

35 4. Membership policies whereby membership is not denied
36 or impacted by an applicant's race, color, creed, religion, or
37 national origin.

38 5. A full-time management staff for the social
39 activities of the club, including the management of the
40 premises where food and drink are sold.

41 (2) The sale of any alcoholic beverages in any
42 community development district established under this
43 subsection shall be subject to a tax levied by the county on
44 any sale at the same rate as the tax on any sale of liquor in
45 the largest municipality in the county in which the district
46 is established and shall be distributed as provided in Section
47 35-8B-5.

48 (b) "Community development district" also means
49 privately owned property used for social purposes that meets
50 all of the following criteria:

51 (1) Is a size of at least 250 acres of contiguous land
52 area.

53 (2) Is located in a dry county that has one or more wet
54 municipalities, but outside the corporate limits of any
55 municipality.

56 (3) Is a social club with all of the following:



57 a. An 18-hole golf course of regulation size.

58 b. A marina and boat storage facility with at least 35
59 spaces.

60 c. A clubhouse with more than 20,000 square feet.

61 d. A restaurant or eatery used exclusively for the
62 purpose of preparing and serving meals, with a seating
63 capacity of at least 88 patrons.

64 e. At least 600 paid-up golf or social members who have
65 paid a membership initiation fee of not less than two thousand
66 dollars (\$2,000) per family or individual membership.

67 f. Membership policies whereby membership is not denied
68 or impacted by an applicant's race, color, creed, religion, or
69 national origin.

70 g. A full-time management staff for the social
71 activities of the club, including the management of the
72 premises where food and drink are sold.

73 (c) In addition to the limitations specified in Section
74 35-8B-3, with regard to a community development district
75 defined in subsections (a) and (b), alcoholic beverages shall
76 be sold only for on-premises consumption, as defined in
77 Section 35-8B-3(a)(3), and in regard to a community
78 development district defined in subsection (b), alcoholic
79 beverages shall not be sold within 3,000 feet of the south
80 right-of-way of any state or federal highway adjacent to any
81 such district.

82 (d) (1) "Community development district" also means a
83 private residential development that may or may not include
84 additional contiguous privately-owned property used for



85 residential, social, commercial, or charitable purposes that
86 meets all of the following criteria:

87 a. Is the size of at least 650 acres of contiguous land
88 area, but may also contain noncontiguous land if so divided by
89 a public highway which shall be made part of the district per
90 the articles of establishment.

91 b. Is located in a dry county that has one or more wet
92 municipalities, but may be outside the corporate limits of any
93 municipality or within the corporate limits of a municipality.

94 c. Has all of the following:

95 1. At least a 9-hole golf course.

96 2. An amenity complex to include a fitness center and a
97 swimming pool.

98 3. A clubhouse with at least 7,000 square feet.

99 4. A restaurant or eatery used for the purpose of
100 preparing and serving meals, with a seating capacity of at
101 least 50 patrons.

102 5. A recreational lake of at least 30 acres.

103 6. At least 200 paid-up golf or club memberships paid
104 initially by either the developer, residential landowners, or
105 commercial entities located within the district at the rate of
106 at least five hundred dollars (\$500) per membership provided
107 the developer reserves the right through residential and
108 commercial lease and purchase agreements to require additional
109 membership and initiation fees and further provided the
110 developer has the discretion to restrict use of the golf
111 course to district landowners and guests or at the developer's
112 discretion to extend use of the golf course to the general



113 public subject to fees set and determined by the developer
114 which may differ from fees applicable to residential and
115 commercial lease and purchase agreements.

116 7. Membership policies whereby membership is not denied
117 or impacted by an applicant's race, color, religion, or
118 national origin.

119 d. May include a multi-purpose use entertainment
120 facility with a minimum capacity to accommodate at least 7,500
121 patrons.

122 e. May include commercial establishments.

123 (2) Notwithstanding any other provisions of law, the
124 sale and distribution of alcoholic beverages, including draft
125 or keg beer, by licensees of the Alcoholic Beverage Control
126 Board shall be authorized in a community development district
127 defined under this subsection, and Section 35-8B-3 shall not
128 apply.

129 (e) "Community development district" also means a
130 commercial district located in a wet county that does not
131 authorize Sunday sales and outside the corporate limits and
132 police jurisdiction of any municipality and which has a
133 restaurant with a seating capacity of at least 120, a
134 grocery-delicatessen, riding stables and riding trails, a
135 community information center, outdoor programming activities,
136 and rural lifestyle demonstrations.

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



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

143 (g) "Community development district" also means a
144 commercial district that includes a marina located on a river
145 in an unincorporated area of a wet county that does not
146 authorize seven-day sales with two separate food and beverage
147 buildings with a combined space of at least 7,500 square feet
148 connected by a boardwalk and separated by a patio with an
149 entertainment stage.

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

156 (i) (1) "Community development district" also means a
157 commercial district that borders on a lake that is formed by
158 an impounded reservoir of a river whose source is in a federal
159 wilderness area and has a marina with not less than 30 boat
160 slips and a restaurant with seating capacity of not less than
161 100 seats of which not less than 50 seats must be inside
162 seating and is located on property where the marina and
163 restaurant are under common ownership. In addition to any
164 other requirements by law, the restaurant shall obtain a
165 business license from the local governing body having primary
166 jurisdiction of the property where the restaurant is located
167 and shall be subject to additional regulation as determined
168 necessary by the local governing body. Only one restaurant



169 license per community development district shall be allowed.

170 (2) The sale of any alcoholic beverages in any
171 community development district established under this
172 subsection shall be subject to a tax levied by the county on
173 any sale at the same rate as the tax on any sale of liquor in
174 the largest municipality in the county in which the district
175 is established and shall be distributed as provided in Section
176 35-8B-5.

177 (j) "Community development district" also means a
178 parcel of real property that meets all of the following
179 criteria:

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

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

182 (3) It is located partially in a dry county and
183 partially in a wet county.

184 (4) It contains a lake of not less than 70 acres with a
185 fishing resort consisting of a rental boathouse, campsites,
186 and a community room.

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

189 (1) Consists of at least 1,600 acres.

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

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

193 (l) "Community development district" also means a
194 commercial district located in a wet county that does not
195 authorize Sunday sales which district is composed of resort
196 property consisting of 3,000 or more contiguous acres under



197 common ownership, has a public golf course with a practice
198 area and clubhouse, has a restaurant on the property, has
199 overnight accommodations consisting of 40 or more guest
200 suites, and has a shooting range.

201 (m) "Community development district" also means a
202 parcel of land in a resort area consisting of a lodge for
203 overnight accommodations and homesites that include vacation
204 rentals and meets all of the following:

205 (1) The development was originally developed by
206 entities owned by the same family.

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

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

213 (4) It contains a platted subdivision of not less than
214 90 homesites, including homes available for vacation rental
215 with plans for additional development.

216 (5) It is located on a bluff over the backwaters of a
217 major river that flows through an adjoining state and flows
218 through or borders on another adjoining state.

219 (n) "Community development district" also means a
220 commercial district located in a wet county that does not
221 authorize Sunday sales, has a restaurant with a seating
222 capacity of at least 96 seats inside and 24 seats outside, is
223 located on a lake and adjacent to docking facilities and boat
224 slips for at least 24 boats, is licensed only to sell beer and



225 wine, and is located on property where the restaurant and boat
226 slips and docking facilities are under common ownership.

227 (o) "Community development district" also means
228 privately owned property that meets all of the following
229 criteria:

230 (1) It is used for social purposes.

231 (2) It is located in a dry county that has one or more
232 wet municipalities, but outside the corporate limits of any
233 municipality.

234 (3) It has a marina and a boat storage facility with at
235 least 150 spaces.

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

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

238 (6) It has a restaurant or eatery used for the purpose
239 of preparing and serving meals, with a seating capacity of at
240 least 40 patrons.

241 (p) "Community development district" also means an area
242 owned by an industrial development board located in a dry
243 county with a wet municipality, but in a municipality that has
244 more than 750 persons, according to the 2010 federal decennial
245 census, and the property meets all of the following:

246 (1) The property is in a county bordering on two other
247 states.

248 (2) The property is on a bluff overlooking a river
249 flowing through two adjoining states.

250 (3) The property would be used only for a hotel having
251 not less than 50 rooms and a restaurant.

252 (q) (1) "Community development district" also means



253 privately owned property that meets all of the following
254 criteria:

255 a. It is located in a dry county that has one or more
256 wet municipalities, but outside the corporate limits of any
257 municipality.

258 b. It consists of at least 60 acres.

259 c. It has facilities on the property which employ a
260 full-time management staff for the social activities of the
261 facilities, including the management of the premises where
262 food and drink are sold.

263 d. It has a restaurant or eatery used for the purpose
264 of preparing and serving meals, with a seating capacity of at
265 least 500 patrons operated on the property.

266 e. It has concerts and other family-oriented events
267 held on the property.

268 f. It has overnight accommodations with the capacity to
269 sleep at least 70 individuals.

270 g. It has at least five fishing ponds.

271 h. It has an amphitheater for outdoor entertainment
272 events.

273 i. It has a chapel for wedding services.

274 j. It has an RV park with a capacity of at least four
275 RVs.

276 k. It has five reception halls with a seating capacity
277 of at least 1,900 individuals.

278 l. It has an outdoor stage.

279 (2) The sale of any alcoholic beverages in any
280 community development district established under this



281 subsection shall be subject to a tax levied by the county on
282 any sale at the same rate as the tax on any sale of liquor in
283 the largest municipality in the county in which the district
284 is established and shall be distributed as provided in Section
285 35-8B-5.

286 (r) (1) "Community development district" also means
287 property that meets all of the following criteria:

288 a. It is located in a dry county that shares a border
289 with another state and which contains at least one wet
290 municipality, but the property is located outside the
291 corporate limits of any municipality.

292 b. It is adjacent to a river flowing through two
293 adjoining states.

294 c. It has at least one restaurant with a seating
295 capacity of at least 40 patrons.

296 d. It contains a contiguous land area of private
297 residential development amounting to more than 250 acres.

298 e. It contains over 100 residential sites, platted and
299 recorded.

300 f. It contains streets that are, or will be, built with
301 private funds.

302 g. It contains an 18-hole public golf course of
303 regulation size, which offers an annual subscription or
304 membership to cover the cost of greens fees.

305 (2) Notwithstanding any other provisions of law, the
306 sale and distribution of alcoholic beverages, including draft
307 or keg beer, by licensees of the Alcoholic Beverage Control
308 Board shall be authorized in a community development district



309 defined under this subsection and Section 35-8B-3 shall not
310 apply.

311 (s) (1) "Community development district" also means a
312 commercial district or resort that borders on a lake that is
313 formed by an impounded reservoir of a river whose source is in
314 a federal wilderness area that meets the following criteria:

315 a. Is a size of at least 500 or more acres of
316 contiguous land area;

317 b. Is located in a dry county that has one or more wet
318 municipalities, but is located outside the corporate limits of
319 any wet municipality;

320 c. Has a hotel or lodge or rental homes with a minimum
321 of 100 rooms;

322 d. Has at least one 18-hole golf course of regulation
323 size;

324 e. Has a marina with not less than 50 boat slips or
325 storage spaces;

326 f. Has a clubhouse;

327 g. Has more than one restaurant, bar, or tavern or
328 other eatery used exclusively for the purpose of preparing and
329 serving meals or beverages or both, seven days per week, with
330 at least one restaurant having a seating capacity for at least
331 50 patrons;

332 h. Has a conference center; and

333 i. Has membership policies that provide that membership
334 is not denied or impacted by an applicant's race, color,
335 creed, religion, or national origin.

336 (2) In a community development district as defined in



337 this subsection, alcoholic beverages shall be sold only by
338 licensees of the Alabama Alcoholic Beverage Control Board for
339 consumption, including Sunday sales, within or on a licensee's
340 property and as otherwise provided herein. An Alcoholic
341 Beverage Control licensee in the district may operate a
342 resort-owned luxury fine dining dinner cruise and special
343 events yacht which may serve meals or alcoholic beverages, or
344 both, while on the water, provided, the following minimum
345 criteria are met: (i) length of not less than 60 feet; (ii)
346 U.S. Coast Guard approved seating capacity of not less than
347 40; and (iii) operated by a USCG licensed captain. The
348 restaurant or tavern shall obtain a business license from the
349 local governing body having primary jurisdiction of the
350 property where the restaurant is located and shall be subject
351 to additional regulation as determined necessary by the local
352 governing body.

353 (3)a. Notwithstanding any other provision of law
354 relating to annexations, the real property within a community
355 development district defined in this subsection may be annexed
356 by a wet municipality in the same county upon petition by the
357 district's board and approval by the municipality's governing
358 body; provided, however, at least 30 days prior to the
359 approval of the annexation by the municipality's governing
360 body, a plat or map of the territory being annexed is
361 furnished to the judge of probate of the county where the
362 proposed annexation is located. Any annexation of real
363 property within a community development district by a wet
364 municipality may be made subject to such conditions as may be



365 determined and agreed upon by the district's board and the
366 annexing municipality's governing body.

367 b. An annexation conducted pursuant to this subdivision
368 does not require contiguity between the real property within
369 the community development district and the annexing
370 municipality.

371 c. Notwithstanding any annexation, a county shall
372 retain the right to provide all environmental services in a
373 community development district, including, but not limited to,
374 garbage services.

375 d. An annexation implemented pursuant to this
376 subdivision must commence by June 1, 2026.

377 e. The property cannot be used as a site for a casino,
378 nor may any other commercial or charitable gambling activities
379 be conducted on the property.

380 (t) If a community development district is located in
381 any county, including within any wet or dry municipality
382 located within the county, the county shall participate in the
383 distribution of taxes and license fees pursuant to Chapters 3
384 and 3A of Title 28.

385 (u) Any alcohol revenues received by a county under Act
386 2007-417 shall offset in an equal amount any T.V.A.
387 in-lieu-of-taxes payments received by the county. Any T.V.A.
388 in-lieu-of-taxes payments replaced by alcohol revenues under
389 this subsection shall be distributed to T.V.A.-served
390 counties.

391 (v) If a community development district established
392 prior to June 1, 2014, becomes a new municipality pursuant to



393 Sections 11-41-1 and 11-41-2, the section requiring a vote of
394 the residents of the property described in the petition, the
395 new municipality created thereby shall be wet and the sale and
396 distribution of alcoholic beverages therein shall be
397 authorized to the full extent of any other wet municipality.
398 In addition to the other requirements for incorporating into a
399 municipality set forth in Sections 11-41-1 and 11-41-2, the
400 petition shall provide notice to potential voters that if the
401 new municipality is incorporated it shall be wet."

402 "§35-8B-2

403 The exclusive and uniform method for the establishment
404 of a community development district shall be by the filing of
405 the articles of establishment of a community development
406 district with the judge of probate of the county in which the
407 district is to be located, or if located in more than one
408 county, of the county wherein is located the largest area of
409 the community development district.

410 (1) The articles of establishment of a district defined
411 in subsection (a) of Section 35-8B-1 shall contain the
412 following:

413 a. The written consent to the establishment of the
414 district by the owner or owners of at least 51 percent of the
415 real property to be included in the district, or documentation
416 demonstrating that the petitioner has control by deed, trust
417 agreement, contract, or option of at least 51 percent of the
418 real property to be included in the district.

419 b. A metes and bounds description of the external
420 boundaries of the district, with a specific metes and bounds



421 description of any real property within the external
422 boundaries of the district, which is to be excluded from the
423 district.

424 c. A schematic layout of the proposed district with a
425 map of the proposed and existing residential subdivisions,
426 streets, and roads in the district, and of the building and
427 grounds to be used in common by members of the club operating
428 in the district, together with a commitment that the owner or
429 owners of the real property located within the district will
430 bear the costs of the construction of such proposed streets
431 and roads, if such proposed roads and streets do not exist on
432 the day the articles of establishment are filed.

433 d. The proposed name of the district, and the location
434 and the mailing address of the principal office of the
435 district.

436 e. A designation of five persons to be the initial
437 members of the board of control of the district, two of whom
438 shall serve in that office until replaced by elected members;
439 provided, the two elected members of the board of control
440 shall be elected by the members of the club who may vote in
441 person or by proxy in writing at an annual meeting of the
442 district, which date shall be specified in the petition. Each
443 club member shall be entitled to cast one vote. The two
444 candidates receiving the highest number of votes shall be
445 elected to the board of control for a period of one year, or
446 until his or her successor shall be duly elected. Upon the
447 death or resignation of a non-elected member of the board of
448 control, the remaining board members shall elect, by majority



449 vote at a called board meeting, a new non-elected board
450 member.

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

454 a. The written consent to the establishment of the
455 district by the owner of the real property to be included in
456 the district.

457 b. A metes and bounds description of the external
458 boundaries of the district.

459 c. A schematic layout of the proposed district with a
460 map of the buildings and grounds to be used in common by the
461 members of the club operating in the district.

462 d. The proposed name of the district and the location
463 and the mailing address of the principal office of the
464 district.

465 e. A designation of members of the board of governors
466 of the club operating in the district who shall be the members
467 of the board of control of the district.

468 (3) The articles of establishment of a district
469 described in Section 35-8B-1(e), (f), (g), (h), (i), (j), (k),
470 (l), (m), (n), (o), (p), (q), (r), or (s) shall contain the
471 following:

472 a. The written consent to the establishment of the
473 district by the owner of the real property to be included
474 within the district.

475 b. A metes and bounds description of the external
476 boundaries of the district.



477 c. A schematic layout of the proposed district with a
478 map of the buildings and grounds to be used in common by
479 guests in the district.

480 d. The proposed name of the district and the location
481 and the mailing address of the principal office of the
482 district.

483 e. 1. AExcept for a district described in Section
484 35-8B-1(s), a designation of members of the board of governors
485 of the district who shall be elected by the owner of the real
486 property included in the district.

487 2. For a district described in Section 35-8B-1(s), a
488 designation of three natural persons to serve as members of
489 the board of governors of the district, who shall be elected
490 by the majority vote of the owners of the real property
491 located in the district. The members of the board of governors
492 shall each serve for a period of four years or until his or
493 her successor is duly elected.

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

497 a. Endorse on the articles and on each of the copies
498 the word "Filed," and the hour, day, month, and year of the
499 filing thereof;

500 b. File the articles in his or her office and certify
501 the two copies thereof; and

502 c. Issue a certificate of establishment to which he or
503 she shall affix one certified copy of the articles of
504 establishment, and return the certificate with a certified



505 copy of the articles of establishment affixed thereto to the
506 district.

507 (5) Upon the filing of the articles of establishment of
508 the community development district with the judge of probate,
509 the district's existence shall begin.

510 (6) In lieu of all other charges and fees for a
511 community development district formed under Section
512 35-8B-1(a), (b), or (d), the judge of probate shall charge and
513 collect for filing the articles of establishment and issuing a
514 certificate of establishment, one thousand dollars (\$1,000)
515 payable to the municipality in which is located the largest
516 area of the community development district if located in a
517 municipality, and if not, to the county in which is located
518 the largest area of the community development district and
519 three hundred fifty dollars (\$350) to the county for the
520 purpose of providing additional funds for the office of the
521 judge of probate. On or before the anniversary date of the
522 filing of the articles of establishment, excluding the actual
523 year of filing, the board of control shall pay to the judge of
524 probate a fee of three hundred fifty dollars (\$350) and a fee
525 of one thousand dollars (\$1,000) payable to the municipality
526 in which is located the largest area of the community
527 development district if located in a municipality, and if not,
528 to the county in which is located the largest area of the
529 community development district for the purpose of providing
530 additional funds for the office of the judge of probate.

531 (7) In lieu of all other charges and fees for a
532 community development district formed under Section



533 35-8B-1 (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o),
534 (p), (q), (r), or (s), the judge of probate shall charge and
535 collect a one-time fee for filing the articles of
536 establishment and issuing a certificate of establishment of
537 five hundred dollars (\$500) payable to the county in which is
538 located the largest area of the district for the purpose of
539 providing additional funds to the judge of probate."

540 Section 2. This act shall become effective on October
541 1, 2025.



542
543
544
545
546
547
548

549 President and Presiding Officer of the Senate

550
551
552
553

554 Speaker of the House of Representatives

555
556

557 SB322

558 Senate 22-Apr-25

559 I hereby certify that the within Act originated in and passed
560 the Senate, as amended.

561

562 Patrick Harris,
563 Secretary.

564
565
566
567

568 House of Representatives

569 Passed: 01-May-25

570
571
572
573

574 By: Senator Waggoner