

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

1 SB384

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4 ENROLLED, An Act,

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

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

19 "§35-8B-1.

20 "(a) (1) "Community development district" shall mean
21 a 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

1 social club with: (i) an 18-hole golf course of regulation
2 size; (ii) a restaurant or eatery used exclusively for the
3 purpose of preparing and serving meals, with a seating
4 capacity of at least 60 patrons; (iii) social club memberships
5 with at least 100 paid-up members who have paid a membership
6 initiation fee of not less than two hundred fifty dollars
7 (\$250) per membership; (iv) membership policies whereby
8 membership is not denied or impacted by an applicant's race,
9 color, creed, religion, or national origin; and (v) a
10 full-time management staff for the social activities of the
11 club, including the management of the premises where food and
12 drink are sold.

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

20 "(b) "Community development district" also means
21 privately owned property used for social purposes that: (1) Is
22 a size of at least 250 acres of contiguous land area; (2) is
23 located in a dry county that has one or more wet
24 municipalities, but outside the corporate limits of any
25 municipality; (3) is a social club with: (i) An 18-hole golf

1 course of regulation size; (ii) a marina and boat storage
2 facility with at least 35 spaces; (iii) a clubhouse with more
3 than 20,000 square feet; (iv) a restaurant or eatery used
4 exclusively for the purpose of preparing and serving meals,
5 with a seating capacity of at least 88 patrons; (v) at least
6 600 paid-up golf or social members who have paid a membership
7 initiation fee of not less than two thousand dollars (\$2,000)
8 per family or individual membership; (vi) membership policies
9 whereby membership is not denied or impacted by an applicant's
10 race, color, creed, religion, or national origin; and (vii) a
11 full-time management staff for the social activities of the
12 club, including the management of the premises where food and
13 drink are sold.

14 "(c) 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 (a)(3), and in
19 regard to a community development district defined in
20 subsection (b), alcoholic beverages shall not be sold within
21 3,000 feet of the south right-of-way of any state or federal
22 highway adjacent to any such district.

23 "(d) "Community development district" also means a
24 private residential development that may or may not include
25 additional contiguous privately-owned property used for

1 residential, social, commercial, or charitable purposes that:
2 (1) Is the size of at least 650 acres of contiguous land area,
3 but may also contain non-contiguous land if so divided by a
4 public highway which shall be made part of the district per
5 the articles of establishment; (2) is located in a dry county
6 that has one or more wet municipalities, but may be outside
7 the corporate limits of any municipality or within the
8 corporate limits of a municipality; (3) has the following: (i)
9 At least a 9-hole golf course; (ii) an amenity complex to
10 include a fitness center and a swimming pool; (iii) a
11 clubhouse with at least 7,000 square feet; (iv) a restaurant
12 or eatery used for the purpose of preparing and serving meals,
13 with a seating capacity of at least 50 patrons; (v) a
14 recreational lake of at least 30 acres; (vi) at least 200
15 paid-up golf or club memberships paid initially by either the
16 developer, residential landowners, or commercial entities
17 located within the district at the rate of at least five
18 hundred dollars (\$500) per membership provided the developer
19 reserves the right through residential and commercial lease
20 and purchase agreements to require additional membership and
21 initiation fees and further provided the developer has the
22 discretion to restrict use of the golf course to district
23 landowners and guests or at the developer's discretion to
24 extend use of the golf course to the general public subject to
25 fees set and determined by the developer which may differ from

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

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

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

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

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

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

16 "(i) (1) "Community development district" also means
17 a commercial district that borders on a lake that is formed by
18 an impounded reservoir of a river whose source is in a federal
19 wilderness area and has a marina with not less than 30 boat
20 slips and a restaurant with seating capacity of not less than
21 100 seats of which not less than 50 seats must be inside
22 seating and is located on property where the marina and
23 restaurant are under common ownership. In addition to any
24 other requirements by law, the restaurant shall obtain a
25 business license from the local governing body having primary

1 jurisdiction of the property where the restaurant is located
2 and shall be subject to additional regulation as determined
3 necessary by the local governing body. Only one restaurant
4 license per community development district shall be allowed.

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

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.

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

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

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

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

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

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

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

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

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

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

15 "(o) "Community development district" also means
16 privately owned property that meets all of the following
17 criteria:

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

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

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

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

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

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

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

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

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

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

17 "(q) (1) "Community development district" also means
18 privately owned property that meets all of the following
19 criteria:

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

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

24 "c. It has facilities on the property which employ a
25 full-time management staff for the social activities of the

1 facilities, including the management of the premises where
2 food and drink are sold.

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

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

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

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

11 "h. It has an amphitheater for outdoor entertainment
12 events.

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

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

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

18 "l. It has an outdoor stage.

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

1 (a) Notwithstanding any other provision of law,
2 beginning on October 1, 2021, any proceeds of the sales tax on
3 alcoholic beverages collected by a county in a community
4 development district as provided in Section 35-8B-1(a) (2),
5 (i) (2), and (q) (2), shall be deposited into a special fund in
6 the county treasury to be used for grants to support
7 education, civic, community, and tourism activities within the
8 county in which the taxes were collected.

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

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

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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB384

Senate 20-APR-21

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

Patrick Harris,
Secretary.

House of Representatives
Passed: 06-MAY-21

By: Senator Gudger