



State of Wisconsin
2015 - 2016 LEGISLATURE

LRB-3013/1
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2015 ASSEMBLY BILL 762

January 20, 2016 - Introduced by Representatives BARCA, ZAMARRIPA, OHNSTAD, MILROY, BERCEAU, KESSLER, SINICKI and CONSIDINE, cosponsored by Senators HARRIS DODD and WIRCH. Referred to Committee on Housing and Real Estate.

1 **AN ACT to renumber and amend** 703.09 (2), 703.093 (1) and 703.10 (5); **to**
2 **amend** 703.11 (5), 703.13 (6) (c) and 703.13 (8) (b); and **to create** 703.09 (2) (b),
3 703.093 (1) (b), 703.10 (5) (b) and 703.38 (11) of the statutes; **relating to:**
4 disapproval of amendments to condominium documents.

Analysis by the Legislative Reference Bureau

This bill modifies the number of unit owners necessary for disapproval of an amendment to a condominium document under certain circumstances.

Under current law, a condominium declaration must specify the number of votes that are appurtenant to each unit in the condominium for purposes of voting at meetings of the association of unit owners. Current law provides that a condominium declaration, as well as a condominium plat, may be amended with the written consent of at least two-thirds of the aggregate votes established in the declaration for all of the units, unless the declaration provides for a greater percentage, and that condominium bylaws may be amended by the affirmative vote of unit owners having 67 percent or more of the votes.

This bill provides that, if legal title to units with two-thirds or more of the aggregate votes established in the declaration for all of the units is held by a single person or by two or more persons acting jointly by formal agreement, an amendment to a condominium declaration, as well as to a condominium plat, is disapproved if a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the units owned by any unit owner, opposes the amendment in writing. Likewise, an amendment to

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condominium bylaws is disapproved if a simple majority of the unit owners, without regard to the number of units owned by any unit owner or the number of votes appurtenant to the units owned by any unit owner, opposes the amendment in writing. As defined in current law, a "unit owner" is any person, combination of persons, partnership, or corporation that holds title to a unit. Thus, for example, a husband and wife who own a unit together would be one unit owner.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 703.09 (2) of the statutes is renumbered 703.09 (2) (a) and amended
2 to read:

3 703.09 (2) (a) Except as provided in par. (b), sub. (4), and ss. 703.093, 703.13
4 (6) (c) and (d) and (8) (b), and 703.26, a condominium declaration may be amended
5 with the written consent of at least two-thirds of the aggregate of the votes
6 established under sub. (1) (f) or a greater percentage if provided in the declaration.
7 An amendment becomes effective when it is recorded in the same manner as the
8 declaration. The document submitting the amendment for recording shall state that
9 the required consents and approvals for the amendment were received. A unit
10 owner's written consent is not effective unless it is approved in writing by the first
11 mortgagee of the unit, or the holder of an equivalent security interest, if any.
12 Approval from the first mortgage lender or equivalent security interest holder, or the
13 person servicing the first mortgage loan or its equivalent on a unit, constitutes
14 approval of the first mortgagee or equivalent security interest holder under this
15 subsection.

16 **SECTION 2.** 703.09 (2) (b) of the statutes is created to read:

17 703.09 (2) (b) If legal title to units with two-thirds or more of the aggregate of
18 the votes established under sub. (1) (f) is held by a single person or by 2 or more
19 persons acting jointly by formal agreement, a proposed amendment to the

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1 declaration is disapproved if a simple majority of the unit owners, without regard to
2 the number of units owned, or the number of votes appurtenant to the units owned,
3 by any unit owner, opposes the proposed amendment in writing.

4 **SECTION 3.** 703.093 (1) of the statutes is renumbered 703.093 (1) (a) and
5 amended to read:

6 703.093 (1) (a) As an alternative to s. 703.09 (2), except as provided in par. (b),
7 a condominium declaration may be amended under this section if at least two-thirds
8 of the aggregate of the votes established under s. 703.09 (1) (f), or a greater
9 percentage if provided in the declaration, consent to the amendment in writing and
10 those consents are approved by the mortgagees or holders of equivalent security
11 interests in the units. An amendment becomes effective when it is recorded in the
12 same manner as the declaration.

13 **SECTION 4.** 703.093 (1) (b) of the statutes is created to read:

14 703.093 (1) (b) If legal title to units with two-thirds or more of the aggregate
15 of the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more
16 persons acting jointly by formal agreement, a proposed amendment to the
17 declaration is disapproved under this section if a simple majority of the unit owners,
18 without regard to the number of units owned, or the number of votes appurtenant
19 to the units owned, by any unit owner, opposes the proposed amendment in writing.

20 **SECTION 5.** 703.10 (5) of the statutes is renumbered 703.10 (5) (a) and amended
21 to read:

22 703.10 (5) (a) The Except as provided in par. (b), the bylaws may be amended
23 by the affirmative vote of unit owners having ~~67%~~ 67 percent or more of the votes.
24 Each particular set forth in sub. (2) shall be expressed in the bylaws as amended.

25 **SECTION 6.** 703.10 (5) (b) of the statutes is created to read:

ASSEMBLY BILL 762**SECTION 6**

1 703.10 (5) (b) If legal title to units with two-thirds or more of the aggregate of
2 the votes established under s. 703.09 (1) (f) is held by a single person or by 2 or more
3 persons acting jointly by formal agreement, a proposed amendment to the bylaws is
4 disapproved if a simple majority of the unit owners, without regard to the number
5 of units owned, or the number of votes appurtenant to the units owned, by any unit
6 owner, opposes the proposed amendment in writing.

7 **SECTION 7.** 703.11 (5) of the statutes is amended to read:

8 703.11 (5) AMENDMENT. Except as provided in s. 703.265, amendment of a
9 condominium plat by an addendum that is not included as part of an amendment to
10 the declaration shall be accomplished in the same manner as an amendment to the
11 declaration under s. 703.09 (2) (a), subject to s. 703.09 (2) (b).

12 **SECTION 8.** 703.13 (6) (c) of the statutes is amended to read:

13 703.13 (6) (c) An amendment to a declaration shall identify the units involved
14 and shall state that the boundaries between those units are being relocated by
15 agreement of the unit owners thereof. The amendment shall contain words of
16 conveyance between those unit owners, and when recorded shall also be indexed in
17 the name of the grantor and grantee. If the adjoining unit owners have specified in
18 their written application the reallocation between their units of the aggregate
19 undivided interest in the common elements appertaining to those units, the
20 amendment to the declaration shall reflect that reallocation. An amendment to a
21 declaration under this paragraph shall be adopted, at the option of the adjoining unit
22 owners, either in the manner provided under s. 703.09 (2) (a) or by the written
23 consent of the owners of the adjoining units involved and the mortgagees of the
24 adjoining units.

25 **SECTION 9.** 703.13 (8) (b) of the statutes is amended to read:

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1 703.13 (8) (b) If the unit owners of adjoining units that may be merged desire
2 to merge the units, the unit owners, after 30 days' written notice to all other unit
3 owners, shall prepare and execute appropriate instruments under this subsection.
4 An amendment to the condominium instruments shall assign a new identifying
5 number to the new unit created by the merger of the units and shall allocate to the
6 new unit all of the undivided interest in the common elements and rights to use the
7 limited common elements and the votes in the association formerly appertaining to
8 the separate units. The amendment shall reflect an allocation to the new unit of the
9 liability for common expenses and rights to common surpluses formerly
10 appertaining to the separate units. An amendment to a declaration under this
11 paragraph shall be adopted either in the manner provided under s. 703.09 (2) (a) or
12 by the written consent of the owners of the units to be merged, the mortgagees of
13 those units, if any, and the board of directors of the association.

14 **SECTION 10.** 703.38 (11) of the statutes is created to read:

15 703.38 (11) Sections 703.09 (2) (b), 703.093 (1) (b), 703.10 (5) (b), and 703.11 (5)
16 do not apply to a condominium existing on the effective date of this subsection
17 [LRB inserts date], if the existing declaration or bylaws provide otherwise.

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(END)