

1 SB5  
2 215007-1  
3 By Senator Gudger  
4 RFD: Finance and Taxation General Fund  
5 First Read: 28-SEP-21

SYNOPSIS: Under current law, the sale of any alcoholic beverages in any community development district is subject to a tax levied by the county equivalent to the tax levied on the sale of beer and wine in the largest municipality in the county in which the district is established.

This bill would provide that the sale of any alcoholic beverages in any community development district is subject to a tax levied by the county equivalent to the tax levied on the sale of liquor in the largest municipality in the county in which the district is established.

This bill would also make nonsubstantive, technical revisions to update the existing code language to current style.

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 last amended  
3           by Act 2021-463, 2021 Regular Session, to adjust the rate of  
4           taxation on the sale of alcoholic beverages in a community  
5           development district; and to make nonsubstantive, technical  
6           revisions to update the existing code language to current  
7           style.

8           BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9           Section 1. Section 35-8B-1, Code of Alabama 1975, as  
10          last amended by Act 2021-463, 2021 Regular Session, is amended  
11          to read as follows:

12                "§35-8B-1.

13                "(a) (1) "Community development district" shall mean  
14          a private residential development that meets all of the  
15          following criteria:

16                        "~~(1)~~ a. Is a size of at least 250 acres of  
17          contiguous land area~~7.~~

18                        "~~(2)~~ has b. Has at least 100 residential sites,  
19          platted and recorded in the probate office of the county as a  
20          residential subdivision~~7.~~

21                        "~~(3)~~ has c. Has streets that were or will be built  
22          with private funds~~7.~~

23                        "~~(4)~~ has d. Has a social club with all of the  
24          following:

25                                "~~(i)~~ an 1. An 18-hole golf course of regulation  
26          size~~7.~~

1           "~~(ii)~~ a 2. A restaurant or eatery used exclusively  
2 for the purpose of preparing and serving meals, with a seating  
3 capacity of at least 60 patrons~~7.~~

4           "~~(iii)~~ ~~social~~ 3. Social club memberships with at  
5 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~~7.~~

8           "~~(iv)~~ ~~membership~~ 4. Membership policies whereby  
9 membership is not denied or impacted by an applicant's race,  
10 color, creed, religion, or national origin~~7.~~~~and.~~

11           "~~(v)~~ a 5. A full-time management staff for the  
12 social activities of the club, including the management of the  
13 premises where food and drink are sold.

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

21           "(b) "Community development district" also means  
22 privately owned property used for social purposes that Meets  
23 all of the following criteria:

24           "(1) Is a size of at least 250 acres of contiguous  
25 land area~~7.~~

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

4           "(3) ~~is~~ Is a social club with all of the following:

5           "~~(i)~~ a. An 18-hole golf course of regulation size~~.~~.

6           "~~(ii)~~ a b. A marina and boat storage facility with  
7 at least 35 spaces~~.~~.

8           "~~(iii)~~ a c. A clubhouse with more than 20,000 square  
9 feet~~.~~.

10          "~~(iv)~~ a d. A restaurant or eatery used exclusively  
11 for the purpose of preparing and serving meals, with a seating  
12 capacity of at least 88 patrons~~.~~.

13          "~~(v)~~ at e. At least 600 paid-up golf or social  
14 members who have paid a membership initiation fee of not less  
15 than two thousand dollars (\$2,000) per family or individual  
16 membership~~.~~.

17          "~~(vi)~~ membership f. Membership policies whereby  
18 membership is not denied or impacted by an applicant's race,  
19 color, creed, religion, or national origin~~.~~and.

20          "~~(vii)~~ a g. A full-time management staff for the  
21 social activities of the club, including the management of the  
22 premises where food and drink are sold.

23          "(c) In addition to the limitations specified in  
24 Section 35-8B-3, with regard to a community development  
25 district defined in subsections (a) and (b) ~~of this section,~~  
26 alcoholic beverages shall be sold only for on-premises  
27 consumption, as defined in Section 35-8B-3 (a) (3), and in

1 regard to a community development district defined in  
2 subsection (b), alcoholic beverages shall not be sold within  
3 3,000 feet of the south right-of-way of any state or federal  
4 highway adjacent to any such district.

5 "(d) (1) "Community development district" also means  
6 a private residential development that may or may not include  
7 additional contiguous privately-owned property used for  
8 residential, social, commercial, or charitable purposes that  
9 meets all of the following criteria:

10 "~~(1)~~ a. Is the size of at least 650 acres of  
11 contiguous land area, but may also contain non-contiguous land  
12 if so divided by a public highway which shall be made part of  
13 the district per the articles of establishment~~7.~~

14 "~~(2)~~ ~~is~~ b. Is located in a dry county that has one  
15 or more wet municipalities, but may be outside the corporate  
16 limits of any municipality or within the corporate limits of a  
17 municipality~~7.~~

18 "~~(3)~~ ~~has~~ c. Has all of the following:

19 "~~(i)~~ 1. At least a 9-hole golf course~~7.~~

20 "~~(ii)~~ ~~an~~ 2. An amenity complex to include a fitness  
21 center and a swimming pool~~7.~~

22 "~~(iii)~~ ~~a~~ 3. A clubhouse with at least 7,000 square  
23 feet~~7.~~

24 "~~(iv)~~ ~~a~~ 4. A restaurant or eatery used for the  
25 purpose of preparing and serving meals, with a seating  
26 capacity of at least 50 patrons~~7.~~

27 "~~(v)~~ ~~a~~ 5. A recreational lake of at least 30 acres~~7.~~

1           "~~(vi) at~~ 6. At least 200 paid-up golf or club  
2 memberships paid initially by either the developer,  
3 residential landowners, or commercial entities located within  
4 the district at the rate of at least five hundred dollars  
5 (\$500) per membership provided the developer reserves the  
6 right through residential and commercial lease and purchase  
7 agreements to require additional membership and initiation  
8 fees and further provided the developer has the discretion to  
9 restrict use of the golf course to district landowners and  
10 guests or at the developer's discretion to extend use of the  
11 golf course to the general public subject to fees set and  
12 determined by the developer which may differ from fees  
13 applicable to residential and commercial lease and purchase  
14 agreements; ~~and.~~

15           "~~(vii) membership~~ 7. Membership policies whereby  
16 membership is not denied or impacted by an applicant's race,  
17 color, religion, or national origin;~~.~~

18           "~~(4) may~~ d. May include a multi-purpose use  
19 entertainment facility with a minimum capacity to accommodate  
20 at least 7,500 patrons; ~~and.~~

21           "~~(5) may~~ e. May include commercial establishments.

22           "(2) Notwithstanding any other provisions of law,  
23 the sale and distribution of alcoholic beverages, including  
24 draft or keg beer, by licensees of the Alcoholic Beverage  
25 Control Board shall be authorized in a community development  
26 district defined under this subsection and Section 35-8B-3  
27 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~~ liquor in the largest municipality in the county in which  
20 the district is established and shall be distributed as  
21 provided 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 ~~beer and~~  
25 ~~wine~~ liquor in the largest municipality in the county in which  
26 the district is established and shall be distributed as  
27 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. This act shall become effective on the  
24 first day of the third month following its passage and  
25 approval by the Governor, or its otherwise becoming law.