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3 LIVINGSTON SUBSTITUTE FOR SB133
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8 SYNOPSIS: Under existing law, there is a process for
9 establishing community development districts that
10 meet certain requirements. Once established, the
11 sale of alcoholic beverages is authorized within
12 the district by certain entities otherwise licensed
13 by the Alcoholic Beverage Control Board.

14 This bill would provide for additional types
15 of community development districts that meet
16 certain conditions in a dry county where the sale
17 of alcoholic beverages is not authorized. Upon
18 incorporation and approval of the board, the sale
19 of alcoholic beverages would be authorized in the
20 district.
21

22 A BILL
23 TO BE ENTITLED
24 AN ACT
25

26 To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3,
27 Code of Alabama 1975, relating to community development

1 districts; to create additional classes of community
2 development districts; and to provide for the incorporation
3 and powers of the districts.

4 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

7 "§35-8B-1.

8 "(a) "Community development district" shall mean a
9 private residential development that: (1) Is a size of at
10 least 250 acres of contiguous land area; (2) has at least 100
11 residential sites, platted and recorded in the probate office
12 of the county as a residential subdivision; (3) has streets
13 that were or will be built with private funds; (4) has a
14 social club with: (i) an 18-hole golf course of regulation
15 size; (ii) a restaurant or eatery used exclusively for the
16 purpose of preparing and serving meals, with a seating
17 capacity of at least 60 patrons; (iii) social club memberships
18 with at least 100 paid-up members who have paid a membership
19 initiation fee of not less than two hundred fifty dollars
20 (\$250) per membership; (iv) membership policies whereby
21 membership is not denied or impacted by an applicant's race,
22 color, creed, religion, or national origin; and (v) 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.

26 "(b) "Community development district" also means
27 privately owned property used for social purposes that: (1) Is

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

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

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

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

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

22 "(f) "Community development district" also means a
23 commercial district located in a wet county that does not
24 authorize Sunday sales, has a restaurant with a seating
25 capacity of at least 120, is adjacent to a marina with at
26 least 34 boat slips, and is located on property where the
27 marina and restaurant are under common ownership.

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

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

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

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

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

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

6 "(3) It is located partially in a dry county and
7 partially in a wet county.

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

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

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

14 "(2) Holds concerts and other family-oriented
15 events.

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

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

26 "(m) "Community development district" also means a
27 parcel of land in a resort area consisting of a lodge for

1 overnight accommodations and homesites that include vacation
2 rentals and meets all of the following:

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

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

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

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

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

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

25 "(o) "Community development district" also means
26 privately owned property that meets all of the following
27 criteria:

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

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

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

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

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

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

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

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

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

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

25 "(q) "Community development district" also means
26 privately owned property that meets all of the following
27 criteria:

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

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

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

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

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

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

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

17 "(8) It has an amphitheater for outdoor
18 entertainment events.

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

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

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

24 "(12) It has an outdoor stage.

25 "(13) The sale of any alcoholic beverages in any
26 community development district established under this
27 subsection shall be subject to a tax levied by the county on

1 any sale at the same rate as the tax on any sale of the same
2 alcoholic beverage in the largest municipality in the county
3 in which the district is established and shall be distributed
4 to the county.

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

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

16 ~~"(r)~~ (t) If a community development district
17 established prior to June 1, 2014, becomes a new municipality
18 pursuant to Sections 11-41-1 and 11-41-2, the section
19 requiring a vote of the residents of the property described in
20 the petition, the new municipality created thereby shall be
21 wet and the sale and distribution of alcoholic beverages
22 therein shall be authorized to the full extent of any other
23 wet municipality. In addition to the other requirements for
24 incorporating into a municipality set forth in Sections
25 11-41-1 and 11-41-2, the petition shall provide notice to
26 potential voters that if the new municipality is incorporated
27 it shall be wet.

1 "§35-8B-2.

2 "The exclusive and uniform method for the
3 establishment of a community development district shall be by
4 the filing of the articles of establishment of a community
5 development district with the judge of probate of the county
6 in which the district is to be located, or if located in more
7 than one county, of the county wherein is located the largest
8 area of the community development district.

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

12 "a. The written consent to the establishment of the
13 district by the owner or owners of at least 51 percent of the
14 real property to be included in the district, or documentation
15 demonstrating that the petitioner has control by deed, trust
16 agreement, contract, or option of at least 51 percent of the
17 real property to be included in the district.

18 "b. A metes and bounds description of the external
19 boundaries of the district, with a specific metes and bounds
20 description of any real property within the external
21 boundaries of the district which is to be excluded from the
22 district.

23 "c. A schematic layout of the proposed district with
24 a map of the proposed and existing residential subdivisions,
25 streets, and roads in the district, and of the building and
26 grounds to be used in common by members of the club operating
27 in the district, together with a commitment that the owner or

1 owners of the real property located within the district will
2 bear the costs of the construction of such proposed streets
3 and roads, if such proposed roads and streets do not exist on
4 the day the articles of establishment are filed.

5 "d. The proposed name of the district, and the
6 location and the mailing address of the principal office of
7 the district.

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

23 "(2) The articles of establishment of a district
24 defined in subsections (b) and (d) of Section 35-8B-1 shall
25 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 in
3 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 the
8 members of the club operating 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 club operating in the district who shall be
14 the members of the board of control of the district.

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

19 "a. The written consent to the establishment of the
20 district by the owner of the real property to be included
21 within the district.

22 "b. A metes and bounds description of the external
23 boundaries of the district.

24 "c. A schematic layout of the proposed district with
25 a map of the buildings and grounds to be used in common by
26 guests in the district.

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 members of the board of
5 governors of the district who shall be elected by the owner of
6 the real property included in the district.

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

10 "a. Endorse on the articles and on each of such
11 copies the word "Filed," and the hour, day, month, and year of
12 the filing thereof.

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

15 "c. Issue a certificate of establishment to which he
16 or she shall affix one certified copy of the articles of
17 establishment, and return such certificate with a certified
18 copy of the articles of establishment affixed thereto to the
19 district.

20 "(5) Upon the filing of the articles of
21 establishment of the community development district with the
22 probate judge, the district's existence shall begin.

23 "(6) In lieu of all other charges and fees for a
24 community development district formed under Section
25 35-8B-1(a), (b), or (d), the probate judge shall charge and
26 collect for filing the articles of establishment and issuing a
27 certificate of establishment, one thousand dollars (\$1,000)

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

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

26 "§35-8B-3.

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

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

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

25 "(3) ON-PREMISES CONSUMPTION. Consumption on the
26 property of the club, including the club house, the golf
27 course, and other recreational facilities of the club. Sales

1 of alcoholic beverages for on-premises consumption shall be
2 made only by authorized charge to a member's account.

3 "(b) If a majority of the board of control of a
4 community development district formed pursuant to Section
5 35-8B-1(e), (f), (g), (h), (i), (j), (k), (l), (m), ~~or~~ (n),
6 (p), or (q) consents to and approves the sale and distribution
7 of alcoholic beverages within the district for seven days a
8 week, any person within the district licensed by the Alabama
9 Alcoholic Beverage Control Board may sell alcoholic beverages
10 in the district for on-premises consumption.

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

19 "(1) If the community development district is
20 situated entirely within the corporate limits of a
21 municipality, then upon a petition by the board of the
22 district being filed with the city or town clerk or governing
23 body of the municipality, the governing body must call a
24 municipal referendum election on the question of whether to
25 authorize the sale of alcoholic beverages in the district as
26 provided in the petition. The municipal election shall be held
27 at the time of the primary, general, county-wide, or municipal

1 election next succeeding the date of the filing of the
2 petition but not less than 82 days from the date of the filing
3 of the petition. The cost of the municipal election, including
4 the cost of notice by publication, shall be paid out of the
5 general fund of the municipality.

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

20 "(3) Notice of any referendum election called
21 pursuant to the provisions hereof shall be given by the city
22 or town clerk for municipal elections, or by the probate judge
23 for county-wide elections, by publication at least three weeks
24 before the date of the election, in a newspaper in the
25 municipality or county, as appropriate, or, if there be none,
26 by posting such notice at the town or city hall or county
27 courthouse, as appropriate, apprising the voters of the

1 municipality or county that an election will be held to
2 determine whether alcoholic beverages may be sold within the
3 district as provided in the petition.

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

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

23 Section 2. This act shall become effective
24 immediately following its passage and approval by the
25 Governor, or its otherwise becoming law.