



2009 SENATE BILL 348

October 14, 2009 - Introduced by Senators JAUCH and TAYLOR, cosponsored by Representatives SHERMAN, BALLWEG and ZEPNICK. Referred to Committee on Transportation, Tourism, Forestry, and Natural Resources.

1 **AN ACT** *to amend* 30.133 (1) (a), 30.1335 (3) (b), 30.1335 (4) (a), 30.1335 (4) (b)
2 and 30.1335 (6) (a) of the statutes; **relating to:** declarations creating marina
3 condominiums and technical corrections to the laws governing marina
4 condominiums.

Analysis by the Legislative Reference Bureau

Currently, in this state, there are numerous condominium projects known as marina condominiums or dockominiums. An owner of a condominium unit in one of these projects does not own a residential unit but owns a unit of space such as a lock box. Ownership of the unit then conveys the right to use a pier, wharf, or boat slip located in the project. Under the laws regulating all types of condominiums, a condominium is legally established by the recording of a written document, called a declaration, with the register of deeds.

Under current law, no person may legally establish a marina condominium on or after June 1, 2007. A declaration for a marina condominium established before that date (existing declaration) remains effective regardless of any "subsequent activity" that may affect the validity of the existing declaration. Under current law, "subsequent activity" may be any determination by court or administrative order that the existing declaration is voidable or otherwise invalid or may be any amendment to the existing declaration by court or administrative order or any amendment to the existing declaration that is made by agreement of the owners of the marina condominium units. Under current law, the agreement by the owners must be unanimous.

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Under current law that covers other types of condominiums, a declaration may be amended with the written consent of unit owners who hold at least two-thirds of the votes assigned to units under the declaration. This bill eliminates the unanimity requirement described above resulting in the application of the general voting requirements for amending condominium declarations to existing declarations.

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

1 **SECTION 1.** 30.133 (1) (a) of the statutes is amended to read:

2 30.133 (1) (a) Beginning on April 9, 1994, and except as provided in s. 30.1355
3 30.1335, no owner of riparian land that abuts a navigable water may grant by an
4 easement or by a similar conveyance any riparian right in the land to another person,
5 except for the right to cross the land in order to have access to the navigable water.
6 This right to cross the land may not include the right to place any structure or
7 material, including a boat docking facility, as defined in s. 30.1335 (1) (a), in the
8 navigable water.

9 **SECTION 2.** 30.1335 (3) (b) of the statutes is amended to read:

10 30.1335 (3) (b) If a marina condominium as described in par. (a) contains more
11 than 300 boat slips, the declarant shall make at least 40 percent of the total number
12 of boat slips in the marina condominium available for rent or for transient use by the
13 public. When the declarant conveys title to, or another interest in, a condominium
14 unit that is affected by this restriction on use, the declarant shall include a statement
15 of the restriction in the instrument of conveyance.

16 **SECTION 3.** 30.1335 (4) (a) of the statutes is amended to read:

17 30.1335 (4) (a) For a marina that is converted into a marina condominium, if
18 the owner of the marina is issued a permit or other authorization under this
19 subchapter to place, maintain, or use a boat docking facility before the date that a

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1 declaration was recorded converting the marina into a marina condominium, the
2 permit or authorization shall be deemed to satisfy the requirements of the other
3 sections of this subchapter and may not be rescinded or modified by the department
4 or a municipality or by court or administrative order if the grounds for the rescission
5 or modification are based on the fact that the marina has been converted to a marina
6 condominium. The permit or authorization shall remain in effect regardless of any
7 subsequent activity affecting the declaration. This paragraph does not apply to any
8 permit or authorization that is issued after the date that the declaration was
9 recorded converting the marina into a marina condominium.

10 **SECTION 4.** 30.1335 (4) (b) of the statutes is amended to read:

11 30.1335 (4) (b) For a marina condominium that was not previously a marina,
12 if the owner of a marina condominium is issued a permit or other authorization under
13 this subchapter to place, maintain, or use a boat docking facility, the permit or
14 authorization shall be deemed to satisfy the requirements of the other sections of this
15 subchapter and may not be rescinded or modified by the department or a
16 municipality or by court or administrative order if the grounds for the rescission or
17 modification are based on the fact that the boat docking facility is part of a marina
18 condominium as opposed to a marina. The permit or authorization shall remain in
19 effect regardless of any subsequent activity affecting the declaration.

20 **SECTION 5.** 30.1335 (6) (a) of the statutes is amended to read:

21 30.1335 (6) (a) Any amendment, modification, or restatement of the
22 declaration by court or administrative order or by agreement of all consent of the
23 owners of the condominium units as authorized under ch. 703.

24 (END)