

1 SB133
2 205058-4
3 By Senator Livingston
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 06-FEB-20

1 SB133

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3
4 ENROLLED, An Act,

5 To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3,
6 Code of Alabama 1975, relating to community development
7 districts; to create additional classes of community
8 development districts; and to provide for the incorporation
9 and powers of the districts.

10 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

13 "§35-8B-1.

14 "(a) "Community development district" shall mean a
15 private residential development that: (1) Is a size of at
16 least 250 acres of contiguous land area; (2) has at least 100
17 residential sites, platted and recorded in the probate office
18 of the county as a residential subdivision; (3) has streets
19 that were or will be built with private funds; (4) has a
20 social club with: (i) an 18-hole golf course of regulation
21 size; (ii) a restaurant or eatery used exclusively for the
22 purpose of preparing and serving meals, with a seating
23 capacity of at least 60 patrons; (iii) social club memberships
24 with at least 100 paid-up members who have paid a membership
25 initiation fee of not less than two hundred fifty dollars

1 (\$250) per membership; (iv) membership policies whereby
2 membership is not denied or impacted by an applicant's race,
3 color, creed, religion, or national origin; and (v) a
4 full-time management staff for the social activities of the
5 club, including the management of the premises where food and
6 drink are sold.

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

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

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

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

1 shops and restaurants, summer camps and retreat centers, an
2 art gallery, and annual festivals showcasing the area.

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

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

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

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

22 "(3) It is located partially in a dry county and
23 partially in a wet county.

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

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

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

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

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

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

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

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

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

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

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

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

13 "(n) "Community development district" also means a
14 commercial district located in a wet county that does not
15 authorize Sunday sales, has a restaurant with a seating
16 capacity of at least 96 seats inside and 24 seats outside, is
17 located on a lake and adjacent to docking facilities and boat
18 slips for at least 24 boats, is licensed only to sell beer and
19 wine, and is located on property where the restaurant and boat
20 slips and docking facilities are under common ownership.

21 "(o) "Community development district" also means
22 privately owned property that meets all of the following
23 criteria:

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

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

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

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

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

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

13 "(p) "Community development district" also means an
14 area owned by an industrial development board located in a dry
15 county with a wet municipality, but in a municipality which
16 has more than 750 persons, according to the 2010 federal
17 decennial census, and the property meets all of the following:

18 "(1) The property is in a county bordering on two
19 other states.

20 "(2) The property is on a bluff overlooking a river
21 flowing through two adjoining states.

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

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

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

7 "(2) It consists of at least 60 acres.

8 "(3) It has facilities on the property that employ a
9 full-time management staff for the social activities of the
10 facilities, including the management of the premises where
11 food and drink are sold.

12 "(4) It has a restaurant or eatery used for the
13 purpose of preparing and serving meals, with a seating
14 capacity of at least 500 patrons operated on the property.

15 "(5) It has concerts and other family-oriented
16 events held on the property.

17 "(6) It has overnight accommodations with the
18 capacity to sleep at least 70.

19 "(7) It has at least five fishing ponds.

20 "(8) It has an amphitheater for outdoor
21 entertainment events.

22 "(9) It has a chapel for wedding services.

23 "(10) It has an RV park with a capacity of at least
24 four RVs.

1 "(11) It has five reception halls with a seating
2 capacity of at least 1,900.

3 "(12) It has an outdoor stage.

4 "(13) The sale of any alcoholic beverages in any
5 community development district established under this
6 subsection shall be subject to a tax levied by the county on
7 any sale at the same rate as the tax on any sale of the same
8 alcoholic beverage in the largest municipality in the county
9 in which the district is established and shall be distributed
10 to the county.

11 "~~(p)~~ (r) If a community development district is
12 located in any county, including within any wet or dry
13 municipality located within the county, the county shall
14 participate in the distribution of taxes and license fees
15 pursuant to Chapters 3 and 3A of Title 28.

16 "~~(q)~~ (s) Any alcohol revenues received by a county
17 under Act 2007-417 shall offset in an equal amount any T.V.A.
18 in-lieu-of-taxes payments received by the county. Any T.V.A.
19 in-lieu-of-taxes payments replaced by alcohol revenues under
20 this subsection shall be distributed to T.V.A.-served
21 counties.

22 "~~(r)~~ (t) If a community development district
23 established prior to June 1, 2014, becomes a new municipality
24 pursuant to Sections 11-41-1 and 11-41-2, the section
25 requiring a vote of the residents of the property described in

1 the petition, the new municipality created thereby shall be
2 wet and the sale and distribution of alcoholic beverages
3 therein shall be authorized to the full extent of any other
4 wet municipality. In addition to the other requirements for
5 incorporating into a municipality set forth in Sections
6 11-41-1 and 11-41-2, the petition shall provide notice to
7 potential voters that if the new municipality is incorporated
8 it shall be wet.

9 "§35-8B-2.

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

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

20 "a. The written consent to the establishment of the
21 district by the owner or owners of at least 51 percent of the
22 real property to be included in the district, or documentation
23 demonstrating that the petitioner has control by deed, trust
24 agreement, contract, or option of at least 51 percent of the
25 real property to be included in the district.

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

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

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

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

1 "(3) The articles of establishment of a district
2 described in Section 35-8B-1(e), (f), (g), (h), (i), (j), (k),
3 (l), (m), (n), ~~or~~ (o), (p), or (q) shall contain the
4 following:

5 "a. The written consent to the establishment of the
6 district by the owner of the real property to be included
7 within the district.

8 "b. A metes and bounds description of the external
9 boundaries of the district.

10 "c. A schematic layout of the proposed district with
11 a map of the buildings and grounds to be used in common by
12 guests in the district.

13 "d. The proposed name of the district and the
14 location and the mailing address of the principal office of
15 the district.

16 "e. A designation of members of the board of
17 governors of the district who shall be elected by the owner of
18 the real property included in the district.

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

22 "a. Endorse on the articles and on each of such
23 copies the word "Filed," and the hour, day, month, and year of
24 the filing thereof.

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

3 "c. Issue a certificate of establishment to which he
4 or she shall affix one certified copy of the articles of
5 establishment, and return such certificate with a certified
6 copy of the articles of establishment affixed thereto to the
7 district.

8 "(5) Upon the filing of the articles of
9 establishment of the community development district with the
10 probate judge, the district's existence shall begin.

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

1 thousand dollars (\$1,000) payable to the municipality in which
2 is located the largest area of the community development
3 district if located in a municipality, and if not, to the
4 county in which is located the largest area of the community
5 development district for the purpose of providing additional
6 funds for the office of the probate judge.

7 "(7) In lieu of all other charges and fees for a
8 community development district formed under Section
9 35-8B-1(e), (f), (g), (h), (i), (j), (k), (l), (m), (n), ~~or~~
10 (o), (p), or (q) the judge of probate shall charge and collect
11 a one-time fee for filing the articles of establishment and
12 issuing a certificate of establishment of five hundred dollars
13 (\$500) payable to the county in which is located the largest
14 area of the district for the purpose of providing additional
15 funds to the judge of probate.

16 "§35-8B-3.

17 "(a) If a majority of the board of control of a
18 community development district formed under Section
19 35-8B-1(a), (b), or (d) consents to and approves the sale and
20 distribution of alcoholic beverages within the district, it
21 shall be lawful to sell and distribute alcoholic beverages in
22 the community development district in the following manner and
23 subject to the following terms, definitions, and conditions:

24 "(1) Upon being licensed by the Alabama Alcoholic
25 Beverage Control Board, alcoholic beverages may be sold by the

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

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

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

21 "(b) If a majority of the board of control of a
22 community development district formed pursuant to Section
23 35-8B-1(e), (f), (g), (h), (i), (j), (k), (l), (m), ~~or~~ (n),
24 (p), or (q) consents to and approves the sale and distribution
25 of alcoholic beverages within the district for seven days a

1 week, any person within the district licensed by the Alabama
2 Alcoholic Beverage Control Board may sell alcoholic beverages
3 in the district for on-premises consumption.

4 "(c) If a majority of the board of a community
5 development district formed pursuant to Section 35-8B-1(h)
6 consents to and approves the sale of alcoholic beverages
7 within the district for seven days a week, any person within
8 the district with the appropriate license from the Alabama
9 Alcoholic Beverage Control Board may sell alcoholic beverages
10 in the district for on-premises or off-premises consumption,
11 subject to approval by a referendum as provided herein.

12 "(1) If the community development district is
13 situated entirely within the corporate limits of a
14 municipality, then upon a petition by the board of the
15 district being filed with the city or town clerk or governing
16 body of the municipality, the governing body must call a
17 municipal referendum election on the question of whether to
18 authorize the sale of alcoholic beverages in the district as
19 provided in the petition. The municipal election shall be held
20 at the time of the primary, general, county-wide, or municipal
21 election next succeeding the date of the filing of the
22 petition but not less than 82 days from the date of the filing
23 of the petition. The cost of the municipal election, including
24 the cost of notice by publication, shall be paid out of the
25 general fund of the municipality.

1 "(2) If the community development district is not
2 situated entirely within the corporate limits of a
3 municipality, then upon a petition by the board of the
4 district being filed with the probate judge of the county, the
5 probate judge must call a county-wide referendum election on
6 the question of whether to authorize the sale of alcoholic
7 beverages in the district as provided in the petition. The
8 county-wide election shall be held at the time of the
9 regularly scheduled primary or general election next
10 succeeding the date of the filing of the petition but not less
11 than 82 days from the date of the filing of the petition. The
12 cost of the election, including the cost of notice by
13 publication, shall be paid out of the general funds of the
14 county.

15 "(3) Notice of any referendum election called
16 pursuant to the provisions hereof shall be given by the city
17 or town clerk for municipal elections, or by the probate judge
18 for county-wide elections, by publication at least three weeks
19 before the date of the election, in a newspaper in the
20 municipality or county, as appropriate, or, if there be none,
21 by posting such notice at the town or city hall or county
22 courthouse, as appropriate, apprising the voters of the
23 municipality or county that an election will be held to
24 determine whether alcoholic beverages may be sold within the
25 district as provided in the petition.

1 "(4) If a majority of the electors voting in a
2 referendum called pursuant hereto votes "yes" in favor of the
3 question, then the sale of alcoholic beverages in the district
4 as provided in the petition shall be authorized. If a majority
5 of the electors votes "no," then the sale of alcoholic
6 beverages in the district shall be authorized only as provided
7 by the laws in effect for the district prior to the filing of
8 the petition, and the board of the community development
9 district shall not file another petition under this subsection
10 within 12 months of the referendum election.

11 "(d) In addition to the limitations specified in
12 Section 35-8B-3, with regard to a community development
13 district defined in subsections (a) and (b) of this section,
14 alcoholic beverages shall be sold only for on-premises
15 consumption, as defined in Section 35-8B-3 (3), and in regard
16 to a community development district defined in subsection (b),
17 alcoholic beverages shall not be sold within 3,000 feet of the
18 south right-of-way of any state or federal highway adjacent to
19 any such district."

20 Section 2. This act shall become effective
21 immediately following its passage and approval by the
22 Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB133

Senate 05-MAR-20

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

Patrick Harris,
Secretary.

House of Representatives
Passed: 08-MAY-20

By: Senator Livingston