

**SB121 INTRODUCED**



1 SB121  
2 V7DTWLV-1  
3 By Senator Orr  
4 RFD: Judiciary  
5 First Read: 13-Jan-26



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4     SYNOPSIS:

5             Existing law requires consent from a specified  
6     percentage of condominium unit owners to amend a  
7     condominium declaration and prohibits obtaining consent  
8     through powers of attorney. In addition a unit owners'  
9     association is limited in the legal proceedings in  
10    which they can intervene and the courts are limited in  
11    the equitable remedies they can provide.

12            This bill would prohibit the use of consents,  
13     waivers, and powers of attorney, to obtain unit owners'  
14     authorization to alter a condominium declaration. This  
15     bill would allow a unit owners' association to  
16     intervene in arbitration and mediation, in addition to  
17     litigation, and would give courts the authority to  
18     apply equitable remedies such as reformation,  
19     injunction, and declaratory actions to disputes  
20     involving the condominium declaration.

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

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                 A BILL

                 TO BE ENTITLED

                 AN ACT



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29  
30 Relating to condominiums; to amend Sections 35-8A-104,  
31 35-8A-108, 35-8A-110, 35-8A-205, 35-8A-216, 35-8A-302,  
32 35-8A-308, 35-8A-309, 35-8A-403, 35-8A-408, and 35-8A-414,  
33 Code of Alabama 1975; to prohibit the use of consents, and  
34 waivers, in addition to powers of attorney, to obtain unit  
35 owners authorization to alter a condominium declaration; to  
36 require reports of material changes to be fully and accurately  
37 reported; to allow a unit owners' association to intervene in  
38 arbitration and mediation; to apply equitable remedies such as  
39 reformation, injunction, and declaratory actions to disputes  
40 involving the condominium declaration; and to make  
41 nonsubstantive, technical revisions to update the existing  
42 code language to current style.

43 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

44                   Section 1. Sections 35-8A-104, 35-8A-108, 35-8A-110,  
45                   35-8A-205, 35-8A-216, 35-8A-302, 35-8A-308, 35-8A-309,  
46                   35-8A-403, 35-8A-408, and 35-8A-414 of the Code of Alabama  
47                   1975, is amended to read as follows:

48 "§35-8A-104

49                    Except as expressly provided in this chapter, the  
50                    provisions of this chapter may not be varied by agreement, and  
51                    the rights conferred by this chapter may not be waived. A  
52                    declarant may not act under a power of attorney, consent,  
53                    waiver, or ~~use~~ any other device, to evade the limitations or  
54                    prohibitions of this chapter or the declaration."

55 "§35-8A-108

## 56 The principles of law and equity, including the law of



57 corporations, the law of real property, and the law relative  
58 to capacity to contract, principal and agent, eminent domain,  
59 estoppel, fraud, misrepresentation, duress, coercion, mistake,  
60 receivership, substantial performance, or other validating or  
61 invalidating ~~cause causes of action, as well as remedies of~~  
62 reformation, injunction, and declaratory judgment, supplement  
63 the provisions of this chapter, except to the extent  
64 inconsistent with this chapter."

65 "§35-8A-110

66 (a) Notwithstanding a finding that this chapter ~~is in~~  
67 ~~derogation of~~ modifies the common law, it should be liberally  
68 construed to ~~effectuate its purpose of encouraging~~ promote the  
69 development and construction of condominium ~~property~~  
70 properties under ~~the provisions of~~ this chapter. The remedies  
71 provided by this chapter shall be liberally administered to  
72 ~~the end that~~ ensure the aggrieved party is put in as good a  
73 position as if the other party had fully performed. These  
74 remedies shall be available in addition, and not contrary to,  
75 the remedies otherwise available at common law.

76 (b) Any right or obligation declared by this chapter is  
77 enforceable ~~by~~ through judicial ~~proceeding~~ proceedings."

78 "§35-8A-205

79 (a) The declaration for a condominium must contain:  
80 (1) The name of the condominium, which must include the  
81 word "condominium" or be followed by the words "a  
82 condominium," and the name of the association;  
83 (2) The name of every county in which any part of the  
84 condominium is situated;



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85 (3) A legally sufficient description of the real estate  
86 included in the condominium;

87 (4) A statement of the maximum number of units which  
88 the declarant reserves the right to create;

89 (5) A description of the boundaries of each unit  
90 created by the declaration, including the unit's identifying  
91 number;

92 (6) A description of any limited common elements, other  
93 than those specified in Section 35-8A-202(2) and (4), as  
94 provided in Section 35-8A-209(b) ~~(10)~~;

95 (7) A description of any common elements, ~~except real~~  
96 estate subject to development rights ~~which, that~~ may be  
97 allocated subsequently as limited common elements, other than  
98 ~~limited common elements~~ those specified in Section  
99 35-8A-202(2) and (4), together with a statement that they may  
100 be so allocated;

101 (8) A description of any development rights specified  
102 in Section 35-8A-103(11) and other special declarant rights  
103 specified in Section 35-8A-103(24) reserved by the declarant,  
104 together with a legally sufficient description of the real  
105 estate to which each of those rights applies, and a statement  
106 of the time limit within which each of those rights must be  
107 exercised;

108 (9) If any development right may be exercised ~~with~~  
109 ~~respect to on~~ different parcels of real estate at different  
110 times, a statement to that effect ~~together with~~ that includes:  
111 (i) either a statement ~~fixing the boundaries of these portions~~  
112 ~~and regulating~~ describing each parcel's boundaries and the



113 order in which ~~those portions may be subjected to the exercise~~  
114 ~~of each development right the development rights may be~~  
115 ~~exercised on them~~, or a statement that no such assurances are  
116 ~~made in those regards provided;~~ and (ii) a statement ~~as to~~  
117 whether, if any development right is exercised in any portion  
118 ~~of the real estate subject to that development right, that~~  
119 ~~development right must be exercised in all or in any other~~  
120 ~~portion of the remainder of that real estate exercising a~~  
121 ~~development right in one part of the real estate requires~~  
122 ~~exercising it in all or any other parts of the remaining~~  
123 property;

124 (10) Any other conditions or limitations under which  
125 the rights described in subdivision (8) may be exercised or  
126 will lapse;

127 (11) An allocation to each unit of the allocated  
128 interests in the manner described in Section 35-8A-207;

129 (12) Any restrictions on: (i) the use, occupancy,  
130 leasing, or alienation of the units, provided that reasonable  
131 rules and regulations ~~related to~~ concerning conduct by unit  
132 owners or aesthetic ~~considerations~~ standards, ~~which are~~  
133 adopted ~~by the association from time to time periodically by~~  
134 ~~the association~~ need do not need to be included in the  
135 declaration~~r~~; and (ii) the ~~amount for which a unit may be sold~~  
136 sale price of the unit or the amount ~~that may be received by a~~  
137 ~~unit owner on a unit owner may receive upon~~ sale,  
138 condemnation, casualty loss ~~to the unit or to the condominium,~~  
139 ~~or on the, or~~ termination of the condominium;

140 (13) The recording data for recorded easements and



141       licenses appurtenant to or included in the condominium, or to  
142       which any portion of the condominium is or may become subject  
143       by virtue of a reservation in the declaration;

144               (14) A statement of the number and identity of units  
145       which the declarant reserves the right to dispose of in time  
146       shares; and

147               (15) All matters required by Sections 35-8A-206 through  
148       35-8A-209, 35-8A-215, 35-8A-216, and 35-8A-303(d).

149               (b) The declaration may contain any other matters the  
150       declarant deems appropriate."

151               "§35-8A-216

152               Subject to the provisions of the declaration, a  
153       declarant only has an easement through the common elements as  
154       may be reasonably necessary ~~for the purpose of discharging to~~  
155       ~~discharge~~ a declarant's obligations or~~—exercising exercise~~  
156       special declarant rights, whether arising under this chapter  
157       or reserved in the declaration."

158               "§35-8A-302

159               (a) Except as provided in subsection (b), and subject  
160       to the provisions of the declaration, the association may:

161               (1) Adopt and amend bylaws and rules and regulations;

162               (2) Adopt and amend budgets for revenues, expenditures,  
163       and reserves and impose and collect assessments for common  
164       expenses from unit owners;

165               (3) Hire and discharge managing agents and other  
166       employees, agents, and independent contractors;

167               (4) Institute, defend, or intervene in litigation,  
168       arbitration, mediation, or administrative proceedings in its



169 own name on behalf of itself or two or more unit owners on  
170 ~~matters~~ any matter affecting the condominium;

171 (5) Make contracts and incur liabilities;

172 (6) Regulate the use, maintenance, repair, replacement,  
173 and modification of common elements;

174 (7) Cause additional improvements to be made as a part  
175 of the common elements;

176 (8) Acquire, hold, encumber, and convey in its own name  
177 any right, title, or interest ~~to~~ in real or personal property,  
178 but interests in the common elements, other than those set  
179 forth in subdivision (9), may be conveyed or subjected to a  
180 security interest only pursuant to Section 35-8A-312;

181 (9) Grant easements, encroachments, leases, licenses,  
182 and concessions through or over the common elements;

183 (10) Impose and receive any payments, fees, or charges  
184 for the use, rental, or operation of the common elements,  
185 other than limited common elements described in Section  
186 35-8A-202(2) and (4), and for services provided to unit  
187 owners;

188 (11) Impose against owners of units charges for late  
189 payment of assessments and, after notice and an opportunity to  
190 be heard, levy reasonable fines for violations of the  
191 declaration, bylaws, and rules and regulations of the  
192 association;

193 (12) Impose reasonable charges for the preparation and  
194 recordation of amendments to the declaration, resale  
195 certificates required by Section 35-8A-409, or statements of  
196 unpaid assessments;



197 (13) Provide for the indemnification of its officers  
198 and board and maintain directors' and officers' liability  
199 insurance;

200 (14) Assign its right to future income, including the  
201 right to receive common expense assessments, but only to the  
202 extent the declaration expressly so provides, or as required  
203 to secure a loan that is otherwise allowed or provided for in  
204 the governing documents;

205 (15) Exercise any other powers conferred by the  
206 declaration or bylaws;

207 (16) Exercise all other powers that may be exercised in  
208 this state by legal entities of the same type as the  
209 association; and

210 (17) Exercise any other powers necessary and proper for  
211 the governance and operation of the association.

212 (b) The declaration may not impose limitations on the  
213 power of the association to deal with the declarant which are  
214 more restrictive than the limitations imposed on the power of  
215 the association to deal with other persons."

216 "§35-8A-308

217 A-There must be at least one meeting of the association  
218 ~~must be~~ held ~~at least once~~ each year. Special meetings of the  
219 association may be called by the president, a majority of the  
220 board or by unit owners having 20 percent, or any lower  
221 percentage specified in the bylaws, of the votes in the  
222 association. Not less than 10 nor more than 60 days in advance  
223 of any meeting, the secretary or other officer specified in  
224 the bylaws shall cause notice to be hand-delivered or sent



225 prepaid by United States mail to the mailing address of each  
226 unit or to any other mailing address designated in writing by  
227 the unit owner. The notice of any meeting must state the time  
228 and place of the meeting and the items on the agenda,  
229 including the general nature of any proposed amendment to the  
230 declaration or bylaws, any budget changes, and any proposal to  
231 remove an officer or a member of the board."

232 "§35-8A-309

233 (a) Unless the bylaws provide otherwise, a quorum is  
234 present throughout any meeting of the association if persons  
235 entitled to cast 20 percent of the votes ~~which that~~ may be  
236 cast for election of the board are present in person or by  
237 proxy at the beginning of ~~the said~~ meeting.

238 (b) Unless the bylaws specify a larger percentage, a  
239 quorum is deemed present throughout any meeting of the board  
240 if persons entitled to cast 50 percent of the votes on that  
241 board are present at the beginning of ~~the said~~ meeting."

242 "§35-8A-403

243 (a) Except as provided in subsection (b), an offering  
244 statement must contain or fully and accurately disclose the  
245 following information ~~with regard to~~ regarding the  
246 condominium, ~~including a~~ or proposed condominium:

247 (1) The name and principal address of the declarant;  
248 (2) The name and the address, legal description, or  
249 other description of the location of the condominium, and the  
250 number and types of units in the condominium;

251 (3) A general description of the condominium, including  
252 to the extent possible, number and types of buildings,



253 structures, and amenities the declarant is obligated to build,  
254 and the declarant's schedule of commencement and completion of  
255 construction of buildings, structures, and amenities the  
256 declarant is obligated to include in the condominium;

257 (4) Copies of the declaration, as well as any recorded  
258 plats, plans, easements, covenants, conditions, restrictions,  
259 and reservations affecting the condominium; the certificate or  
260 the proposed certificate of formation and the bylaws of the  
261 association created or to be created to manage the  
262 condominium, any rules or regulations of the association, a  
263 copy of the lease for any leasehold condominium, copies of any  
264 contracts and leases to be signed by purchasers at closing,  
265 and copies of any contracts or leases that will or may be  
266 subject to cancellation by the association under Section  
267 35-8A-305;

268 (5) A projected budget for the association for at least  
269 one year after the date or anticipated date of the first  
270 conveyance to a purchaser, and thereafter the current budget  
271 along with the current balance sheet of the association, a  
272 statement of who prepared the budget, and a statement of the  
273 budget's assumption concerning occupancy. The budget must  
274 include, without limitation:

275 a. A statement of the amount, or a statement that there  
276 is no amount, included in the budget as a reserve for repairs  
277 and replacement;

278 b. A statement of any other reserves included in the  
279 budget;

280 c. The projected common expenses by category of



281 expenditures for the association; and

282           d. The projected monthly common expense assessment for  
283 each type of unit;

284           (6) Any services not reflected in the budget that the  
285 declarant provides, or expenses that he or she pays, and that  
286 he or she expects may become    at any subsequent time,    a common  
287 expense of the association and the projected common expense  
288 assessment attributable to each of those services or expenses  
289 for the association and for each type of unit;

290           (7) Any initial or special fee due from the purchaser  
291 at closing together with a description of the purpose and  
292 method of calculating the fee;

293           (8) A reference to, and a brief description of, any  
294 liens, known defects, or encumbrances on or affecting the  
295 title to the condominium;

296           (9) A description of any financing offered or arranged  
297 by the declarant and,    if the contract of sale offered to the  
298 purchaser does not contain a provision conditioning  
299 purchaser's obligation to perform the contract on obtaining  
300 financing, a statement that the purchaser will forfeit any  
301 deposit he or she has paid if the purchaser requires such  
302 financing but does not qualify for such financing as is  
303 offered or arranged by the declarant;

304           (10) The terms and significant limitations of any  
305 warranties provided by the declarant, including statutory  
306 warranties provided in this chapter and limitations on the  
307 enforcement thereof or on damages;

308           (11) A statement that:



309           a. Within seven days after receipt of an offering  
310 statement L a purchaser, before conveyance, may cancel any  
311 contract for purchase of a unit from a declarant;

312           b. If a declarant fails to provide an offering  
313 statement to a purchaser before conveying a unit, that  
314 purchaser may rescind the conveyance within seven days after  
315 first receiving the offering statement; and

316           c. If a purchaser receives the offering statement more  
317 than seven days before signing a contract, he or she cannot  
318 cancel the contract;

319           (12) A statement of any unsatisfied judgments or  
320 pending lawsuits against the association ~~;~~ and including the  
321 status of any pending lawsuits ~~material~~ related to the  
322 condominium ~~of which~~ that a declarant ~~has actual knowledge is~~  
323 aware of;

324           (13) A statement that any deposit made in connection  
325 with the purchase of a unit will be held in an escrow account  
326 until closing and will be returned to the purchaser if the  
327 purchaser cancels the contract pursuant to Section 35-8A-408,  
328 together with the name and address of the escrow agent;

329           (14) Any restraints on sale or lease of any units in  
330 the condominium and any restrictions:

331           a. On use, occupancy or alienation of the units ~~;~~ and  
332           b. On the amount for which a unit may be sold or on the  
333 amount that may be received by a unit owner on sale,  
334 condemnation, casualty loss to the unit or to the condominium L,  
335 or on the termination of the condominium;

336           (15) A brief description of the insurance coverage



337 provided for the benefit of unit owners;

338 (16) Any current or expected fees or charges to be paid  
339 by unit owners for the use of the common elements and other  
340 facilities related to the condominium;

341 (17) The extent to which financial arrangements have  
342 been provided for completion of all improvements that the  
343 declarant is obligated to build pursuant to Section 35-8A-416  
344 ~~(Declarant's obligation to complete and restore)~~;

345 (18) A brief narrative description of any zoning  
346 affecting the condominium; and

347 (19) The applicable amendment requirements as provided  
348 in the declaration or as provided by Alabama law.

349 (b) If a condominium composed of not more than 12 units  
350 is not subject to any development rights, and no power is  
351 reserved to a declarant to make the condominium part of a  
352 larger condominium, group of condominiums, or other real  
353 estate, an offering statement may, but need not, include the  
354 information otherwise required by subdivisions (a) (9), (10),  
355 (15), (16), (17), and (18) ~~of subsection (a)~~.

356 (c) A declarant shall promptly amend the offering  
357 statement to ~~report fully and accurately disclose~~ any material  
358 change in the information required by this section."

359 "§35-8A-408

360 (a) A person required to deliver the required documents  
361 or report pursuant to Section 35-8A-402(c) or 35-8A-407 shall  
362 provide a purchaser of a unit with a copy of the offering  
363 statement and all amendments ~~thereto~~ not later than the date  
364 of any contract of sale. Unless a purchaser is given the



365 required documents more than seven days before execution of a  
366 contract for the purchase of a unit, the purchaser may cancel  
367 the contract within seven days after first receiving the  
368 required documents or report.

369 (b) If a purchaser elects to cancel a contract or  
370 conveyance pursuant to subsection (a), he or she may do so by  
371 hand-delivering notice ~~thereof~~ to the offeror or by mailing  
372 notice ~~thereof~~ by prepaid United States mail to the offeror or  
373 to his or her agent for service of process. Cancellation is  
374 without penalty, and all payments made by the purchaser before  
375 cancellation shall be refunded promptly.

376 (c) If a person required to deliver an offering  
377 statement or report pursuant to Section 35-8A-402(c) or  
378 35-8A-407 willfully fails to provide a purchaser to whom a  
379 unit is conveyed with the documents required by subsection  
380 (a), the purchaser, ~~at the purchaser's option and in lieu of~~  
381 in addition to any rights to damages or other relief, is  
382 entitled to receive from that person an amount equal to five  
383 percent of the sales price of the unit if the purchaser  
384 provides notice of the election to that person in the same  
385 manner as described in subsection (b) within six months of the  
386 date of conveyance of the unit."

387 "§35-8A-414

388 If a declarant or any other person subject to this  
389 chapter fails to comply with any provision ~~hereof of this~~  
390 chapter or any provision of the declaration or bylaws, any  
391 person or class of persons adversely affected by the failure  
392 to comply has a claim for actual damages or appropriate

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393 equitable relief, which may include.~~The court, in an~~  
394 ~~appropriate case, may award~~ reasonable ~~attorney's~~ attorney  
395 fees ~~to either party.~~"

396 Section 2. This act shall become effective on October  
397 1, 2026.