



1997 ASSEMBLY BILL 537

September 29, 1997 - Introduced by Representatives GREEN, GROTHMAN, ALBERS, GOETSCH, F. LASEE, J. LEHMAN, MUSSER, SKINDRUD, HANSON, OTTE, LA FAVE, KELSO, SERATTI, STASKUNAS, HAHN, PORTER, BAUMGART and ZIEGELBAUER, cosponsored by Senators ROESSLER, A. LASEE, PLACHE, WIRCH and C. POTTER. Referred to Committee on Housing.

1 **AN ACT** *to renumber* 703.02 (1); *to amend* 703.02 (16), 703.07 (1), 703.07 (2),
2 703.11 (2) (a), 703.11 (2) (d), 703.11 (3), 703.13 (4), 703.26 (3) (a), 703.26 (3) (b),
3 703.275 (1) and 703.28 (1); *to repeal and recreate* 703.275 (5); and *to create*
4 703.02 (1b), 703.02 (1h), 703.02 (14g), 703.095, 703.11 (2) (am), 703.115 and
5 703.28 (1m) of the statutes; **relating to:** recording requirements for
6 condominium instruments.

Analysis by the Legislative Reference Bureau

This bill makes the following changes and additions to the law governing the preparation and recording of condominium instruments:

1. Requires that a condominium declaration (the instrument that, once recorded, subjects a property to the law governing condominiums) and condominium plat be presented together for recording and requires the first page of the condominium plat to contain a blank space at least 2.5 inches by 2.5 inches in size for recording use by the register of deeds.

2. Provides that a condominium instrument (a declaration, plat or plan of a condominium, together with any attached exhibits or schedules) may only be modified by recording an amendment, addendum or instrument of correction or by removal of all or part of the condominium from the law governing condominiums (a procedure that all unit owners initiate, with the consent of the holders of liens affecting any of the units).

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3. Provides that if 2 or more condominiums merge into a single condominium, both a restatement of the declaration of the resultant condominium that includes the merger agreement and an addendum to the plat of the resultant condominium must be recorded and that the register of deeds must reference the document number, volume and page of the plat of the resultant condominium on the plat of the preexisting condominium and note that the preexisting condominium has been merged.

4. Requires the removal of a condominium from the law governing condominiums before a condominium plat or certified survey map may be recorded for the same property and requires the removal of 2 condominiums whose merger results in the creation of a new plat.

5. Defines an addendum as a condominium instrument that modifies a recorded condominium plat, an amendment as a condominium instrument that modifies a recorded condominium declaration and a removal instrument as an instrument other than an instrument of conveyance that removes property from the law governing condominiums.

6. Redefines a unit number to eliminate the use of alphanumeric unit numbers and provides that a unit number may not contain more than 8 numerals and must be unique throughout the condominium.

7. Requires instruments of correction to refer to the condominium instrument being corrected; requires amendments and addenda to be numbered consecutively and to bear the name of the condominium as it appears in the declaration; requires the name of a condominium to be unique in the county in which the condominium is located and provides that if 2 condominiums merge, the resultant condominium must bear the name of one of the preexisting condominiums.

8. Authorizes a county that uses an optical imaging system for storage and retrieval of records to adopt an ordinance requiring the filing of legible paper copies of survey maps and floor plans with dimensions no greater than 8.5 inches in length and 14 inches in width, in addition to the statutorily prescribed archival maps and floor plans with dimensions of 14 inches in length and 22 inches in width.

9. Authorizes a county to adopt an ordinance to require local review of condominium plats before recording and to charge a fee that reflects the actual cost of performing the review.

10. Provides that the percentage interest in the common elements may be changed with approval of at least 75% of both the unit owners and their mortgagees, rather than 100%, as required under current law.

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

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1 **SECTION 2.** 703.02 (1b) of the statutes is created to read:

2 703.02 **(1b)** “Addendum” means a condominium instrument that modifies a
3 recorded condominium plat.

4 **SECTION 3.** 703.02 (1h) of the statutes is created to read:

5 703.02 **(1h)** “Amendment” means a condominium instrument that modifies a
6 recorded condominium declaration.

7 **SECTION 4.** 703.02 (14g) of the statutes is created to read:

8 703.02 **(14g)** “Removal instrument” means an instrument that complies with
9 the requirements of s. 59.43 (2m) and that removes property from the provisions of
10 this chapter upon recording. A removal instrument does not include an instrument
11 of conveyance.

12 **SECTION 5.** 703.02 (16) of the statutes is amended to read:

13 703.02 **(16)** “Unit number” means the number, ~~letter or combination thereof,~~
14 identifying a unit in a declaration.

15 **SECTION 6.** 703.07 (1) of the statutes is amended to read:

16 703.07 **(1)** A condominium may only be created by recording condominium
17 instruments with the register of deeds of the county where the property is located.
18 A condominium declaration and plat shall be presented together to the register of
19 deeds for recording.

20 **SECTION 7.** 703.07 (2) of the statutes is amended to read:

21 703.07 **(2)** A condominium instrument, and all amendments, addenda and
22 certifications of a condominium instrument, shall be recorded in every county in
23 which any portion of the condominium is located, and shall be indexed in the name
24 of the declarant and the name of the condominium. Subsequent instruments
25 affecting the title to a unit which is physically located entirely within a single county

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1 shall be recorded only in that county, notwithstanding the fact that the common
2 elements are not physically located entirely within that county. Subsequent
3 amendments and addenda shall be indexed under the name of the condominium.

4 **SECTION 8.** 703.095 of the statutes is created to read:

5 **703.095 Modification and correction of recorded condominium**
6 **instruments, amendments and addenda.** A recorded condominium instrument,
7 amendment or addendum may only be modified by recording an amendment,
8 addendum or instrument of correction, or by removal from the provisions of this
9 chapter under s. 703.28 (1). The register of deeds may not record an instrument of
10 correction if it does not refer to the instrument being corrected and may not record
11 amendments and addenda unless they are numbered consecutively and bear the
12 name of the condominium as it appears in the declaration.

13 **SECTION 9.** 703.11 (2) (a) of the statutes is amended to read:

14 703.11 (2) (a) The name of the condominium and county in which the property
15 is located on each sheet of the plat. The name of the condominium must be unique
16 in the county in which the condominium is located. If there is more than one sheet,
17 each sheet shall be consecutively numbered and show the relation of that sheet
18 number to the total number of sheets.

19 **SECTION 10.** 703.11 (2) (am) of the statutes is created to read:

20 703.11 (2) (am) A blank space at least 2.5 inches by 2.5 inches in size on the
21 first sheet for recording use by the register of deeds.

22 **SECTION 11.** 703.11 (2) (d) of the statutes is amended to read:

23 703.11 (2) (d) ~~All~~ Legibly prepared survey maps and floor plans ~~submitted for~~
24 ~~filing shall be legibly prepared~~ with a binding margin of 1.5 inches on the left side
25 and a one-inch margin on all other sides on durable white paper 14 inches in length

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1 and 22 inches in width with nonfading black image or reproduced with photographic
2 silver haloid image on double matt polyester film of not less than 4 millimeter
3 thickness and 14 inches long by 22 inches wide. The maps and plans shall be drawn
4 to a convenient scale. If a county uses an optical imaging system for storage and
5 retrieval of records, the county board may adopt an ordinance requiring the filing of
6 additional, legible paper copies of survey maps and floor plans having dimensions no
7 greater than 8.5 inches in length and 14 inches in width.

8 **SECTION 12.** 703.11 (3) of the statutes is amended to read:

9 703.11 (3) DESIGNATION OF UNITS. Every unit shall be designated on the
10 condominium plat by the unit number ~~or other appropriate designation.~~ Unit
11 numbers may not contain more than 8 numerals and must be unique throughout the
12 condominium.

13 **SECTION 13.** 703.115 of the statutes is created to read:

14 **703.115 Local review of condominium plats. (1)** A county may adopt an
15 ordinance to require the review of condominium plats before recording by reviewers
16 employed by the county of recording or by a city, village or town that is located in
17 whole or in part in the county of recording if the ordinance does all of the following:

18 (a) Requires the reviewer to complete the review within 10 working days after
19 submission of the condominium plat.

20 (b) Requires the first page of the condominium plat to contain a space for the
21 reviewer's signature and title and requires the reviewer to certify approval of the
22 condominium plat with his or her signature if it complies with the requirements of
23 s. 703.11 and, if applicable, ss. 703.095, 703.275 (5) and 703.28 (1m).

24 (c) Provides that if the reviewer fails to complete the review within the required
25 10-day period, the condominium plat is approved for recording.

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1 (2) An ordinance adopted under this section may authorize the county to
2 charge a fee that reflects the actual cost of performing the review.

3 **SECTION 14.** 703.13 (4) of the statutes is amended to read:

4 703.13 (4) CHANGE IN PERCENTAGE INTEREST. The percentage interests shall have
5 a permanent character and, except as specifically provided by this chapter, may not
6 be changed without the written consent of ~~all of~~ at least 75% of both the unit owners
7 and their mortgagees. Any change shall be evidenced by an amendment to the
8 declaration and recorded among the appropriate land records. The percentage
9 interests may not be separated from the unit to which they appertain. Any
10 instrument, matter, circumstance, action, occurrence or proceeding in any manner
11 affecting a unit also shall affect, in like manner, the percentage interests
12 appurtenant to the unit.

13 **SECTION 15.** 703.26 (3) (a) of the statutes is amended to read:

14 703.26 (3) (a) If the conditions of sub. (2) are complied with, property may be
15 added to a condominium if the declarant records an amendment to the declaration,
16 showing the new percentage interests of the unit owners, and the votes which each
17 unit owner may cast in the condominium as expanded, and records an amendment
18 addendum to the condominium plat that includes the detail and information
19 concerning the new property as required in the original condominium plat.

20 **SECTION 16.** 703.26 (3) (b) of the statutes is amended to read:

21 703.26 (3) (b) On recording of an amendment of a declaration and an addendum
22 to a plat, each unit owner, by operation of law, has the percentage interests in the
23 common elements, liabilities in the common expenses, rights to common surpluses,
24 and shall have the number of votes, set forth in the amendment to the declaration.
25 Following any expansion, the interest of any mortgagee shall attach, by operation of

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1 law, to the new percentage interests in the common elements appurtenant to the unit
2 on which it is a lien.

3 **SECTION 17.** 703.275 (1) of the statutes is amended to read:

4 703.275 (1) AGREEMENT; LEGAL EFFECT. Any 2 or more condominiums, by
5 agreement of the unit owners as provided in this section, may be merged or
6 consolidated into a single condominium. Unless the agreement otherwise provides,
7 the condominium resulting from a merger or consolidation is, for all purposes, the
8 legal successor of all of the preexisting condominiums and the operations and
9 activities of all associations of the preexisting condominiums shall be merged or
10 consolidated into a single association which shall hold all powers, rights, obligations,
11 assets and liabilities of the preexisting associations. The resultant condominium
12 must bear the name of one of the preexisting condominiums.

13 **SECTION 18.** 703.275 (5) of the statutes is repealed and recreated to read:

14 703.275 (5) RECORDING. Both a restatement of the declaration of the resultant
15 condominium that includes the merger agreement and an addendum to the
16 condominium plat of the resultant condominium shall be recorded as provided in s.
17 703.07. The register of deeds shall reference the document number, volume and page
18 of the plat of the resultant condominium on the plat of the preexisting condominium
19 and shall note that the preexisting condominium has been merged.

20 **SECTION 19.** 703.28 (1) of the statutes is amended to read:

21 703.28 (1) All of the unit owners may remove all or any part of the property from
22 the provisions of this chapter by ~~an instrument to that effect~~ a removal instrument,
23 duly recorded, provided that the holders of all liens affecting any of the units consent
24 thereto or agree, in either case by instruments duly recorded, that their liens be

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1 transferred to the percentage of the undivided interest of the unit owner in the
2 property.

3 **SECTION 20.** 703.28 (1m) of the statutes is created to read:

4 703.28 **(1m)** (a) If the merger of 2 or more condominiums under s. 703.275 would
5 result in the creation of a new plat for the resultant condominium, the property of
6 the preexisting condominiums shall first be removed from the provisions of this
7 chapter by recording a removal instrument.

8 (b) Before a certified survey map, condominium plat, subdivision plat or other
9 plat may be recorded for the same property, the condominium shall first be removed
10 from the provisions of this chapter by recording a removal instrument.

11 **SECTION 21. Initial applicability.**

12 (1) The treatment of section 703.115 of the statutes first applies to
13 condominium plats submitted for review on the effective date of this subsection.

14 **SECTION 22. Effective date.**

15 (1) This act takes effect on the first day of the 6th month beginning after
16 publication.

17 **(END)**