

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

1 SB133

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 To amend Sections 35-8B-1, 35-8B-2, and 35-8B-3,  
12 Code of Alabama 1975, relating to community development  
13 districts; to create additional classes of community  
14 development districts; and to provide for the incorporation  
15 and powers of the districts.

16 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§35-8B-1.

20 "(a) "Community development district" shall mean a  
21 private residential development that: (1) Is a size of at  
22 least 250 acres of contiguous land area; (2) has at least 100  
23 residential sites, platted and recorded in the probate office  
24 of the county as a residential subdivision; (3) has streets  
25 that were or will be built with private funds; (4) has a  
26 social club with: (i) an 18-hole golf course of regulation  
27 size; (ii) a restaurant or eatery used exclusively for the

1 purpose of preparing and serving meals, with a seating  
2 capacity of at least 60 patrons; (iii) social club memberships  
3 with at least 100 paid-up members who have paid a membership  
4 initiation fee of not less than two hundred fifty dollars  
5 (\$250) per membership; (iv) membership policies whereby  
6 membership is not denied or impacted by an applicant's race,  
7 color, creed, religion, or national origin; and (v) a  
8 full-time management staff for the social activities of the  
9 club, including the management of the premises where food and  
10 drink are sold.

11 "(b) "Community development district" also means  
12 privately owned property used for social purposes that: (1) Is  
13 a size of at least 250 acres of contiguous land area; (2) is  
14 located in a dry county that has one or more wet  
15 municipalities, but outside the corporate limits of any  
16 municipality; (3) is a social club with: (i) An 18-hole golf  
17 course of regulation size; (ii) a marina and boat storage  
18 facility with at least 35 spaces; (iii) a clubhouse with more  
19 than 20,000 square feet; (iv) a restaurant or eatery used  
20 exclusively for the purpose of preparing and serving meals,  
21 with a seating capacity of at least 88 patrons; (v) at least  
22 600 paid-up golf or social members who have paid a membership  
23 initiation fee of not less than two thousand dollars (\$2,000)  
24 per family or individual membership; (vi) membership policies  
25 whereby membership is not denied or impacted by an applicant's  
26 race, color, creed, religion, or national origin; and (vii) a  
27 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 "(c) In addition to the limitations specified in  
4 Section 35-8B-3, with regard to a community development  
5 district defined in subsections (a) and (b) of this section,  
6 alcoholic beverages shall be sold only for on-premises  
7 consumption, as defined in Section 35-8B-3 (a)(3), and in  
8 regard to a community development district defined in  
9 subsection (b), alcoholic beverages shall not be sold within  
10 3,000 feet of the south right-of-way of any state or federal  
11 highway adjacent to any such district.

12 "(d) "Community development district" also means a  
13 private residential development that may or may not include  
14 additional contiguous privately-owned property used for  
15 residential, social, commercial, or charitable purposes that:  
16 (1) Is the size of at least 650 acres of contiguous land area,  
17 but may also contain non-contiguous land if so divided by a  
18 public highway which shall be made part of the district per  
19 the articles of establishment; (2) is located in a dry county  
20 that has one or more wet municipalities, but may be outside  
21 the corporate limits of any municipality or within the  
22 corporate limits of a municipality; (3) has the following: (i)  
23 At least a 9-hole golf course; (ii) an amenity complex to  
24 include a fitness center and a swimming pool; (iii) a  
25 clubhouse with at least 7,000 square feet; (iv) a restaurant  
26 or eatery used for the purpose of preparing and serving meals,  
27 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.

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

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

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

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

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

25 "(i) "Community development district" also means a  
26 commercial district which borders on a lake which is formed by  
27 an impounded reservoir of a river whose source is in a federal

1 wilderness area and has a marina with not less than 30 boat  
2 slips and a restaurant with seating capacity of not less than  
3 100 seats of which not less than 50 seats must be inside  
4 seating and is located on property where the marina and  
5 restaurant are under common ownership. In addition to any  
6 other requirements by law, the restaurant shall obtain a  
7 business license from the local governing body having primary  
8 jurisdiction of the property where the restaurant is located  
9 and shall be subject to additional regulation as determined  
10 necessary by the local governing body. Only one restaurant  
11 license per community development district shall be allowed.

12 "(j) "Community development district" also means a  
13 parcel of real property that meets all of the following  
14 criteria:

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

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

17 "(3) It is located partially in a dry county and  
18 partially in a wet county.

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

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

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

25 "(2) Holds concerts and other family-oriented  
26 events.

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

3           "(1) "Community development district" also means a  
4 commercial district located in a wet county that does not  
5 authorize Sunday sales which district is composed of resort  
6 property consisting of 3,000 or more contiguous acres under  
7 common ownership, has a public golf course with a practice  
8 area and clubhouse, has a restaurant on the property, has  
9 overnight accommodations consisting of 40 or more guest  
10 suites, and has a shooting range.

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

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

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

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

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



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

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

12           "(o) "Community development district" also means  
13 privately owned property that meets all of the following  
14 criteria:

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

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

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

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

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

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

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

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

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

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

12          "(q) "Community development district" also means  
13 privately owned property that meets all of the following  
14 criteria:

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

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

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

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

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

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

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

4           "(8) It has an amphitheater for outdoor  
5 entertainment events.

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

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

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

11           "(12) It has an outdoor stage.

12           "(13) The sale of any alcoholic beverages in any  
13 community development district established under this  
14 subsection shall be subject to a tax levied by the county on  
15 any sale at the same rate as the tax on any sale of the same  
16 alcoholic beverage in the largest municipality in the county  
17 in which the district is established and shall be distributed  
18 to the county.

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

24           ~~"(q)~~ (s) Any alcohol revenues received by a county  
25 under Act 2007-417 shall offset in an equal amount any T.V.A.  
26 in-lieu-of-taxes payments received by the county. Any T.V.A.  
27 in-lieu-of-taxes payments replaced by alcohol revenues under

1 this subsection shall be distributed to T.V.A.-served  
2 counties.

3 ~~"(r)~~ (t) If a community development district  
4 established prior to June 1, 2014, becomes a new municipality  
5 pursuant to Sections 11-41-1 and 11-41-2, the section  
6 requiring a vote of the residents of the property described in  
7 the petition, the new municipality created thereby shall be  
8 wet and the sale and distribution of alcoholic beverages  
9 therein shall be authorized to the full extent of any other  
10 wet municipality. In addition to the other requirements for  
11 incorporating into a municipality set forth in Sections  
12 11-41-1 and 11-41-2, the petition shall provide notice to  
13 potential voters that if the new municipality is incorporated  
14 it shall be wet.

15 "§35-8B-2.

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

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

26 "a. The written consent to the establishment of the  
27 district by the owner or owners of at least 51 percent of the

1 real property to be included in the district, or documentation  
2 demonstrating that the petitioner has control by deed, trust  
3 agreement, contract, or option of at least 51 percent of the  
4 real property to be included in the district.

5 "b. A metes and bounds description of the external  
6 boundaries of the district, with a specific metes and bounds  
7 description of any real property within the external  
8 boundaries of the district which is to be excluded from the  
9 district.

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

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 five persons to be the initial  
23 members of the board of control of the district, two of whom  
24 shall serve in that office until replaced by elected members;  
25 provided, the two elected members of the board of control  
26 shall be elected by the members of the club who may vote in  
27 person or by proxy in writing at an annual meeting of the

1 district, which date shall be specified in the petition. Each  
2 club member shall be entitled to cast one vote. The two  
3 candidates receiving the highest number of votes shall be  
4 elected to the board of control for a period of one year, or  
5 until his or her successor shall be duly elected. Upon the  
6 death or resignation of a non-elected member of the board of  
7 control, the remaining board members shall elect, by majority  
8 vote at a called board meeting, a new non-elected board  
9 member.

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

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

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

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

21 "d. The proposed name of the district and the  
22 location and the mailing address of the principal office of  
23 the district.

24 "e. A designation of members of the board of  
25 governors of the club operating in the district who shall be  
26 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.

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

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

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

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



1 development district for the purpose of providing additional  
2 funds for the office of the probate judge.

3 "(7) In lieu of all other charges and fees for a  
4 community development district formed under Section  
5 35-8B-1(e), (f), (g), (h), (i), (j), (k), (l), (m), (n), ~~or~~  
6 (o), (p), or (q) the judge of probate shall charge and collect  
7 a one-time fee for filing the articles of establishment and  
8 issuing a certificate of establishment of five hundred dollars  
9 (\$500) payable to the county in which is located the largest  
10 area of the district for the purpose of providing additional  
11 funds to the judge of probate.

12 "§35-8B-3.

13 "(a) If a majority of the board of control of a  
14 community development district formed under Section  
15 35-8B-1(a), (b), or (d) consents to and approves the sale and  
16 distribution of alcoholic beverages within the district, it  
17 shall be lawful to sell and distribute alcoholic beverages in  
18 the community development district in the following manner and  
19 subject to the following terms, definitions, and conditions:

20 "(1) Upon being licensed by the Alabama Alcoholic  
21 Beverage Control Board, alcoholic beverages may be sold by the  
22 club of the district to members and their guests for  
23 on-premises consumption only. The club shall be licensed to  
24 sell alcoholic beverages to its members and their guests as a  
25 club liquor retail licensee by the Alabama Alcoholic Beverage  
26 Control Board, upon the club's compliance with the provisions  
27 of the alcoholic beverage licensing code and the regulations

1 made thereunder. The original application shall be accompanied  
2 by a certificate from the board of control of the district in  
3 which the licensed club is located, consenting to and  
4 approving the sale of alcoholic beverages at the club. The  
5 club shall not be required to present its application or  
6 obtain the consent and approval of any authority other than  
7 the board of control of the district.

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

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

15 "(b) If a majority of the board of control of a  
16 community development district formed pursuant to Section  
17 35-8B-1(e), (f), (g), (h), (i), (j), (k), (l), (m), ~~or~~ (n),  
18 (p), or (q) consents to and approves the sale and distribution  
19 of alcoholic beverages within the district for seven days a  
20 week, any person within the district licensed by the Alabama  
21 Alcoholic Beverage Control Board may sell alcoholic beverages  
22 in the district for on-premises consumption.

23 "(c) If a majority of the board of a community  
24 development district formed pursuant to Section 35-8B-1(h)  
25 consents to and approves the sale of alcoholic beverages  
26 within the district for seven days a week, any person within  
27 the district with the appropriate license from the Alabama

1 Alcoholic Beverage Control Board may sell alcoholic beverages  
2 in the district for on-premises or off-premises consumption,  
3 subject to approval by a referendum as provided herein.

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

18 "(2) If the community development district is not  
19 situated entirely within the corporate limits of a  
20 municipality, then upon a petition by the board of the  
21 district being filed with the probate judge of the county, the  
22 probate judge must call a county-wide referendum election on  
23 the question of whether to authorize the sale of alcoholic  
24 beverages in the district as provided in the petition. The  
25 county-wide election shall be held at the time of the  
26 regularly scheduled primary or general election next  
27 succeeding the date of the filing of the petition but not less

1 than 82 days from the date of the filing of the petition. The  
2 cost of the election, including the cost of notice by  
3 publication, shall be paid out of the general funds of the  
4 county.

5 "(3) Notice of any referendum election called  
6 pursuant to the provisions hereof shall be given by the city  
7 or town clerk for municipal elections, or by the probate judge  
8 for county-wide elections, by publication at least three weeks  
9 before the date of the election, in a newspaper in the  
10 municipality or county, as appropriate, or, if there be none,  
11 by posting such notice at the town or city hall or county  
12 courthouse, as appropriate, apprising the voters of the  
13 municipality or county that an election will be held to  
14 determine whether alcoholic beverages may be sold within the  
15 district as provided in the petition.

16 "(4) If a majority of the electors voting in a  
17 referendum called pursuant hereto votes "yes" in favor of the  
18 question, then the sale of alcoholic beverages in the district  
19 as provided in the petition shall be authorized. If a majority  
20 of the electors votes "no," then the sale of alcoholic  
21 beverages in the district shall be authorized only as provided  
22 by the laws in effect for the district prior to the filing of  
23 the petition, and the board of the community development  
24 district shall not file another petition under this subsection  
25 within 12 months of the referendum election.

26 "(d) In addition to the limitations specified in  
27 Section 35-8B-3, with regard to a community development

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

8 Section 2. This act shall become effective  
9 immediately following its passage and approval by the  
10 Governor, or its otherwise becoming law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

Senate

Read for the first time and referred to the Senate  
committee on Fiscal Responsibility and Economic  
Development..... 06-FEB-20

Reported from Fiscal Responsibility and Economic  
Development as Favorable..... 13-FEB-20

Read for the third time and passed as amended .... 05-MAR-20

Yeas 31  
Nays 0

Patrick Harris,  
Secretary.