

2011 DRAFTING REQUEST

Bill

Received: **09/07/2011**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Roger Rivard (608) 266-2519**

By/Representing: **DJ Lundgren**

May Contact:

Drafter: **pkahler**

Subject: **Real Estate - condominiums**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Rivard@legis.wi.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Real estate condition report for condos

Instructions:

See attached

Drafting History:

| <u>Vers.</u> | <u>Drafted</u> | <u>Reviewed</u> | <u>Typed</u> | <u>Proofed</u> | <u>Submitted</u> | <u>Jacketed</u> | <u>Required</u> |
|--------------|-----------------------|----------------------------|-----------------------|----------------|------------------------|-----------------------|-----------------|
| /? | pkahler 09/07/2011 | edt_sbasford 09/30/2011 | | _____ | | | |
| /1 | | | rschlue 09/30/2011 | _____ | sbasford 09/30/2011 | | |
| /2 | pkahler 01/06/2012 | jdye 01/06/2012 | rschlue 01/06/2012 | _____ | ggodwin 01/06/2012 | ggodwin 02/07/2012 | |

FE Sent For:

None

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| /1 | | | rschluet 09/30/2011 | _____ | sbasford 09/30/2011 | | |
| /2 | pkahler 01/06/2012 | jdyer 01/06/2012 | rschluet 01/06/2012 | _____ | ggodwin 01/06/2012 | | |

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| /? | pkahler 09/07/2011 | edt_sbasford 09/30/2011 | | _____ | | | |
| /1 | | | rschluet 09/30/2011 | _____ | sbasford 09/30/2011 | | |

FE Sent For:

<END>

Handwritten notes:
1/2/6 jld
1612

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|--------------|----------------|-----------------|---|----------------|------------------|-----------------|-----------------|
| /? | pkahler | 1 SBB 9/8 |  | _____ | | | |
| FE Sent For: | | 1/9 30 jld | | | | | |

<END>

Kahler, Pam

From: Lundgren, Doug
Sent: Wednesday, September 07, 2011 2:06 PM
To: Kahler, Pam
Subject: Condo Law Revisions

Attachments: Condo Law.pdf; Condo Addendum.pdf; Executive Summary.pdf; Real Estate Condition Report.pdf

Hi Pam,

Here are the documents I wanted to share with you regarding the revisions to current condo law. Please let me know if you have any questions. Also, feel free to contact the WI Realtor's Association if you need clarification on anything.

Thank you!



Condo Law.pdf
(267 KB)



Condo
Addendum.pdf (211 KB)



Executive
Summary.pdf (375 KB)



Real Estate
Condition Report.p

deej

DJ Lundgren

Office of Representative Roger Rivard
75th State Assembly District
Phone: 608.266.2519
E-mail: dlundgre@legis.wi.gov

To: All Legislators

From: Joe Murray, Director of Political and Governmental Affairs
Debbi Conrad, Director of Legal Affairs

Date: February 25, 2010

RE: Support ____ – Condominium Law Revisions

The Wisconsin REALTORS® Association (WRA) strongly supports ____ – legislation clarifying and updating Wisconsin's condominium law. The WRA requests three modifications, two changes to clarify measures enacted in 2003 Wis. Act 283 and a third to modernize delivery of condominium disclosure materials.

✓ 1. **Condominium Addendum to Real Estate Condition Report**

2003 Wis. Act. 283 established the requirement that when a Real Estate Condition Report (RECR) is given in a real estate transaction for the purchase of a condominium unit, that an addendum including information about the condominium association, fees and a copy of the executive summary also be provided. However, in certain cases such as new construction or sale by a trustee or personal representative who has never lived in the property, the RECR is not required. The language in Wis. Stat. § 709.02 has created some uncertainty among attorneys and practitioners regarding whether the addendum material must still be provided when the RECR itself is not required. The first proposed change clarifies that the addendum materials are necessary only if the RECR itself is required.

✓ 2. **Small Condominiums without Executive Summaries**

Part of the requirements for the condominium addendum to the RECR established in 2003 Wis. Act 283 is the attachment of the Executive Summary, a user-friendly index to issues of importance to condominium buyers required under Wis. Stat. § 703.33(1)(h). However, Wis. Stat. § 703.365(8) provides small condominiums of 12 units or less with an option to use abbreviated disclosure documents that don't include an Executive Summary. If a small condominium does not have an Executive Summary as part of its normal disclosure documents then they should not be required to produce one as part of the condominium addendum to the RECR. The second proposed change clarifies that an Executive Summary is not required for the RECR if a small condominium is using the abbreviated disclosure documents option.

X 3. **Electronic Delivery of Disclosure Materials**

Although e-mail and electronic documents are widely used by Wisconsin consumers and in business, there is language in Wis. Stat. § 703.33(2) that suggests that the condominium disclosure materials may not be delivered to a condominium buyer using e-mail. The ability to deliver condominium disclosure documents electronically would save paper, time and money; promote efficiency and timely delivery; and enhance the ability to update and correct the materials. Wisconsin and federal law requires that a consumer cannot be sent important disclosure information, such as these disclosure materials, unless the consumer first consents. With these prior consent safeguards in place, condominium seller and buyers, as well as their attorneys and real estate agents, would all greatly benefit from the heightened efficiency that would come with the ability to delivery the condominium documents via e-mail.

✓ Our other issue actually comes from Wis. Stat. § 709.02(2):

(2) In regard to a transfer of a condominium unit, as defined in s. 703.02 (15), the owner shall furnish, in addition to and at the same time as the information required under sub. (1), all the following information as an addendum to the real estate condition report under s. 709.03:

- (a) The name of the condominium and the date the condominium was created by recording condominium instruments with the register of deeds under s. 703.07; the unit number of the property offered for sale; and the name, address, and telephone number of the seller or the seller's agent.
- (b) The name and address of the condominium association; a statement specifying whether the association is self-managed or has hired or retained management; and the name, address, and telephone number of the individual who may be contacted as a representative of the association regarding the sale, in particular, or the condominium, in general.
- (c) The amount of current condominium assessments, fees, special assessments, or other charges for which a unit owner is responsible and whether the current charges for the unit have been paid.
- (d) A copy of the executive summary required under s. 703.33 (1) (h).

One issue is whether a seller must provide a condominium addendum to the Real Estate Condition Report (RECR) if no RECR is required. For example, as illustrated by some of the WRA Hotline FAQs:

In new construction of condominiums, never occupied, do you have to provide a Real Estate Condition Report (RECR) to a buyer? Do you have to provide a condominium addendum to the RECR?

Wis. Stat. § 709.01 provides, "Requirements for transfer. (1) Except as provided in sub. (2), all persons who transfer real property located in this state, including a condominium unit, as defined in s. 703.02 (15), and time-share property, as defined in s. 707.02 (32), but excluding property that has not been inhabited, that includes 1 to 4 dwelling units, as defined in s. 101.61 (1), by sale, exchange or land contract, unless the transfer is exempt from the real estate transfer fee under s. 77.25, shall comply with ss. 709.02 to 709.04 and 709.06." There arguably is no need to provide a RECR or a condominium addendum when the property has never been occupied.

✓ **THE FIX:** Amend § 709.02 in some manner such as:

(2) In regard to a transfer of a condominium unit, as defined in s. 703.02 (15), if compliance is required under s. 709.01, the owner shall furnish, in addition to and at the same time as the information required under sub. (1), all the following information as an addendum to the real estate condition report under s. 709.03:

Another issue is whether an Executive Summary must be attached to the condominium addendum to the RECR if an Executive Summary is not otherwise required because it is a small condominium using abbreviated disclosure documents.

The developer of an eight-unit condominium development does not want to fill out the executive summary. The developer said that when they planned the project, the attorney said they would not have to complete an executive summary because an executive summary is not required as part of the disclosure materials for a small condominium of up to 12 units, depending on the elections made in the declaration. What specific elections must be made in the declaration?

According to Wis. Stat. § 703.365 (1) and (8), an executive summary, as well as other documents, may not be required as part of the disclosure materials for a small condominium provided that the declaration was drafted or amended to state that the abbreviated disclosure requirements described in § 703.365(8) apply to the project. If an executive summary is not required for the disclosure materials, it logically is not

required as an attachment to the Condominium Addendum to the RECR. The RECR and the Condominium Addendum, however, are still required by Wis. Stat. § 709.02(2).

THE FIX: Amend § 709.12(2)(d) in some manner such as:

(d) A copy of the executive summary required under s. 703.33 (1) (h) unless excused per s. 703.365(8).



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2831/7

PJK:.....

SBB

+

Jld

DUE MONDAY

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2011 Bill

PWF
/X
(in 9-7)

gen cat

1 AN ACT ~~relating to~~; relating to: information related to condominiums that must be
2 furnished with real estate condition reports. ✓

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, an owner selling residential real property must give a prospective buyer a form, known as a real estate condition report, on which the owner discloses certain conditions, and other information about, the real property of which the owner is aware. If the real property is a condominium, the owner is also required to furnish an addendum to the real estate condition report that provides additional information, such as the date the condominium was created, the name and address of the condominium association, the amount of assessments and fees, and a copy of the executive summary, which, under the condominium regulations, a condominium seller must furnish to the buyer and which provides various types of information related to the condominium, such as the name and address of the condominium association and descriptions of rules related to alterations that a unit owner may make, parking, pets, and rental of units.

on which

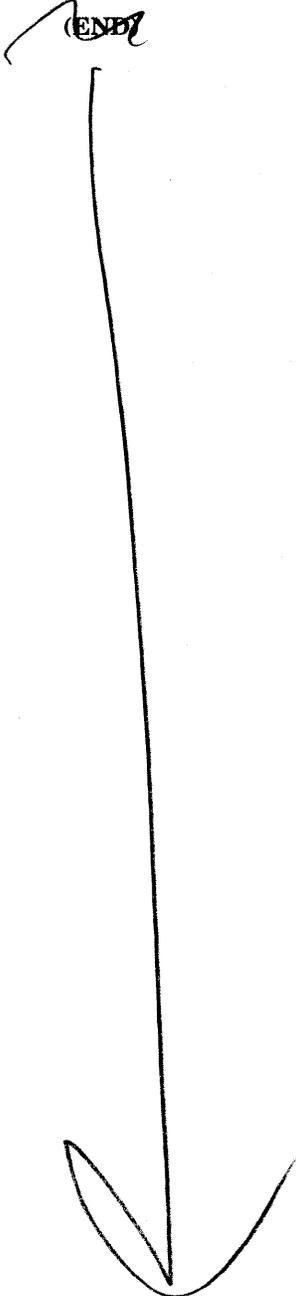
This bill clarifies that an owner selling a condominium is not required to provide an addendum to the real estate condition report, including a copy of the executive summary, if the owner is not required to provide a real estate condition report, which is the case if the owner is a personal representative, trustee, conservator, or court-appointed fiduciary who has never occupied the property. The bill also clarifies that an owner selling a condominium is not required to provide a copy of the executive summary, even if a real estate condition report and addendum are required, if the seller is not required to furnish an executive summary to the

o
to the buyer under the condominium regulations, ✓ which is the case if the
condominium has no more than 12 units. ✓

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

1

END



LPS-note →

LRB-4202/P1

PJK:bjk:jf

* LPS - pages 1 to 10 of ~~LRB-4202/P1~~ should not be included in LRB-2831

SECTION 35

1 SECTION 35. 703.22 (3) of the statutes is amended to read:

2 703.22 (3) Any mechanics' construction or suppliers' lien under subch. I of ch.
3 779 arising as a result of repairs to or improvements of the common elements, if
4 authorized in writing by the association, shall be paid by the association as a common
5 expense and until paid shall be a lien against each unit in proportion to its percentage
6 interest in the common elements. On payment of the proportionate amount by any
7 unit owner to the lienor or on the filing of a written undertaking in the manner
8 specified by s. 779.08, the unit owner shall be entitled to a release of his or her unit
9 from the lien and the association shall not be entitled to assess his or her unit for
10 payment of the remaining amount due for the repairs or improvements.

11 SECTION 36. 703.24 (2) of the statutes is amended to read:

12 703.24 (2) LIABILITY FOR UNIT OWNER VIOLATION. A unit owner who commits a
13 violation is liable for any charges, fines, or assessments imposed by the association
14 pursuant to the declaration or the association's bylaws or association rules as a result
15 of the violation and may be subject to a temporary or permanent injunction.

16 SECTION 37. 703.33 (1) (intro.) of the statutes is amended to read:

17 703.33 (1) MATERIAL TO BE FURNISHED BY SELLER TO PURCHASER BEFORE CLOSING.
18 (intro.) Not later than 15 days prior to the closing of the sale of a residential unit to
19 a member of the public, the seller shall furnish to the purchaser the following:

20 SECTION ~~38~~. 709.02 (2) (intro.) of the statutes is amended to read:

21 709.02 (2) (intro.) In regard to a transfer of a condominium unit, as defined in
22 s. 703.02 (15), if the owner is required to provide the information under sub. (1), the
23 owner shall furnish, in addition to and at the same time as the information required
24 under sub. (1), all the following information as an addendum to the real estate
25 condition report under s. 709.03:

1 ~~SECTION 39.~~ 709.02 (2) (d) of the statutes is amended to read:

2 709.02 (2) (d) ~~A~~ Unless excused by s. 703.365, a copy of the executive summary
3 required under s. 703.33 (1) (h).

4 **SECTION 40. Initial applicability.**

5 (1) GENERAL APPLICATION. The treatment of sections 703.03 and 703.15 (2) (d)
6 of the statutes first applies to condominiums for which condominium instruments
7 are recorded on the effective date of this subsection.

8 (2) CONVERSION TO CONDOMINIUM. The treatment of section 703.08 (1) (intro.),
9 (2) (intro.), and (3) of the statutes first applies to conversions of residential real
10 properties to condominiums for which notices are delivered on the effective date of
11 this subsection.

12 (3) USE OF COMMON SURPLUSES. The treatment of sections 703.13 (2) and 703.16
13 (1) of the statutes first applies to common surpluses arising on the effective date of
14 this subsection.

15

(END)

Kahler, Pam

From: Kahler, Pam
Sent: Friday, January 06, 2012 9:44 AM
To: Lundgren, Doug
Subject: RE: Condo Laws

I found the draft - LRB-2831. I see that there was a slight difference of opinion on what, if any, changes were needed. In light of the suggestions made, no changes are really needed. However, I could add the suggested cross-reference to Section 1, although it's not necessary because the only way a condo owner would be required to provide the info is if they are one of the types of owners specified in s. 709.01.

Pam

From: Lundgren, Doug
Sent: Thursday, January 05, 2012 4:40 PM
To: Kahler, Pam
Subject: FW: Condo Laws

Hi Pam,

Can you see the changes below to the Condo Bill. If you could make these changes quickly so I can get this out, I'd really appreciate it.

Thanks,
deej

DJ Lundgren

Office of Representative Roger Rivard
75th State Assembly District
Phone: 608.266.2519
Fax: 608.282.3675
E-mail: dlundgre@legis.wi.gov

From: Murray, Joe - Director of Political and Governmental Affairs [<mailto:jmurray@wra.org>]
Sent: Thursday, January 05, 2012 8:48 AM
To: Lundgren, Doug
Cc: Larson, Tom
Subject: FW: Condo Laws

DJ,

After looking at the condo bill draft and getting feedback, we think it would be a good idea to circulate the bill for co-sponsors as is and get an amendment drafted that addresses the point in the email from Deb in our office (the email below this one). We can amend the bill with this simple fix in the Housing Committee.

I'll call in a bit. Thanks again for getting this moving.

1/6/2012

Joe
Cell: 575-0023

From: Conrad, Debbi - Director of Legal Services
Sent: Wednesday, January 04, 2012 1:32 PM
To: Rucka, Tracy - Attorney; Murray, Joe - Director of Political and Governmental Affairs; Larson, Tom; Cori M. Lamont
Subject: RE: Condo Laws

Joe,

Think it is alright the way it is.

Looking at Tracy's first point, line 3 might be better/clearer if it said, "s. 703.02(15), if the owner is required by s. 709.01 to provide the information under sub. (1), the"

Thanks,
Debbi

From: Rucka, Tracy - Attorney
Sent: Tuesday, January 03, 2012 4:36 PM
To: Murray, Joe - Director of Political and Governmental Affairs; Larson, Tom; Cori M. Lamont; Conrad, Debbi - Director of Legal Services
Subject: RE: Condo Laws

Joe,

Two comments:

The correct reference at line 3 should be to 709.01 not to the subsection 709.02(1). WD

Might recommend the following for Section 2 line 9. A copy of the executive summary required under s. 703.33 (1)(h) unless elections made per 703.365.

Tracy

From: Murray, Joe - Director of Political and Governmental Affairs
Sent: Tuesday, January 03, 2012 4:05 PM
To: Larson, Tom; Cori M. Lamont; Conrad, Debbi - Director of Legal Services; Rucka, Tracy - Attorney
Subject: FW: Condo Laws

Legal,

Here is a bill draft re: condos from Roger Rivard's office. Please take a look at this and get back to me ASAP. We are trying to get bills scheduled for hearing fast and this is a short bill draft.

Joe

From: Lundgren, Doug [<mailto:DJ.Lundgren@legis.wisconsin.gov>]

1/6/2012

Sent: Tuesday, January 03, 2012 3:57 PM
To: Murray, Joe - Director of Political and Governmental Affairs
Subject: Condo Laws

Hi Joe,

This got delivered today. Guess they had it done last month but with the holidays delivery got delayed. Take a look and let me know what you think.

Best,
deej <<Condo Law.pdf>>

DJ Lundgren

Office of Representative Roger Rivard
75th State Assembly District
Phone: 608.266.2519
Fax: 608.282.3675
E-mail: dlundgre@legis.wi.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2831/A²
PJK:sbb&jld:rs

r m i n n

2011 BILL

*today, please
(Friday)*

X

Regen

1 AN ACT *to amend* 709.02 (2) (intro.) and 709.02 (2) (d) of the statutes; **relating**
2 **to:** information related to condominiums that must be furnished with real
3 estate condition reports.

Analysis by the Legislative Reference Bureau

Under current law, with certain exceptions, an owner selling residential real property must give a prospective buyer a form, known as a real estate condition report, on which the owner discloses certain conditions of, and other information about, the real property of which the owner is aware. If the real property is a condominium, the owner is also required to furnish an addendum to the real estate condition report that provides additional information, such as the date on which the condominium was created, the name and address of the condominium association, the amount of assessments and fees, and a copy of the executive summary, which, under the condominium regulations, a condominium seller must furnish to the buyer and which provides various types of information related to the condominium, such as the name and address of the condominium association and descriptions of rules related to alterations that a unit owner may make, parking, pets, and rental of units.

This bill clarifies that an owner selling a condominium is not required to provide an addendum to the real estate condition report, including a copy of the executive summary, if the owner is not required to provide a real estate condition report, which is the case if the owner is a personal representative, trustee, conservator, or court-appointed fiduciary who has never occupied the property. The bill also clarifies that an owner selling a condominium is not required to provide a

BILL

copy of the executive summary, even if a real estate condition report and addendum are required, if the seller is not required to furnish an executive summary to the buyer under the condominium regulations, which is the case if the condominium has no more than 12 units.

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

1 **SECTION 1.** 709.02 (2) (intro.) of the statutes is amended to read:

2 709.02 (2) (intro.) In regard to a transfer of a condominium unit, as defined in
3 s. 703.02 (15), if the owner is required to provide the information under sub. (1), the
4 owner shall furnish, in addition to and at the same time as the information required
5 under sub. (1), all the following information as an addendum to the real estate
6 condition report under s. 709.03:

7 **SECTION 2.** 709.02 (2) (d) of the statutes is amended to read:

8 709.02 (2) (d) ~~A~~ Unless excused by s. 703.365, a copy of the executive summary
9 required under s. 703.33 (1) (h).

10

(END)

under s. 709.01

(8) ✓

Godwin, Gigi

From: Lundgren, Doug
Sent: Tuesday, February 07, 2012 4:10 PM
To: LRB.Legal
Subject: Draft Review: LRB 11-2831/2 Topic: Real estate condition report for condos

Please place a rush on this! Thank you!!!
Please Jacket LRB 11-2831/2 for the ASSEMBLY.