

1 SB384
2 212692-1
3 By Senator Gudger
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 07-APR-21

SYNOPSIS: Under existing law, there is a process for establishing a community development district. Once established, certain entities within a community development district may sell alcoholic beverages under certain circumstances after licensure by the Alcoholic Beverage Control Board.

This bill would further provide for the taxation on the sale of alcoholic beverages in certain community development districts and would provide that proceeds from the sales tax would be deposited into a special fund in the county treasury to be used for grants to support education, civic, community, and tourism activities within the counties in which the districts are located.

A BILL
TO BE ENTITLED
AN ACT

1 Relating to community development districts; to
2 amend Section 35-8B-1, Code of Alabama 1975, as amended by Act
3 2020-176 of the 2020 Regular Session, to further provide for
4 the taxation on the sale of alcoholic beverages in certain
5 community development districts; and to add Section 35-8B-5,
6 to the Code of Alabama 1975, to provide that proceeds from the
7 sales tax would be deposited into a special fund in the county
8 treasury to be used for grants to support education, civic,
9 community, and tourism activities within the counties in which
10 the districts are located.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Section 35-8B-1, Code of Alabama 1975,
13 as amended by Act 2020-176 of the 2020 Regular Session, is
14 amended to read as follows:

15 "§35-8B-1.

16 "(a) (1) "Community development district" shall mean
17 a private residential development that: (1) Is a size of at
18 least 250 acres of contiguous land area; (2) has at least 100
19 residential sites, platted and recorded in the probate office
20 of the county as a residential subdivision; (3) has streets
21 that were or will be built with private funds; (4) has a
22 social club with: (i) an 18-hole golf course of regulation
23 size; (ii) a restaurant or eatery used exclusively for the
24 purpose of preparing and serving meals, with a seating
25 capacity of at least 60 patrons; (iii) social club memberships
26 with at least 100 paid-up members who have paid a membership
27 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 "(2) The sale of any alcoholic beverages in any
8 community development district established under this
9 subsection shall be subject to a tax levied by the county on
10 any sale at the same rate as the tax on any sale of beer and
11 wine in the largest municipality in the county in which the
12 district is established and shall be distributed as provided
13 in Section 35-8B-5.

14 "(b) "Community development district" also means
15 privately owned property used for social purposes that: (1) Is
16 a size of at least 250 acres of contiguous land area; (2) is
17 located in a dry county that has one or more wet
18 municipalities, but outside the corporate limits of any
19 municipality; (3) is a social club with: (i) An 18-hole golf
20 course of regulation size; (ii) a marina and boat storage
21 facility with at least 35 spaces; (iii) a clubhouse with more
22 than 20,000 square feet; (iv) a restaurant or eatery used
23 exclusively for the purpose of preparing and serving meals,
24 with a seating capacity of at least 88 patrons; (v) at least
25 600 paid-up golf or social members who have paid a membership
26 initiation fee of not less than two thousand dollars (\$2,000)
27 per family or individual membership; (vi) membership policies

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

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

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

1 clubhouse with at least 7,000 square feet; (iv) a restaurant
2 or eatery used for the purpose of preparing and serving meals,
3 with a seating capacity of at least 50 patrons; (v) a
4 recreational lake of at least 30 acres; (vi) at least 200
5 paid-up golf or club memberships paid initially by either the
6 developer, residential landowners, or commercial entities
7 located within the district at the rate of at least five
8 hundred dollars (\$500) per membership provided the developer
9 reserves the right through residential and commercial lease
10 and purchase agreements to require additional membership and
11 initiation fees and further provided the developer has the
12 discretion to restrict use of the golf course to district
13 landowners and guests or at the developer's discretion to
14 extend use of the golf course to the general public subject to
15 fees set and determined by the developer which may differ from
16 fees applicable to residential and commercial lease and
17 purchase agreements; and (vii) membership policies whereby
18 membership is not denied or impacted by an applicant's race,
19 color, religion, or national origin; (4) may include a
20 multi-purpose use entertainment facility with a minimum
21 capacity to accommodate at least 7,500 patrons; and (5) may
22 include commercial establishments. Notwithstanding any other
23 provisions of law, the sale and distribution of alcoholic
24 beverages, including draft or keg beer, by licensees of the
25 Alcoholic Beverage Control Board shall be authorized in a
26 community development district defined under this subsection
27 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
26 shops and restaurants, summer camps and retreat centers, an
27 art gallery, and annual festivals showcasing the area.

1 "(i) (1) "Community development district" also means
2 a commercial district that borders on a lake that is formed by
3 an impounded reservoir of a river whose source is in a federal
4 wilderness area and has a marina with not less than 30 boat
5 slips and a restaurant with seating capacity of not less than
6 100 seats of which not less than 50 seats must be inside
7 seating and is located on property where the marina and
8 restaurant are under common ownership. In addition to any
9 other requirements by law, the restaurant shall obtain a
10 business license from the local governing body having primary
11 jurisdiction of the property where the restaurant is located
12 and shall be subject to additional regulation as determined
13 necessary by the local governing body. Only one restaurant
14 license per community development district shall be allowed.

15 "(2) The sale of any alcoholic beverages in any
16 community development district established under this
17 subsection shall be subject to a tax levied by the county on
18 any sale at the same rate as the tax on any sale of beer and
19 wine in the largest municipality in the county in which the
20 district is established and shall be distributed as provided
21 in Section 35-8B-5.

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

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

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

1 "(3) It is located partially in a dry county and
2 partially in a wet county.

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

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

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

9 "(2) Holds concerts and other family-oriented
10 events.

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

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

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

25 "(1) The development was originally developed by
26 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.

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

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

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

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

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

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

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

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

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

21 "(q) (1) "Community development district" also means
22 privately owned property that meets all of the following
23 criteria:

24 "a. It is located in a dry county that has one or
25 more wet municipalities, but outside the corporate limits of
26 any municipality.

27 "b. It consists of at least 60 acres.

1 "c. It has facilities on the property which employ a
2 full-time management staff for the social activities of the
3 facilities, including the management of the premises where
4 food and drink are sold.

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

8 "e. It has concerts and other family-oriented events
9 held on the property.

10 "f. It has overnight accommodations with the
11 capacity to sleep at least 70 individuals.

12 "g. It has at least five fishing ponds.

13 "h. It has an amphitheater for outdoor entertainment
14 events.

15 "i. It has a chapel for wedding services.

16 "j. It has an RV park with a capacity of at least
17 four RVs.

18 "k. It has five reception halls with a seating
19 capacity of at least 1,900 individuals.

20 "l. It has an outdoor stage.

21 "(2) The sale of any alcoholic beverages in any
22 community development district established under this
23 subsection shall be subject to a tax levied by the county on
24 any sale at the same rate as the tax on any sale of ~~the same~~
25 ~~alcoholic beverage~~ beer and wine in the largest municipality
26 in the county in which the district is established and shall
27 be distributed ~~to the county~~ as provided in Section 35-8B-5.

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

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

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

23 Section 2. Section 35-8B-5 is added to the Code of
24 Alabama 1975, to read as follows:

25 §35-8B-5.

26 (a) Notwithstanding any other provision of law,
27 beginning on October 1, 2021, any proceeds of the sales tax on

1 alcoholic beverages collected by a county in a community
2 development district as provided in Section 35-8B-1(a) (2),
3 (i) (2), and (q) (2), shall be deposited into a special fund in
4 the county treasury to be used for grants to support
5 education, civic, community, and tourism activities within the
6 county in which the taxes were collected.

7 (b) Grants awarded pursuant to subsection (a) shall
8 be distributed based on the recommendation of each legislator
9 representing a portion of the county in which the funds were
10 collected, based on the proportion of the population he or she
11 represents in the county.

12 Section 3. This act shall become effective on
13 October 1, 2021, following its passage and approval by the
14 Governor, or its otherwise becoming law.