

TITLE XX.

Real Property, and the Nature and Qualities of Estates Therein.

CHAPTER 230.

NATURE AND QUALITIES OF ESTATES IN REAL PROPERTY, AND RESTRICTIONS ON ALIENATION.

230.01	Enumeration of estates.	230.46	Nominal conditions disregarded.
230.02	Estate in fee simple.	230.47	Certificate of the termination of life estate and survivorship.
230.03	Estate in fee tail.	230.48	Certificate of termination of joint tenancy in personalty.
230.04	Effect of conveyances by tenant in tail.	230.70	Unit ownership act.
230.05	Estates, how denominated.	230.71	Definitions.
230.06	Estates for life of third person.	230.72	Application of act.
230.07	Division of estates as to time.	230.73	Status of the units.
230.08	Estates in possession and in expectancy.	230.74	Ownership of units.
230.09	Estates in expectancy.	230.75	Common areas and facilities.
230.10	Future estate.	230.76	Compliance with covenants, bylaws and administrative provisions.
230.11	Remainders.	230.77	Certain work prohibited.
230.12	Reversions.	230.78	Liens against units; removal from lien; effect of part payment.
230.13	Vested and contingent estates.	230.79	Common profits and expenses.
230.14	Suspension of power of alienation.	230.80	Contents of declaration.
230.15	Limit of suspension.	230.81	Contents of deeds of units.
230.16	Suspension of period of alienation.	230.82	Survey map and floor plans to be recorded.
230.17	Who not to take under power.	230.83	Blanket mortgages and other blanket liens affecting a unit at time of first conveyance.
230.22	Meaning of "without heirs" or "without issue."	230.84	Recording.
230.23	Limitations on chattels real.	230.85	Removal from provisions of this act.
230.24	Commencing in futuro.	230.86	Removal no bar to subsequent re-submission.
230.25	Alternative estates.	230.87	Bylaws.
230.26	Improbable contingency.	230.88	Contents of bylaws.
230.27	Abridging precedent estate.	230.89	Books of receipts and expenditures; availability for examination.
230.28	Rule in Shelley's Case abolished.	230.90	Waiver of use of common areas and facilities; abandonment of unit.
230.29	Remainders abridging first estate.	230.91	Separate taxation.
230.30	Rights of posthumous children.	230.92	Priority of lien.
230.31	Effect of birth of, on future estates.	230.93	Joint and several liability of grantor and grantee for unpaid common expenses.
230.32	Expectant estates not defeated.	230.94	Insurance.
230.33	When, may be defeated.	230.95	Disposition of property; destruction or damage.
230.34	Premature determination of precedent estate.	230.96	Actions.
230.35	Qualities of expectant estates.	230.97	Personal application.
230.36	Rents and profits.		
230.37	Accumulations.		
230.40	Rents, right of owner of next estate.		
230.41	Expectant estate, when created.		
230.42	Expectant estates abolished.		
230.43	Severalty, joint tenancy, in common.		
230.44	Estates in common.		
230.45	Joint tenancies.		
230.455	Liens not to defeat right of survivorship.		

230.01 **Enumeration of estates.** Estates in lands are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance.

230.02 **Estate in fee simple.** Every estate of inheritance shall continue to be termed a fee simple or fee, and every such estate when not defeasible or conditional shall be a fee simple absolute or an absolute fee.

230.03 **Estate in fee tail.** In all cases where any person or persons would if this act had not been passed, at any time hereafter become seized in fee tail of any lands, tenements or hereditaments by virtue of any devise, gift, grant or other conveyance heretofore made or hereafter to be made or by any other means whatsoever, such person or persons, instead of becoming seized thereof in fee tail, shall be deemed and adjudged to be seized thereof as an allodium.

230.04 **Effect of conveyances by tenant in tail.** Where lands, tenements or hereditaments heretofore have been devised, granted or otherwise conveyed by a tenant in tail and the person or persons to whom such devise, grant or other conveyance hath been made, his, her or their heirs or assigns hath or have, from the time such devise took effect or from the time such grant or other conveyance was made to the day of passing this act, been in the

uninterrupted possession of such lands, tenements or hereditaments and claiming and holding the same under or by virtue of such devise, grant or other conveyance, they shall be deemed as good, legal and effectual, to all intents and purposes, as if such tenant in tail had, at the time of making such devise, grant or other conveyance, been seized of such lands, tenements or hereditaments allodially, any law to the contrary hereof notwithstanding.

230.05 Estates, how denominated. Estates of inheritance and for life shall be denominated estates of freehold; estates for years shall be denominated chattels real; and estates at will or by sufferance shall be chattel interests but shall not be liable as such to sale on execution.

230.06 Estates for life of third person. An estate for the life of a third person, whether limited to heirs or otherwise, is deemed a freehold only during the life of the owner thereof, but after his death it is deemed a chattel real which is an asset in the hands of his personal representative.

230.07 Division of estates as to time. Estates, as respects the time of their enjoyment, are divided into estates in possession and estates in expectancy.

230.08 Estates in possession and in expectancy. An estate in possession is where the owner has an immediate right to the possession of the land; an estate in expectancy is where the right to the possession is postponed to a future period.

230.09 Estates in expectancy. Estates in expectancy are divided into:

- (1) Estates commencing at a future day, denominated future estates; and
- (2) Reversions.

230.10 Future estate. A future estate is an estate limited to commence in possession at a future day, either without the intervention of a precedent estate or on the determination, by lapse of time or otherwise, of a precedent estate created at the same time.

230.11 Remainders. When a future estate is dependent upon a precedent estate it may be termed a remainder, and may be created and transferred by that name.

230.12 Reversions. A reversion is the residue of an estate left in the grantor or his heirs, or in the heirs of a testator, commencing in possession on the determination of a particular estate granted or devised.

230.13 Vested and contingent estates. Future estates are either vested or contingent. They are vested when there is a person in being who would have an immediate right, by virtue of it, to the possession of the lands upon the ceasing of the intermediate or precedent estate. They are contingent whilst the person to whom, or the event upon which, they are limited to take effect remains uncertain.

This section is contradictory and case law controls in determining whether remainders are vested or contingent. A remainder subject to survival of life beneficiaries is subject to a condition precedent and is contingent. Will of Wehr, 36 W (2d) 154, 152 NW (2d) 868.

230.14 Suspension of power of alienation. Every future estate shall be void in its creation which shall suspend the absolute power of alienation for a longer period than is prescribed in this chapter; such power of alienation is suspended when there are no persons in being by whom an absolute fee in possession can be conveyed. Limitations of future or contingent interests in personal property are subject to the rules prescribed in relation to future estates in real property; provided, however, that this limitation upon interests in personal property shall not apply to any instrument which shall have taken effect prior to July, 1925.

230.15 Limit of suspension. The absolute power of alienation shall not be suspended by any limitation or condition whatever for a longer period than during the continuance of a life or lives in being at the creation of the estate and 30 years thereafter, except when real estate is given, granted or devised to a charitable use or to literary or charitable corporations which have been organized under the laws of this state, for their sole use and benefit, or to any cemetery corporation, society or association, or to any person pursuant to the unit ownership act as provided in ss. 230.70 to 230.97, nor shall this section apply to gifts, grants, devises or bequests absolute, limited or in trust, for the advancement of medical science, to a state society of physicians and surgeons incorporated under the laws of this state.

History: 1967 c. 59.

230.16 Suspension of period of alienation. The period during which the absolute right of alienation may be suspended by any instrument in execution of a power shall be

computed from the time of the creation of the power and not from the date of such instrument.

History: 1965 c. 52.

230.17 Who not to take under power. No estate or interest can be given or limited to any person by an instrument in execution of a power which such person would not have been capable of taking under the instrument by which the power was granted.

History: 1965 c. 52.

230.22 Meaning of "without heirs" or "without issue." When a remainder shall be limited to take effect on the death of any person without heirs, or heirs of his body, or without issue, the words "heirs" or "issue" shall be construed to mean heirs or issue living at the death of the person named as ancestor.

230.23 Limitations on chattels real. All the provisions in this chapter contained, relative to future estates, shall be construed to apply to limitations of chattels real as well as freehold estates, so that the absolute ownership of a term of years shall not be suspended for a longer period than the absolute power of alienation can be suspended in respect to a fee.

230.24 Commencing in futuro. Subject to the rules established in the preceding sections of this chapter a freehold estate, as well as a chattel real, may be created to commence at a future day; an estate for life may be created in a term of years and a remainder limited thereon.

230.25 Alternative estates. Two or more future estates may also be created to take effect in the alternative, so that if the first in order should fail to vest the next in succession shall be substituted for it and take effect accordingly.

230.26 Improbable contingency. No future estate, otherwise valid, shall be void on the ground of the probability or improbability of the contingency on which it is limited to take effect.

230.27 Abridging precedent estate. A remainder may be limited on a contingency which, in case it should happen, will operate to abridge or determine the precedent estate; and every such remainder shall be construed a conditional limitation and shall have the same effect as such a limitation would have by law.

230.28 Rule in Shelley's Case abolished. When a remainder shall be limited to the heirs or heirs of the body of a person to whom a life estate in the same premises shall be given the persons who, on the termination of the life estate, shall be the heirs or heirs of the body of such tenant for life shall be entitled to take as purchasers by virtue of the remainder so limited to them.

230.29 Remainders abridging first estate. When a remainder on an estate for life or for years shall not be limited on a contingency defeating or avoiding such precedent estate it shall be construed as intended to take effect only on the death of the first taker or the expiration by lapse of time of such term of years.

230.30 Rights of posthumous children. When a future estate shall be limited to heirs, or issue, or children, posthumous children shall be entitled to take in the same manner as if born before the death of the parents.

230.31 Effect of birth of, on future estates. A future estate depending on the contingency of the death of any persons without heirs or issue or children shall be defeated by the birth of a posthumous child of such person capable of taking by descent.

230.32 Expectant estates not defeated. No expectant estate can be defeated or barred by any alienation or other act of the owner of the intermediate or precedent estate, nor by any destruction of such precedent estate by disseizin, forfeiture, surrender, merger or otherwise.

230.33 When, may be defeated. Section 230.32 shall not be construed to prevent an expectant estate from being defeated in any manner or by any act or means which the party creating such estate shall, in the creation thereof, have provided or authorized; nor shall an expectant estate thus liable to be defeated be, on that ground, adjudged void in its creation.

230.34 Premature determination of precedent estate. No remainder valid in its creation shall be defeated by the determination of the precedent estate before the happening of the contingency on which the remainder is limited to take effect; but should such

contingency afterward happen the remainder shall take effect in the same manner and to the same extent as if the precedent estate had continued to the same period.

230.35 Qualities of expectant estates. Expectant estates are descendible, devisable and alienable in the same manner as estates in possession.

An assignment of an interest in a trust of a beneficiary in the absence of fraud, estate which would be payable on the death of a beneficiary of vitiating circumstances of the life beneficiary cannot be set aside is not enough. Estate of Tantilio, 24 W on the petition of the trustee in bankruptcy (2d) 19, 127 NW (2d) 798.

230.36 Rents and profits. Disposition of the rents and profits of lands, to accrue and be received at any time subsequent to the execution of the instrument creating such disposition, shall be governed by the rules established in this chapter in relation to future estates in land.

230.37 Accumulations. Income from real and personal property may be accumulated for the benefit of any person or persons for such periods as may be directed by will or other written instrument sufficient to pass such property.

230.40 Rents, right of owner of next estate. When, in consequence of a valid limitation of an expectant estate, there shall be a suspension of the power of alienation or of the ownership, during the continuance of which the rents and profits shall be undisposed of and no valid direction for their accumulation is given, such rents and profits shall belong to the person presumptively entitled to the next eventual estate.

230.41 Expectant estate, when created. The delivery of the grant, where an expectant estate is created by grant, and where it is created by devise, the death of the testator, shall be deemed the time of the creation of the estate.

230.42 Expectant estates abolished. All expectant estates, except such as are enumerated and defined in this chapter, are abolished.

230.43 Severalty, joint tenancy, in common. Estates, in respect to the number and connection of their owners, are divided into estates in severalty, in joint tenancy and in common; the nature and properties of which, respectively, shall continue to be such as are now established by law, except so far as the same may be modified by the provisions of these statutes.

230.44 Estates in common. All grants and devises of land made to two or more persons, except as provided in section 230.45, shall be construed to create estates in common, and not in joint tenancy, unless expressly declared to be in joint tenancy.

230.45 Joint tenancies. (1) Section 230.44 shall not apply to mortgages, nor to devises or grants made in trust, or made to executors, or to husband and wife.

(2) Any deed, transfer or assignment of real or personal property from husband to wife or from wife to husband which conveys an interest in the grantor's lands or personal property and by its terms evinces an intent on the part of the grantor to create a joint tenancy between grantor and grantee shall be held and construed to create such joint tenancy, and any husband and wife who are grantor and grantee in any such deed, transfer or assignment heretofore given shall hold the property described in such deed, transfer or assignment as joint tenants.

(3) Any deed to 2 or more grantees, including any deed in which the grantor is also one of the grantees, which, by the method of describing such grantees or by the language of the granting or habendum clause therein evinces an intent to create a joint tenancy in grantees shall be held and construed to create such joint tenancy.

(1) refers only to 230.44 but it does not in a land contract, are subject to the con- mean that items of personality not specifi- verse of the rule stated in 230.44. Estate cally excluded, such as a vendor's interest of Fischer, 22 W (2d) 637, 126 NW (2d) 596.

230.455 Liens not to defeat right of survivorship. No real estate mortgage, chattel mortgage, conditional sales contract or lien effected pursuant to s. 45.37 (12), ch. 49, s. 71.13 (3) (b), s. 72.81 (6) and ch. 289 upon the joint tenancy interest of a joint tenant to any joint tenancy shall defeat the right of survivorship in such joint tenancy, but the joint tenancy interest of such joint tenant to which upon his death the surviving joint tenant succeeds shall be subject to such real estate mortgage, chattel mortgage, conditional sales contract or lien effected pursuant to s. 45.37 (12), ch. 49, s. 71.13 (3) (b), s. 72.81 (6) and ch. 289.

230.46 Nominal conditions disregarded. When any conditions annexed to a grant or conveyance of land are merely nominal and evince no intention of actual and substantial benefit to the party to whom or in whose favor they are to be performed they may be wholly

disregarded, and a failure to perform the same shall in no case operate as a forfeiture of the lands conveyed subject thereto.

230.47 Certificate of the termination of life estate and survivorship. (1) Whenever a person has died or shall hereafter die who was during his or her lifetime entitled to an estate for life in any real estate in this state or whenever one joint tenant in any real estate has died or may hereafter die leaving surviving his co-tenant, upon application by duly verified petition of any person interested in such real estate to the county court of the residence of the deceased (or if the deceased was a nonresident, of the county where the real estate is situated), the county judge may issue and shall deliver to the petitioner a certificate, under the seal of the county court, setting forth the fact of the death of such life tenant, or of such joint tenant, and the termination of such life estate, or the right of survivorship of any joint tenant and other facts essential to a determination of the rights of the parties interested, which certificate, or a duplicate or a certified copy thereof, when recorded in the office of the register of deeds of the county in which such real estate is situated shall be prima facie evidence of the facts therein recited.

(1m) (a) In proceedings had to terminate joint tenancy the assets of the deceased joint tenant shall be subject to the payment of debts and obligations as provided in s. 49.08 (2).

(b) No certificate terminating joint tenancy shall be issued or adjudication in a final judgment or order for assignment regarding the termination of such joint tenancy shall be made or given until the debts and obligations of the deceased joint tenant as described in s. 49.08 are paid or otherwise protected by lien and the judge is satisfied that there has been compliance with this section and so finds.

(c) This subsection applies only to counties having a population of 500,000 or more.

(2) An administrator or executor shall include in his inventory the interest which the decedent owned as such joint tenant or life tenant before his death. The county court shall adjudicate in the final judgment or order for assignment regarding the termination of such joint tenancy or life estate and regarding such other facts as are essential to a full and final determination of the rights of the parties interested.

(3) An administrator or executor shall include in his inventory the interest which the decedent owned as such joint tenant or life tenant before his death. The county court shall adjudicate in the final judgment or order for assignment regarding the termination of such joint tenancy or life estate and regarding such other facts as are essential to a full and final determination of the rights of the parties interested; and the provisions of sub. (1m) shall apply. The debts and obligations to be paid as provided in s. 49.08 shall be paid either from the assets of the estate, if any, or the property, real or personal or both, held in joint tenancy; except that if there is no personal property or the personal property is insufficient to pay the debt and obligation then a lien under s. 49.08 against the real property is created for any unsatisfied amount involved. This subsection is authority only to counties having a population of 500,000 or more.

230.48 Certificate of termination of joint tenancy in personalty. (1) Upon the death of one or more or all joint tenants in any real estate mortgage or in any real estate mortgage note, bank account, stock, bond, chose in action or other personal property, any surviving cotenant or any person interested in such real estate mortgage or real estate mortgage note, bank account, stock, bond, chose in action or other personal property may petition the county court of the county where decedent resided during his lifetime or if the deceased was a nonresident, of the county where the property is located for a certificate of the termination of such tenancy and of his survivorship. Upon such application the same proceedings shall be had, and a similar certificate issued as is provided in s. 230.47 and with like effect.

(1m) (a) In proceedings had to terminate joint tenancy the assets of the deceased joint tenant shall be subject to the payment of debts and obligations as provided in s. 49.08 (2).

(b) No certificate terminating joint tenancy shall be issued or adjudication in a final judgment or order for assignment regarding the termination of such joint tenancy shall be made or given until the debts and obligations of the deceased joint tenant as described in s. 49.08 are paid and the judge is satisfied that there has been compliance with this section and so finds.

(c) This subsection applies only to counties having a population of 500,000 or more.

(2) An administrator or executor shall include in his inventory the interest which the decedent owned as such joint tenant in any real estate mortgage note, bank account, stock, bond, chose in action or other personal property before his death. The county court shall adjudicate in the final judgment or order for assignment regarding the termination of

such joint tenancy and regarding such other facts as are essential to a full determination of the rights of the parties interested.

(3) An administrator or executor shall include in his inventory the interest which the decedent owned as such joint tenant in any real estate mortgage note, bank account, stock, bond, chose in action or other personal property before his death. The county court shall adjudicate in the final judgment or order for assignment regarding the termination of such joint tenancy and regarding such other facts as are essential to a full determination of the rights of the parties interested; and the provisions of sub. (1m) shall apply. The debts and obligations to be paid as provided in s. 49.08 shall be paid either from the assets of the estate, if any, or the property, real or personal or both, held in joint tenancy; except that if there is no personal property or the personal property is insufficient to pay the debt and obligation then a lien under s. 49.08 against the real property is created for any unsatisfied amount involved. This subsection is authority only to counties having a population of 500,000 or more.

230.70 Unit ownership act. Sections 230.70 to 230.97 shall be known as the "Unit Ownership Act"; and said act is meant when the term "this act" is used in said sections.

History: 1963 c. 78.

230.71 Definitions. As used in ss. 230.70 to 230.97, unless the context requires otherwise:

(1) "Unit" means a part of the property subject to this act intended for any type of independent use, including one or more cubicles of air at one or more levels of space, or one or more rooms or enclosed spaces located on one or more floors (or parts thereof) in a building, and with a direct exit to a public street or highway or to a common area or limited common area leading to such street or highway.

(2) "Unit owner" means the person who owns a unit and an undivided interest in the common areas and facilities appurtenant to such unit in the percentage specified and established in the declaration.

(3) "Unit number" means the number, letter, or combination thereof, designating the unit in the declaration.

(4) "Association of unit owners" means all of the unit owners acting as a group in accordance with the bylaws and declaration.

(5) "Building" means a structure containing 2 or more units, or 2 or more structures each containing 1 or more units and comprising a part of the property.

(6) "Common areas and facilities," unless otherwise provided in the declaration or amendments thereto, include:

- (a) The land on which the building is located;
- (b) The foundations, columns, girders, beams, supports, main walls, roofs, halls, corridors, lobbies, stairs, stairways, fire escapes and entrances and exits of the building;
- (c) The basements, yards, gardens, parking areas, storage spaces, play areas, swimming pools, parks and recreational facilities;
- (d) The premises for the lodging of janitors or persons in charge of the property;
- (e) Installations of central services such as power, light, gas, hot and cold water, heating, refrigeration, air conditioning and incinerating;
- (f) The elevators, tanks, pumps, motors, fans, compressors, ducts and in general all apparatus and installations existing for common use;
- (g) Such community and commercial facilities as may be provided for in the declaration; and

(h) All other parts of the property necessary or convenient to its existence, maintenance and safety, or normally in common use.

(7) "Common expenses" mean:

(a) All sums lawfully assessed against the unit owners by the association of unit owners; and

(b) Expenses declared common expenses by this act or by the declaration or bylaws.

(8) "Common profits" mean the balance of all income, rents, profits and revenues from the common areas and facilities remaining after the deduction of the common expenses.

(9) "Declaration" means the instrument by which the property is subject to this act, and such declaration as amended from time to time.

(10) "Limited common areas and facilities" mean those common areas and facilities designated in the declaration as reserved for use of a certain unit to the exclusion of the other units in the building.

(11) "Majority" or "majority of unit owners" means the unit owners with more than 50% of the votes in accordance with the votes assigned in the declaration to the units for voting purposes.

(12) "Person" means individual, corporation, partnership, association, trustee or other legal entity.

(13) "Property" means the air space, the land, the building, all improvements and structures thereon, all owned in fee simple absolute or held under a lease having an unexpired term of not less than 50 years at the time of recording of the declaration, and all easements, rights and appurtenances belonging thereto, and all articles of personal property intended for use in connection therewith, which have been or are intended to be subject to this act.

History: 1963 c. 78; 1965 c. 468; 1967 c. 59.

230.72 Application of act. This act is applicable only to property, the sole owner or all of the owners of which submit the same to the provisions hereof by duly executing and recording a declaration as hereinafter provided.

History: 1963 c. 78.

230.73 Status of the units. Each unit, together with its undivided interest in the common areas and facilities, shall for all purposes constitute real property.

History: 1963 c. 78.

230.74 Ownership of units. Each unit owner shall be entitled to the exclusive ownership and possession of his unit.

History: 1963 c. 78.

230.75 Common areas and facilities. (1) Each unit owner shall be entitled to an undivided interest in the common areas and facilities in the percentage expressed in the declaration. Such percentage may be computed by taking as a basis the value of the unit in relation to the value of the property or by such other means as is set forth in the declaration.

(2) The percentage of the undivided interest of each unit owner in the common areas and facilities as expressed in the declaration shall have a permanent character and shall not be altered without the consent of all of the unit owners expressed in an amended declaration duly recorded. The percentage of the undivided interest in the common areas and facilities shall not be separated from the unit to which it appertains and shall be deemed to be leased, conveyed or encumbered with the unit even though such interest is not expressly mentioned or described in the conveyance or other instrument.

(3) The common areas and facilities shall remain undivided and no unit owner or any other persons shall bring any action for partition or division of any part thereof, unless the property has been removed from this act as provided in ss. 230.85 and 230.95. Any covenant to the contrary shall be void.

(4) Each unit owner may use the common areas and facilities in accordance with the purpose for which they were intended in accordance with the declaration and bylaws without hindering or encroaching upon the lawful rights of the other unit owners.

(5) The necessary work of maintenance, repair and replacement of the common areas and facilities and the making of any additions or improvements thereto shall be carried out only as provided herein and in the bylaws.

(6) The association of unit owners shall have the irrevocable right, to be exercised by the manager or board of directors, to have access to each unit during reasonable hours as may be necessary for the maintenance, repair or replacement of any of the common areas and facilities therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common areas and facilities or to another unit.

History: 1963 c. 78; 1967 c. 59.

230.76 Compliance with covenants, bylaws and administrative provisions. Each unit owner shall comply strictly with the bylaws and with the administrative rules adopted pursuant thereto, as either of the same are amended from time to time, and with the covenants, conditions, and restrictions set forth in the declaration or in the deed to his unit. Failure to comply with any of the same shall be ground for action to recover sums due, for damages or injunctive relief or both maintainable by the manager or board of directors on behalf of the association of unit owners or, in a proper case, by an aggrieved unit owner.

History: 1963 c. 78.

230.77 Certain work prohibited. No unit owner shall do any work which would jeopardize the soundness or safety of the property, reduce the value thereof or impair any easement or hereditament without first obtaining, in every such case, the unanimous consent of all the other unit owners.

History: 1963 c. 78.

230.78 Liens against units; removal from lien; effect of part payment. (1) Subsequent to recording the declaration under this act, and while the property remains subject to said act, no lien shall thereafter arise or be effective against the property. During such period liens or encumbrances shall arise or be created only against each unit and the percentage of undivided interest in the common areas and facilities appurtenant to such unit, in the same manner and under the same conditions in every respect as liens or encumbrances may arise or be created upon or against any other separate parcel of real property subject to individual ownership. No labor performed or materials furnished with the consent or at the request of a unit owner, his agent or his contractor or subcontractor, shall be the basis for the filing of a lien pursuant to the lien law against the unit or any other property of any other unit owner not expressly consenting to or requesting the same, except that such express consent shall be deemed to be given by the owner of any unit in the case of emergency repairs thereto. Labor performed or materials furnished for the common areas and facilities, if duly authorized by the association of unit owners, the manager or board of directors in accordance with this act, the declaration or bylaws, shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien pursuant to the lien law against each of the units and shall be subject to sub. (2).

(2) If a lien becomes effective against 2 or more units, any unit owner may remove the lien from his unit and from the percentage of undivided interest in the common areas and facilities appurtenant to such unit by payment of the fractional or proportionate amount attributable to his unit, such amount to be computed by reference to the percentages appearing on the declaration. Subsequent to such payment, the unit and the percentage of undivided interest in the common areas and facilities appurtenant thereto shall be free and clear of lien. Partial payment, satisfaction or discharge as to one unit shall not prevent the lienor from proceeding to enforce his lien rights against any other units and the percentage of undivided interest in the common areas and facilities appurtenant thereto, for the amount attributable to such other units.

History: 1963 c. 78.

230.79 Common profits and expenses. The common profits of the property shall be distributed among, and the common expenses shall be charged to, the unit owners according to the percentage of the undivided interest in the common areas and facilities.

History: 1963 c. 78.

230.80 Contents of declaration. The declaration shall contain the following particulars:

(1) Description of the land on which the building and improvements are or are to be located.

(2) Description of the building, stating the number of stories and basements, the number of units and the principal materials of which it is or is to be constructed.

(3) The unit number of each unit, and a statement of its location, approximate area, number of rooms, and immediate common area to which it has access, and any other data necessary for its proper identification.

(4) Description of the common areas and facilities.

(5) Description of the limited common areas and facilities, if any, stating to which units their use is reserved.

(6) The value (value is used as the basis for the determination of the undivided interest in the common and limited common areas) of the property and of each unit, and the percentage of undivided interest in the common areas and facilities appertaining to each unit and its owner and the vote or percentage of votes to be given to each unit owner.

(7) Statement of the purposes for which the building and each of the units are intended and restricted as to use.

(8) The name of a person to receive service of process in the cases hereinafter provided, together with the residence or place of business of such person which is within the city or county in which the building is located, and the method by which the association of unit owners may designate a successor to such person.

(9) Provision as to the percentage of votes by the unit owners which shall be determinative of whether to rebuild, repair, restore or sell the property in the event of damage or destruction of all or part of the property.

(10) Any further details in connection with the property which the person executing the declaration deems desirable to set forth consistent with this act.

(11) The method by which the declaration may be amended, consistent with this act.

(12) The declaration of trust shall be signed by the owners of the property in the same manner as required in conveyances of real property.

History: 1963 c. 78; 1967 c. 59.

230.81 Contents of deeds of units. Deeds of units shall include the following particulars:

(1) Description of the land as provided in s. 230.80, the post-office address of the property, including in either case the volume and page, or the reel and image, and date of recording of the declaration.

(2) The unit number of the unit in the declaration and any other data necessary for its proper identification.

(3) Statement of the use for which the unit is intended and restrictions on its use, or, in lieu of such statement, a reference to the recorded documents containing such information.

(4) The percentage of undivided interest appertaining to the unit in the common areas and facilities.

(5) Any further details which the grantor and grantee deem desirable to set forth consistent with the declaration and this act.

History: 1963 c. 78; 1967 c. 59.

230.82 Survey map and floor plans to be recorded. There shall be recorded, as a part of the declaration, a plat of survey of the land showing the location of each building built or to be built thereon and a set of floor plans of each building built or to be built thereon, and such plans shall show the layout, location, unit numbers and dimensions of the units, stating the name of the building or that it has no name, and bearing the verified statement of an architect or professional engineer certifying that it is an accurate copy of portions of the plans of each building as filed with and approved by the municipality or other governmental subdivision or other public agency having jurisdiction over the issuance of permits for the construction of buildings. In interpreting the survey map or floor plans or any deed or other instrument affecting a building or unit, the boundaries of the building or unit constructed or reconstructed in substantial accordance with the survey map and floor plans shall be conclusively presumed to be the actual boundaries rather than the description expressed in the survey map or floor plans, regardless of the settling or lateral movement of the building and regardless of minor variations between boundaries shown on the survey map and floor plans and those of the building or unit as located and erected. After the substantial completion of any building, there may be recorded a verified statement of an architect or professional engineer that the plans and plat of the survey map theretofore recorded, or being recorded simultaneously with such statement substantially depicts the layout, location, unit numbers and dimensions of the building or buildings and units as located and erected.

History: 1963 c. 78; 1967 c. 59.

230.83 Blanket mortgages and other blanket liens affecting a unit at time of first conveyance. As a condition to the first transfer of title to each unit:

(1) Every mortgage and other lien affecting such unit, including the undivided interest in the common areas and facilities appurtenant to such unit, shall be paid and satisfied of record, or

(2) The unit being transferred and the undivided interest in the common areas and facilities appurtenant thereto shall be released by partial release duly recorded, or

(3) Such mortgage or other lien shall provide for or be amended to provide for a release of the unit and the undivided interest in the common areas and facilities appurtenant thereto from the lien of the mortgage or other lien upon the payment of a sum certain.

History: 1963 c. 78.

230.84 Recording. The declaration, any amendments thereof, any instrument by which the provisions of this act may be waived, and every instrument affecting the

property or any unit shall be entitled to be recorded. Neither the declaration nor any amendment thereof is valid unless duly recorded.

History: 1963 c. 78.

230.85 Removal from provisions of this act. (1) All of the unit owners may remove a property from the provisions of this act by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the units consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property.

(2) Upon removal of the property from this act, the property shall be deemed to be owned in common by the unit owners. The undivided interest in the property owned in common which appertains to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities.

History: 1963 c. 78.

230.86 Removal no bar to subsequent resubmission. The removal provided for in s. 230.85 shall in no way bar the subsequent resubmission of the property to this act.

History: 1963 c. 78.

230.87 Bylaws. The administration of every property shall be governed by bylaws.

History: 1963 c. 78.

230.88 Contents of bylaws. The bylaws may provide for:

(1) The election from among the unit owners of a board of directors, the number of persons constituting the same, and that the terms of at least one-third of the directors shall expire annually; the powers and duties of the board; the compensation, if any, of the directors; the method of removal from office of directors; and whether or not the board may engage the services of a manager or managing agent.

(2) Method of calling meetings of the unit owners; what percentage, if other than a majority, of unit owners shall constitute a quorum.

(3) Election of a president from among the board of directors who shall preside over the meetings of the board of directors and of the association of unit owners.

(4) Election of a secretary who shall keep the minute book wherein resolutions shall be recorded.

(5) Election of a treasurer who shall keep the financial records and books of account.

(6) Maintenance, repair and replacement of the common areas and facilities and payments therefor, including the method of approving payment vouchers.

(7) Manner of collecting from the unit owners their share of the common expense.

(8) Designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.

(9) Method of adopting and of amending administrative rules governing the details of the operation and use of the common areas and facilities.

(10) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common areas and facilities, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of their respective units and of the common areas and facilities by the several unit owners.

(11) The percentage of votes required to amend the bylaws.

(12) Other provisions deemed necessary for the administration of the property consistent with this act.

History: 1963 c. 78.

230.89 Books of receipts and expenditures; availability for examination. The manager or board of directors shall keep detailed, accurate records in chronological order, of the receipts and expenditures affecting the common areas and facilities, specifying and itemizing the maintenance and repair expenses of the common areas and facilities and any other expenses incurred. Such records and the vouchers authorizing the payments shall be available for examination by the unit owners at convenient hours of week days.

History: 1963 c. 78.

230.90 Waiver of use of common areas and facilities; abandonment of unit. No unit owner may exempt himself from liability for his contribution towards the common expenses by waiver of the use or enjoyment of any of the common areas and facilities or by abandonment of his unit.

History: 1963 c. 78.

230.91 Separate taxation. (1) Each unit and its percentage of undivided interest in the common areas and facilities shall be deemed to be a parcel and shall be subject to separate assessments and taxation by each assessing unit and special district for all types of taxes authorized by law including but not limited to special ad valorem levies and special assessments. Neither the building, the property nor any of the common areas and facilities shall be deemed to be a parcel separate from the unit.

(2) The rights, duties and obligations of unit owners under this act shall inure to and be binding upon grantees under tax deeds and persons acquiring title by foreclosure of tax liens and their successors in interest.

History: 1963 c. 78.

230.92 Priority of lien. (1) All sums assessed by the association of unit owners but unpaid for the share of the common expenses chargeable to any unit shall constitute a lien on such unit and on the undivided interest in the common areas and facilities appurtenant thereto prior to all other liens except only (a) liens of general and special taxes, (b) all sums unpaid on a first mortgage recorded prior to the making of such assessment, and (c) mechanics' liens filed prior to the making of such assessment. Such lien may be foreclosed by suit by the manager or board of directors, acting on behalf of the unit owners, in like manner as a mortgage of real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the unit, if so provided in the bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The manager or board of directors, acting on behalf of the unit owners, may, unless prohibited by the declaration, bid in the unit at foreclosure sale, and acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid common expenses shall be maintainable without foreclosing or waiving the lien securing the same.

(2) Where the holder of a first mortgage of record or other purchaser of a unit obtains title to the unit and the undivided interest in the common areas and facilities appurtenant thereto as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of the common expenses or assessments by the association of unit owners chargeable to such unit which became due prior to the acquisition of title to such unit by such acquirer. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners excluding such acquirer, his successors and assigns.

History: 1963 c. 78.

230.93 Joint and several liability of grantor and grantee for unpaid common expenses. In a voluntary conveyance the grantee of a unit shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. However, any such grantee shall be entitled to a statement from the manager or board of directors, setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the unit conveyed be subject to a lien for, any unpaid assessment against the grantor in excess of the amount therein set forth.

History: 1963 c. 78.

230.94 Insurance. The manager or the board of directors, if required by the declaration, bylaws or by a majority of the unit owners, or at the request of the holder of a first mortgage of record covering a unit, shall have the authority to, and shall, obtain insurance for the property against the loss or damage by fire and such other hazards under such terms and for such amounts as is required or requested. Such insurance coverage shall be written on the property in the name of such manager or of the board of directors of the association of unit owners, as trustee for each of the unit owners in the percentages established in the declaration. Premiums shall be common expenses. Provision for such insurance shall be without prejudice to the right of each unit owner to insure his own unit for his benefit.

History: 1963 c. 78.

230.95 Disposition of property; destruction or damage. If, within 90 days of the date of the damage or destruction to all or part of the property, it is not determined by the association of unit owners to repair, reconstruct or rebuild, then:

(1) The property shall be deemed to be owned in common by the unit owners;

(2) The undivided interest in the property owned in common which appertains to each unit owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

(3) Any liens affecting any of the units shall be deemed to be transferred in accordance with the existing priorities to the percentage of the undivided interest of the unit owner in the property as provided herein; and

(4) The property shall be subject to an action for partition at the suit of any unit owner, in which event the net proceeds of sale, together with the net proceeds of the insurance on the property, if any, shall be considered as one fund and shall be divided among all the unit owners in a percentage equal to the percentage of undivided interest owned by each owner in the property, after first paying out of the respective shares of the unit owners, to the extent sufficient for the purpose, all liens on the undivided interest in the property owned by each unit owner.

History: 1963 c. 78.

230.96 Actions. Without limiting the rights of any unit owner, actions may be brought by the manager or board of directors, in either case in the discretion of the board of directors, on behalf of 2 or more of the unit owners, as their respective interests may appear, with respect to any cause of action relating to the common areas and facilities of more than one unit. Service of process on 2 or more unit owners in any action relating to the common areas and facilities of more than one unit may be made on the person designated in the declaration to receive service of process.

History: 1963 c. 78.

230.97 Personal application. (1) All unit owners, tenants of such owners, employes of owners and tenants, or any other persons that in any manner use property or any part thereof subject to this act shall be subject to this act and to the declaration and bylaws of the association of unit owners adopted pursuant to this act.

(2) All agreements, decisions and determinations lawfully made by the association of unit owners in accordance with the voting percentages established in this act, declaration or bylaws, shall be deemed to be binding on all unit owners.

History: 1963 c. 78.