

1 SB179  
2 215007-2  
3 By Senator Gudger  
4 RFD: Fiscal Responsibility and Economic Development  
5 First Read: 02-FEB-22

1 SB179

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

12 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

16 "§35-8B-1.

17 "(a) (1) "Community development district" shall mean  
18 a private residential development that meets all of the  
19 following criteria:

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

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

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

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

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

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

10          "~~(iii) social~~ 3. Social club memberships with at  
11 least 100 paid-up members who have paid a membership  
12 initiation fee of not less than two hundred fifty dollars  
13 (\$250) per membership~~7.~~

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

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

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

1 the district is established and shall be distributed as  
2 provided in Section 35-8B-5.

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

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

8 "(2) ~~is~~ Is located in a dry county that has one or  
9 more wet municipalities, but outside the corporate limits of  
10 any municipality~~7.~~

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

12 "~~(i)~~ a. An 18-hole golf course of regulation size~~7.~~

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

15 "~~(iii)~~ a c. A clubhouse with more than 20,000 square  
16 feet~~7.~~

17 "~~(iv)~~ a d. A restaurant or eatery used exclusively  
18 for the purpose of preparing and serving meals, with a seating  
19 capacity of at least 88 patrons~~7.~~

20 "~~(v)~~ at e. At least 600 paid-up golf or social  
21 members who have paid a membership initiation fee of not less  
22 than two thousand dollars (\$2,000) per family or individual  
23 membership~~7.~~

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

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

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

16           "(d) (1) "Community development district" also means  
 17 a private residential development that may or may not include  
 18 additional contiguous privately-owned property used for  
 19 residential, social, commercial, or charitable purposes that  
 20 meets all of the following criteria:

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

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

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

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

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

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

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

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

15           ~~"(vi) at~~ 6. At least 200 paid-up golf or club  
16 memberships paid initially by either the developer,  
17 residential landowners, or commercial entities located within  
18 the district at the rate of at least five hundred dollars  
19 (\$500) per membership provided the developer reserves the  
20 right through residential and commercial lease and purchase  
21 agreements to require additional membership and initiation  
22 fees and further provided the developer has the discretion to  
23 restrict use of the golf course to district landowners and  
24 guests or at the developer's discretion to extend use of the  
25 golf course to the general public subject to fees set and

1 determined by the developer which may differ from fees  
2 applicable to residential and commercial lease and purchase  
3 agreements;~~and.~~

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

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

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

11 "(2) Notwithstanding any other provisions of law,  
12 the sale and distribution of alcoholic beverages, including  
13 draft or keg beer, by licensees of the Alcoholic Beverage  
14 Control Board shall be authorized in a community development  
15 district defined under this subsection and Section 35-8B-3  
16 shall not apply.

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

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

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

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

20           "(i) (1) "Community development district" also means  
21 a commercial district that borders on a lake that is formed by  
22 an impounded reservoir of a river whose source is in a federal  
23 wilderness area and has a marina with not less than 30 boat  
24 slips and a restaurant with seating capacity of not less than  
25 100 seats of which not less than 50 seats must be inside

1 seating and is located on property where the marina and  
2 restaurant are under common ownership. In addition to any  
3 other requirements by law, the restaurant shall obtain a  
4 business license from the local governing body having primary  
5 jurisdiction of the property where the restaurant is located  
6 and shall be subject to additional regulation as determined  
7 necessary by the local governing body. Only one restaurant  
8 license per community development district shall be allowed.

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

16 "(j) "Community development district" also means a  
17 parcel of real property that meets all of the following  
18 criteria:

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

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

21 "(3) It is located partially in a dry county and  
22 partially in a wet county.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

22           "(2) It is located in a dry county that has one or  
23 more wet municipalities, but outside the corporate limits of  
24 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:

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

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

5           "c. It has facilities on the property which 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           "d. 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           "e. It has concerts and other family-oriented events  
13 held on the property.

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

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

17           "h. It has an amphitheater for outdoor entertainment  
18 events.

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

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

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

24           "l. It has an outdoor stage.

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

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

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

19           "(t) If a community development district established  
20 prior to June 1, 2014, becomes a new municipality pursuant to  
21 Sections 11-41-1 and 11-41-2, the section requiring a vote of  
22 the residents of the property described in the petition, the  
23 new municipality created thereby shall be wet and the sale and  
24 distribution of alcoholic beverages therein shall be  
25 authorized to the full extent of any other wet municipality.

1       In addition to the other requirements for incorporating into a  
2       municipality set forth in Sections 11-41-1 and 11-41-2, the  
3       petition shall provide notice to potential voters that if the  
4       new municipality is incorporated it shall be wet."

5               Section 2. This act shall become effective on the  
6       first day of the third month following its passage and  
7       approval by the Governor, or its otherwise becoming law.

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President and Presiding Officer of the Senate

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Speaker of the House of Representatives

SB179

Senate 10-FEB-22

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

Patrick Harris,  
Secretary.

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House of Representatives  
Passed: 09-MAR-22

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By: Senator Gudger