

2003 ASSEMBLY BILL 254

AN ACT *to repeal* 703.02 (1d), 703.255 and 703.38 (11); *to renumber* 703.16 (2), 703.275 (2) (intro.) (except 703.275 (2) (title)), 703.275 (2) (a), 703.275 (2) (b), 703.33 (2) (b) (form) 1., 703.33 (3) and 709.02; *to renumber and amend* 703.08 (1), 703.09 (1) (k), 703.16 (3) to (9), 703.33 (4) and 703.38 (10); *to amend* 703.02 (7), 703.02 (14m), 703.06, 703.08 (2) (intro.), 703.09 (1) (h), 703.09 (2), 703.11 (2) (c), 703.13 (5) (a), 703.13 (6) (c) and (d), 703.15 (1), 703.15 (3) (b) 1., 703.15 (4) (d) 1., 703.19 (8), 703.27, 703.275 (1), 703.33 (2) (intro.), 703.33 (2) (a) (form) 2., 703.33 (2) (a) (form) 3., 703.33 (2) (c), 703.365 (title), (1), (2) and (3), 703.365 (4), (5), (6) (a) (intro.) and (c), (7) and (8) and 703.37; *to repeal and recreate* 703.24; and *to create* 703.08 (1) (a), (b) and (c), 703.08 (3), 703.09 (4), 703.093, 703.11 (5), 703.13 (5m), 703.13 (8), 703.15 (3) (b) 8., 703.155 (7), 703.16 (2) (b), 703.161, 703.163, 703.165 (title) and (1), 703.195, 703.20 (3), 703.265, 703.275 (2) (ac), 703.315, 703.33 (1) (h), 703.33 (1m), 703.33 (2) (b) (form) 1c., 703.33 (3c),

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703.33 (4) (b) and (c), 703.365 (3m), 703.38 (10) (b), 709.02 (2) and 823.015 of the statutes; **relating to:** revisions and additions to condominium law.

Analysis by the Legislative Reference Bureau

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

PREFATORY NOTE: This bill was developed by the Joint Legislative Council's Special Committee on Condominium Law Review. The provisions of the bill are described throughout the bill in NOTES to individual provisions.

1 **SECTION 1.** 703.02 (1d) of the statutes is repealed.

NOTE: Repeals the definition of "allocated interests" from the general definitions section of ch. 703. The term is used only in s. 703.275, relating to merger or consolidation of condominiums. Consequently, the term is defined by this bill in s. 703.275 for purposes of s. 703.275. See SEC. 45 of the bill.

2 **SECTION 2.** 703.02 (7) of the statutes is amended to read:

3 703.02 (7) "Declarant" means any owner who subjects his or her property to a
4 condominium declaration established under this chapter. The term includes an
5 assignee of the declarant under s. 703.09 (4).

NOTE: The term "declarant" will include an assignee of the declarant if the conditions of new sub. (4) of current s. 703.09 are met. See SEC. 15 of the bill.

6 **SECTION 3.** 703.02 (14m) of the statutes is amended to read:

7 703.02 (14m) "Small residential condominium" means a condominium with no
8 more than ~~4~~ 12 units, ~~all of which are restricted to residential uses.~~

NOTE: Revises the definition of "small residential condominium" by increasing the maximum number of units from 4 to 12 and eliminating the requirement that all the units be restricted to residential uses. As a result, the defined term is changed to "small condominium". See also SECS. 59 to 61 of the bill, which make related changes to current s. 703.365, relating to small residential condominiums.

The expanded availability of the streamlined regulations for the creation and operation of "small" condominiums under s. 703.365 reflects the utility and acceptance of the regulations, enacted in 1986.

9 **SECTION 4.** 703.06 of the statutes is amended to read:

10 **703.06 Alterations prohibited.** Except as otherwise provided in this
11 chapter, no unit owner may ~~do~~ make any alteration which ~~that~~ would jeopardize the

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1 soundness or safety of the property, reduce the value thereof, or impair any easement
2 or hereditament, or change the exterior appearance of a unit or any other portion of
3 the condominium not part of the unit.

NOTE: For convenience, adds reference in this section to the general prohibition in
s. 703.13 (5) (a) against changing the exterior appearance of a unit or of any other portion
of the condominium without permission of the association board of directors.

4 **SECTION 5.** 703.08 (1) of the statutes is renumbered 703.08 (1) (intro.) and
5 amended to read:

6 703.08 (1) (intro.) Residential real property may not be converted to a
7 condominium unless the owner of the residential real property gives ~~120 days'~~ prior
8 written notice of the conversion to each of the tenants of the building or buildings
9 scheduled for conversion. ~~A tenant has the exclusive option to purchase the unit for~~
10 ~~a~~ During the 60-day period of 60 days immediately following the date of delivery of
11 the notice a tenant has the first right to purchase the unit, if the unit is offered for
12 sale at any time during that period, for any of the following:

NOTE: See the NOTE to SEC. 7, below.

13 **SECTION 6.** 703.08 (1) (a), (b) and (c) of the statutes are created to read:

14 703.08 (1) (a) The price at which the unit is being offered on the market.

15 (b) The price contained in any accepted offer to purchase the unit.

16 (c) The price otherwise agreed to by the tenant and the seller.

NOTE: See the NOTE to SEC. 7, below.

17 **SECTION 7.** 703.08 (2) (intro.) of the statutes is amended to read:

18 703.08 (2) (intro.) A tenant may not be required to vacate the property during
19 the 120-day period immediately following the date of delivery of the notice required
20 under sub. (1) except for:

NOTE: Under current law, residential property may not be converted to a
condominium unless the property owner gives 120 days' prior written notice of the
conversion to each of the tenants of the building scheduled for conversion. A tenant has
the "exclusive option to purchase" the unit for a period of 60 days following the date of
delivery of the notice. SECTIONS 5 to 8 of this bill revise current law by:

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SECTION 7

1. Providing that the property may be converted to a condominium immediately upon completion of the notice requirement, rather than 120 days after notice. However, the tenant's rights relating to occupying and purchasing the property are preserved.

2. Clarifying that during the 60-day period immediately following the date of delivery of the conversion notice, a tenant has the "first right to purchase" (not the "exclusive option to purchase") the unit if the unit is offered for sale at any time during the 60-day period:

a. For the price at which the unit is being offered on the market.

b. For the price contained in any accepted offer to purchase the unit (from any prospective purchaser, not just the tenant).

c. For the price otherwise agreed to by the tenant and the seller.

3. Expressly authorizing the tenant to waive in writing his or her occupancy right and first right to purchase.

1 **SECTION 8.** 703.08 (3) of the statutes is created to read:

2 703.08 (3) A tenant may waive in writing his or her first right of purchase under
3 sub. (1), his or her right to remain on the property under sub. (2), or both.

NOTE: See the NOTE to SEC. 7, above.

4 **SECTION 10.** 703.09 (1) (h) of the statutes is amended to read:

5 703.09 (1) (h) ~~The name of the person to receive service of process in the cases~~
6 ~~provided in this chapter, together with the and address of that person and the method~~
7 ~~by which the association may designate a successor to the person the resident agent~~
8 ~~under s. 703.23.~~

NOTE: Substitutes reference to the "resident agent under s. 703.23" for the current requirement that the declaration include the name of the person "to receive service of process in the cases provided in this chapter". Since s. 703.23, stats., also provides for changing the resident agent, the bill also removes the requirement that the declaration indicate the method by which the association may designate a successor to the person designated to receive service of process.

9 **SECTION 11.** 703.09 (1) (k) of the statutes is renumbered 703.09 (1c) and
10 amended to read:

11 703.09 (1c) A condominium declaration shall be signed by the owners of the
12 property and any first mortgagee of the property or the holder of an equivalent
13 security interest in the property in the same manner as required in conveyances of
14 real property.

NOTE: Requires the declaration to be signed by any first mortgagees of the property or the holders of an equivalent security interest, in addition to the owners of the property. This requirement applies only to the declaration submitted for recording under s. 703.07

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(1) in order to establish the condominium; it does not apply to amendments to the declaration.

1 **SECTION 14.** 703.09 (2) of the statutes is amended to read:

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

NOTE: 1. Amends the exception clause to add reference to s. 703.09 (4), created by SEC. 15 of the bill; to s. 703.093, created by SEC. 16 of the bill; and to s. 703.13 (6) (c) and (d) and (8) (b), treated by SECS. 22 and 23 of the bill. The added references contain different declaration amendment procedures than the general procedure contained in s. 703.09 (2).

2. Clarifies that reference to "two-thirds of the unit owners" is to two-thirds of the aggregate of the votes (established under current s. 703.09 (1) (f)). The current reference is ambiguous.

3. Provides that the required mortgagee approval applies to first mortgagees only and must be in writing and that approval by the person serving the first mortgage loan constitutes approval by the first mortgagee.

4. Requires the document submitting the declaration amendment for recording to state that the required consents and approvals for the amendment were received.

See SEC. 16 of the bill for a new alternative procedure for amending the declaration.

15 **SECTION 15.** 703.09 (4) of the statutes is created to read:

16 703.09 (4) A declarant may assign his or her rights and obligations as a
17 declarant under this chapter by recording an amendment to the declaration that

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1 includes the assignment and an acceptance of the assignment that is signed by the
2 assignee and acknowledged. A declarant may not assign under this subsection less
3 than all of his or her rights and obligations as a declarant under this chapter.

NOTE: Gives express authorization for a declarant to assign all of his or her rights
and obligations as a declarant under ch. 703 if the declarant records an amendment to
the declaration that includes the assignment and an acceptance of the assignment that
is signed by the assignee and acknowledged. Inclusion of this express authority is not
intended to imply that a declarant currently may not assign rights and obligations.

4 **SECTION 16.** 703.093 of the statutes is created to read:

5 **703.093 Alternative procedure for amending declaration. (1)** As an
6 alternative to s. 703.09 (2), a condominium declaration may be amended under this
7 section if at least two-thirds of the aggregate of the votes established under s. 703.09
8 (1) (f), or a greater percentage if provided in the declaration, consent to the
9 amendment in writing and those consents are approved by the mortgagees or holders
10 of equivalent security interests in the units. An amendment becomes effective when
11 it is recorded in the same manner as the declaration.

12 **(2)** The association has 180 days to secure the required consents and approvals
13 under this section, commencing with the recording of an affidavit with the register
14 of deeds of the county in which the condominium is located. The affidavit shall do
15 all of the following:

16 (a) Set forth the text of the proposed amendment.

17 (b) Provide the name and address of the senior executive officer of the
18 association to whom inquiries should be directed with regard to the proposed
19 amendment.

20 (c) State that a notice was sent to each owner of record and each lender of record
21 for each unit of the association on the date the affidavit is recorded.

22 (d) Be signed by the senior executive officer of the association.

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1 **(3)** Notice of a proposed amendment to a declaration under this section shall
2 be mailed on the date the affidavit is recorded under sub. (2) to the owner of each
3 condominium unit and to any mortgagee of, or holder of an equivalent security
4 interest in, each unit, as identified in a title report prepared on the date the notice
5 is sent.

6 **(4)** The notice mailed under sub. (3) shall do all of the following:

7 (a) Contain a copy of the text of the proposed amendment and a current copy
8 of this section.

9 (b) Include a written ballot to be signed by the unit owner, identifying the unit
10 casting the ballot and identifying each owner of record of that unit as of the date the
11 affidavit is recorded under sub. (2). The ballot shall include a place for any mortgagee
12 or equivalent security interest holder to whom notice is sent under sub. (3) to indicate
13 its approval or objection under sub. (5) (b).

14 (c) State that, if more than one person is an owner of the unit and the owners
15 cannot agree how to cast the ballot, the unit's vote shall be treated as a vote in
16 opposition to the proposed amendment.

17 (d) State that a ballot signed by only one owner shall count as the ballot of that
18 unit, unless more than one ballot is received by the association for that unit, in which
19 case all ballots received for that unit must concur in the vote cast or the ballots,
20 collectively, shall be treated as a vote in opposition to the proposed amendment by
21 that unit.

22 (e) State that the proposed amendment must be voted on as written and that
23 no changes to the proposed amendment may be accomplished by this vote.

24 (f) Include the address to which the completed ballot should be mailed or
25 delivered.

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1 **(5)** (a) The owner of each unit shall vote on the proposed amendment by signing
2 the ballot before a notary public and by mailing the signed and notarized ballot or
3 by personally delivering it to the association of unit owners at the applicable address
4 specified under sub. (4) (f).

5 (b) Each mortgagee or equivalent security interest holder receiving the notice
6 under sub. (3) shall signify its approval or objection to the amendment by having an
7 authorized person sign the ballot before a notary public and by returning the signed,
8 notarized ballot to the association.

9 **(6)** The association may rely on the list of owners of record set forth in a title
10 report obtained as of the date the affidavit is recorded under sub. (2), unless the
11 association receives a written notice, signed and notarized by both the previous
12 owner and the new owner, advising the association that ownership of the unit has
13 changed. The association shall send a copy of the notice under sub. (3) to the new
14 owner of a unit and any mortgagee or equivalent security interest holder promptly
15 after receiving notice of the transfer of ownership. It is the responsibility of the new
16 unit owner to comply with this section. If the previous owner had voted prior to the
17 change in ownership, the new owner may execute the ballot included in the notice
18 under sub. (3), which ballot, when returned by the new owner, shall supersede and
19 replace any ballot cast by the previous owner if the required approval of any
20 mortgagee or equivalent security interest holder is also timely received. The
21 180-day period applicable to receipt of the ballot for the unit shall be extended to a
22 date 14 days after the ballot is mailed by the association if the ballot is mailed within
23 14 days before the end of the 180-day period.

24 **(7)** Any person acquiring a mortgage or equivalent security interest on a unit
25 after the affidavit is recorded under sub. (2) may notify the association in writing of

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1 the mortgage or equivalent security interest lien, identifying the unit on which it
2 holds a lien, and signify its approval of or objection to the proposed amendment to
3 the declaration.

4 **(8)** If the association receives the required number of consents and approvals
5 from unit owners and mortgagees and equivalent security interest holders within
6 the required time after the affidavit is recorded under sub. (2), the senior executive
7 officer of the association shall record an amendment in the office of the register of
8 deeds of the county in which the condominium is located, setting forth the facts
9 satisfying the requirements of this section and providing record notice to all
10 interested persons that the declaration has been revised, effective upon the
11 recording of the amendment, and restating the entire declaration, as amended.

12 **(9)** The association shall, for a period of 2 years following the recording of the
13 amended declaration under sub. (8), retain on file and make available for inspection
14 at the place where the condominium financial records are maintained all of the
15 following:

- 16 (a) The title report under sub. (6) relied upon by the association.
17 (b) All of the ballots received by the association from unit owners.
18 (c) All written approvals or objections received by the association from
19 mortgagees and equivalent security interest holders.

NOTE: Provides an alternative procedure for amending the declaration. The key feature is that the association has 180 days to secure the required consents and approvals and may rely on the list of owners of record contained in a title report at the beginning of the 180-day period. (The current amendment procedure does not include this 180-day "window," but there is no limit on how long the current procedure may take. Provision is made for notice of the proposed amendment to new unit owners and lienholders during the 180-day period and for the new owners and lienholders to cast a ballot replacing the ballot of the previous owner and lienholder. Provision is made to extend the 180-day period 14 days if the ballot is mailed to the new owner and lienholder within 14 days before the end of the 180-day period.

The procedure contains substantial detail concerning the commencement of the 180-day period; required notice; voting by unit owners and lienholders and subsequent

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unit owners and lienholders; recording the amended declaration; and retention of materials related to the amendment for 2 years.

1 **SECTION 18.** 703.11 (2) (c) of the statutes is amended to read:

2 703.11 (2) (c) ~~Diagrammatic floor plans~~ Plans that show the location of each
3 building located or to be located on the property ~~which show~~ and, if there are units
4 in a building, that show the perimeters, approximate dimensions, ~~floor area~~
5 approximate square footage, and location of each unit in ~~it~~ the building. Common
6 elements shall be shown graphically to the extent feasible.

NOTE: Simplifies the required content of a condominium plat by substituting “plans showing the location of each building” for “diagrammatic floor plans of each building”, adding “perimeters”, and substituting “approximate square footage” for “floor area”. Also makes editorial changes. Reference in the revised provision to “plans” is not intended to include the construction plans for the building, including all the separate plans that comprise the construction plans.

7 **SECTION 19.** 703.11 (5) of the statutes is created to read:

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

NOTE: Clarifies that an amendment of a condominium plat (addendum) that is not included as part of an amendment to the declaration is to be accomplished in the same manner as an amendment to the declaration.

12 **SECTION 20.** 703.13 (5) (a) of the statutes is amended to read:

13 703.13 (5) (a) A unit owner may make any improvements or alterations within
14 his or her unit that do not impair the structural integrity or lessen the support of any
15 portion of the condominium and that do not create a nuisance substantially affecting
16 the use and enjoyment of other units or the common elements. A unit owner may not
17 change the exterior appearance of a unit or of any other portion of the condominium
18 without permission of the board of directors of the association.

NOTE: For convenience, expressly limits the unit improvements or alterations that a unit owner may make to exclude those that create a nuisance in the use and enjoyment

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of other units or the common elements. Reference to “nuisance” is intended to include both nuisance under common law and nuisance under other law, e.g., ch. 823, stats.

1 **SECTION 21.** 703.13 (5m) of the statutes is created to read:

2 703.13 **(5m)** IMPROVEMENTS TO LIMITED COMMON ELEMENTS. (a) If permitted by
3 the condominium instruments and subject to par. (b) and to any restrictions or
4 limitations specified in the condominium instruments, a unit owner may improve,
5 including the enclosure of, the limited common elements appurtenant exclusively to
6 that owner’s unit if all of the following conditions are met:

7 1. A statement describing the improvement, including a description of the
8 project, the materials to be used, and the project’s proposed impact on the appearance
9 of the condominium, and identifying the project contractor is submitted to the board
10 of directors of the association.

11 2. The improvement will not interfere with the use and enjoyment of the units
12 of other unit owners or the common elements or limited common elements of the
13 condominium.

14 3. The improvement will not impair the structural integrity of the
15 condominium.

16 4. Any change to the exterior appearance of the condominium is approved by
17 the board of directors of the association.

18 (b) All costs and expenses of an improvement under this subsection and any
19 increased costs of maintenance and repair of the limited common elements resulting
20 from the improvement are the obligation of the unit owner. The unit owner shall
21 protect the association and other unit owners from liens on property of the
22 association or of other unit owners that otherwise might result from the
23 improvement.

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NOTE: Allows a unit owner, at the owner's expense, to improve limited common elements appurtenant exclusively to that owner's unit if permitted by the condominium instruments and if the specified conditions are met.

1 **SECTION 22.** 703.13 (6) (c) and (d) of the statutes are amended to read:

2 703.13 **(6)** (c) An amendment to a declaration shall identify the units involved
3 and shall state that the boundaries between those units are being relocated by
4 agreement of the unit owners thereof. The amendment shall contain words of
5 conveyance between those unit owners, and when recorded shall also be indexed in
6 the name of the grantor and grantee. If the adjoining unit owners have specified in
7 their written application the reallocation between their units of the aggregate
8 undivided interest in the common elements appertaining to those units, the
9 amendment to the declaration shall reflect that reallocation. An amendment to a
10 declaration under this paragraph shall be adopted, at the option of the adjoining unit
11 owners, either under s. 703.09 (2) or by the written consent of the owners of the
12 adjoining units involved and the mortgagees of the adjoining units.

NOTE: Current s. 703.13 (6), stats., contains a procedure for changing boundaries between adjoining condominium units when the condominium instruments permit a relocation and the adjoining unit owners desire the relocation. One element of that procedure is an amendment to the declaration, describing the boundary change and any reallocation of interests in the adjoining unit owners' respective interests in the common elements. [s. 703.13 (6) (c), stats.]

Section 703.13 (6) (c) is amended to allow a declaration amendment under the boundary change procedure to be accomplished simply with the approval of the adjoining unit owners and the mortgagees of the adjoining units, if any. (The general method of amending the declaration under s. 703.09 (2) may, at the option of the adjoining unit owners, continue to be used instead of the simplified procedure.)

13 (d) If the adjoining unit owners have specified in their written application a
14 reasonable reallocation, as determined by the board of directors, of the number of
15 votes in the association or liabilities for future common expenses not specially
16 assessed, appertaining to their units, an amendment to the condominium
17 instruments shall reflect those reallocations. An amendment to a declaration under
18 this paragraph shall be adopted in the manner specified in par. (c).

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NOTE: The procedure for relocating boundaries between adjoining condominium units also provides that if the adjoining unit owners have specified in the written application a reasonable allocation, as determined by the board of directors, of the number of votes in the association or liabilities for future common expenses not specially assessed that pertain to the units, an amendment to the condominium instruments is to reflect those reallocations. This bill provides that an amendment to a declaration under this provision is adopted in the same manner as described in paragraph 2 of the NOTE immediately above.

1 **SECTION 23.** 703.13 (8) of the statutes is created to read:

2 703.13 **(8)** MERGER OF UNITS. (a) If any condominium instruments expressly
3 permit the merger of 2 or more adjoining units into one unit, a merger shall be made
4 in accordance with this subsection and any restrictions and limitations specified in
5 the condominium instruments.

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

19 (c) Plats and plans showing the boundaries and dimensions of the new unit
20 together with the new identifying number or letter shall be prepared. The plats and
21 plans shall be certified as to their accuracy and compliance with this subsection by

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1 a civil engineer, architect, or licensed land surveyor authorized to practice in this
2 state.

3 (d) After appropriate instruments have been prepared and executed, they shall
4 be delivered promptly to the owner or owners of the merged unit upon payment by
5 the owner or owners of all reasonable costs for their preparation. Those instruments
6 are effective when executed by the owner or owners of the merged unit and recorded
7 in the office of the register of deeds of the county where the property is located. The
8 recording of the instruments is conclusive evidence that the merger did not violate
9 any restriction or limitation specified by the condominium instruments and that any
10 reallocations made under this subsection were reasonable.

NOTE: Provides a procedure for merging adjoining condominium units based on
current procedures for: relocating boundaries between adjoining condominium units [s.
703.13 (6), stats.]; and separation of a unit into one or more units [s. 703.13 (7), stats.].
The procedure includes a simplified means of amending the declaration.

11 **SECTION 24.** 703.15 (1) of the statutes is amended to read:

12 703.15 (1) LEGAL ENTITY. The affairs of every condominium shall be governed
13 by an association ~~which~~ that, even if unincorporated, is constituted a legal entity for
14 all purposes. Except for matters reserved to the association members or unit owners
15 by this chapter, the declaration, or the bylaws, all policy and operational decisions
16 of the association, including interpretation of the condominium instruments,
17 bylaws, rules, and other documents relating to the condominium or the association,
18 shall be made by its board of directors. This subsection does not affect the deference
19 accorded to, or the standard of review of, an action of the board of directors by a court.

NOTE: Clarifies the prevailing, but not always known, view of the role of the
association board of directors: with the exception of matters reserved to association
members or unit owners by ch. 703, the declaration, or bylaws, all policy and operational
decisions of the association are made by the board. Policy and operational decisions
include, but are not limited to, interpretation of condominium instruments, bylaws, rules,
and other documents relating to the condominium or the association.

20 **SECTION 25.** 703.15 (3) (b) 1. of the statutes is amended to read:

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1 703.15 (3) (b) 1. Make contracts and incur liabilities, including borrowing funds
2 in the name of the association in the manner specified in the bylaws under s. 703.10
3 (2) (f).

NOTE: For illustrative purposes, expressly provides that a condominium association, subject to any restrictions and limitations specified by the declaration, may borrow funds in the name of the association in the manner specified in the bylaws as part of its general authority to make contracts and incur liabilities. The exercise of this authority by an association is subject to current s. 703.25, relating to the tort and contract liability of an association.

4 **SECTION 26.** 703.15 (3) (b) 8. of the statutes is created to read:

5 703.15 (3) (b) 8. Purchase goods and services jointly with other condominium
6 associations or other persons.

NOTE: Expressly authorizes a condominium association, subject to any restrictions and limitations specified by the declaration, to purchase goods and services jointly with other condominium associations or other persons.

7 **SECTION 27.** 703.15 (4) (d) 1. of the statutes is amended to read:

8 703.15 (4) (d) 1. At meetings of the association every unit owner is entitled to
9 cast the number of votes appurtenant to his or her unit, as established in the
10 declaration under s. 703.09 (1) (f). Unit owners may vote by proxy, but, the proxy is
11 effective only for a maximum period of 180 days following its issuance, unless
12 granted to a mortgagee or lessee. If only one of multiple owners of a unit is present
13 at a meeting of the association, the owner is entitled to cast the votes allocated to that
14 unit.

NOTE: For convenience, indicates by cross-reference that the number of votes appurtenant to a condominium unit is established in the declaration.

15 **SECTION 28.** 703.155 (7) of the statutes is created to read:

16 703.155 (7) REPRESENTATION OF CONDOMINIUM OR NONCONDOMINIUM PROPERTY. A
17 master association may represent condominium or noncondominium property on
18 behalf of one or more condominiums and property under a different form of
19 ownership or for the benefit of the unit owners of one or more condominiums and the
20 owners of other property.

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NOTE: Clarifies the authority of a master association to represent either condominium property or noncondominium property: (a) on behalf of one or more condominiums and property under a different form of ownership; or (b) for the benefit of the unit owners of one or more condominiums and the owners of other property.

1 **SECTION 29.** 703.16 (2) of the statutes is renumbered 703.16 (2) (a).

2 **SECTION 30.** 703.16 (2) (b) of the statutes is created to read:

3 703.16 (2) (b) During the period of declarant control of the association under
4 s. 703.15 (2) (c), if any unit owned by the declarant is exempt from assessments for
5 common expenses until the unit is sold, the total amount assessed against units that
6 are not exempt from assessments may not exceed the amount that equals nonexempt
7 units' budgeted share of common expenses, based on the anticipated common
8 expenses set forth in the annual budget under s. 703.161 (2) (a). The declarant is
9 liable for the balance of the actual common expenses.

10 **SECTION 31.** 703.16 (3) to (9) of the statutes are renumbered 703.165 (2) to (8),
11 and 703.165 (2), (4), (5) (intro.) and (8) (form), as renumbered, are amended to read:

12 703.165 (2) LIABILITY FOR ASSESSMENTS. A unit owner shall be liable for all
13 assessments, or instalments thereof, coming due while owning a unit, including any
14 assessments coming due during the pendency of any claim by the unit owner against
15 the association or during any period in which the unit is not occupied by the unit
16 owner or is leased or rented to any other person. In a voluntary grant, the grantee
17 shall be jointly and severally liable with the grantor for all unpaid assessments
18 against the grantor for his or her share of the common expenses up to the time of the
19 voluntary grant for which a statement of condominium lien is recorded, without
20 prejudice to the rights of the grantee to recover from the grantor the amounts paid
21 by the grantee for such assessments. Liability for assessments may not be avoided
22 by waiver of the use or enjoyment of any common element or by abandonment of the
23 unit for which the assessments are made.

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NOTE: Expressly provides that a condominium unit owner is liable for any assessments coming due during the pendency of any claim by the unit owner against the association or during any period the unit is not occupied by the unit owner or is leased or rented to any other person. While the new language is within the scope of current language, it is added for clarification.

1 **(4)** STATEMENT. Any grantee of a unit is entitled to a statement from the
2 association or the executive board, setting forth the amount of unpaid assessments
3 against the grantor ~~and the~~. The grantee is not liable for, nor shall the unit conveyed
4 be subject to a lien ~~which~~ that is not filed under sub. ~~(4)~~ (3) for, any unpaid assessment
5 against the grantor in excess of the amount set forth in the statement. If an
6 association or a board of directors does not provide such a statement within 10
7 business days after the grantee's request, they are barred from claiming under any
8 lien ~~which~~ that is not filed under sub. ~~(4)~~ (3) prior to the request for the statement
9 against the grantee.

10 **(5)** PRIORITY OF LIEN. (intro.) ~~All sums assessed by an association but unpaid~~
11 ~~for the share of the common expenses chargeable to any unit constitutes a lien on the~~
12 ~~unit and on the undivided interest in the common elements appurtenant thereto~~ A
13 lien under this section is prior to all other liens except:

14 **(8)** (form)

Statement of Condominium Lien

15 This is to certify that owner(s) of unit No. in
16 Condominium (is) (are) indebted to the association in the amount of \$..... as of
17 (year) for (his) (her) (its) (their) (proportionate share of common expenses
18 of the Condominium) (damages to the condominium) (penalties for violation of
19 condominium declaration, bylaws, or rules) for the period from (date) to (date), plus
20 interest thereon at the rate of%, costs of collection, and actual attorney fees.

22 Association

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1 By:

2 Officer’s title (or agent)

3 Address

4 Phone number

5 I hereby affirm under penalties of perjury that the information contained in the
6 foregoing Statement of Condominium Lien is true and correct to the best of my
7 knowledge, information, and belief.

8

9 Officer (or agent)

NOTE: See SEC. 34 of the bill, which creates an expanded definition of “assessments”
for purposes of the above lien provisions.

10 **SECTION 32.** 703.161 of the statutes is created to read:

11 **703.161 Annual budget. (1) APPLICATION.** This section applies to any
12 condominium that includes at least one unit that is restricted to residential use.

13 **(2) REQUIREMENT.** An association annually shall adopt and distribute to all unit
14 owners an annual budget setting forth all of the following:

15 (a) All anticipated common expenses and any amounts to be allocated to a
16 statutory reserve account under s. 703.163 and to any other funds for future
17 expenditures.

18 (b) The amount and purpose of any other anticipated association expenditure.

19 (c) The amount in any statutory reserve account under s. 703.163 or any other
20 funds held for future expenditures.

21 (d) Any common surpluses.

22 (e) The amount and source of any income, other than unit owner assessments.

23 (f) The aggregate amount of any assessment to be levied against unit owners
24 and the purpose of the assessment.

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NOTE: Requires the condominium association for condominiums that include at least one unit that is restricted to residential use to annually adopt and distribute to all unit owners an annual budget setting forth:

1. All anticipated common expenses and any amounts to be allocated to a statutory reserve account and to any other funds for future expenditures.
2. The amount and purpose of any other anticipated association expenditure.
3. The amount in any statutory reserve account or any other funds held for future expenditures.
4. Any common surpluses.
5. The amount and source of any income, other than unit owner assessments.
6. The aggregate amount of any assessment to be levied against unit owners and the purpose of the assessment.

If there is a statutory reserve account for the condominium, the annual budget must provide reserve funds for the account. See s. 703.163 (7) (intro.), created by SEC. 33 of the bill, below.

1 **SECTION 33.** 703.163 of the statutes is created to read:

2 **703.163 Statutory reserve account. (1) DEFINITIONS.** In this section:

3 (a) “Reserve funds” means funds derived from assessments against unit owners
4 that are deposited in a statutory reserve account. The term does not include funds
5 for ordinary operations, including amounts held for operational contingencies.

6 (b) “Statutory reserve account” means a separate account established under
7 this section to hold reserve funds.

8 (c) “Statutory reserve account statement” means a statement indicating
9 whether a statutory reserve account has been established for a condominium and,
10 if there is no statutory reserve account, how it is anticipated that future expenditures
11 for the repair and replacement of common elements will be funded.

12 **(2) APPLICATION; OTHER RESERVE ACCOUNTS NOT AFFECTED.** (a) 1. Except as
13 provided in subs. 2. and 3., this section applies to condominiums consisting
14 exclusively of units that are restricted to residential uses.

15 2. This section does not apply to a small condominium unless the declarant or
16 the association, with the written consent of a majority of the unit votes, elects to be
17 governed by this section.

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1 3. This section applies to a condominium consisting of both residential and
2 nonresidential units if the declarant or the association, with the written consent of
3 a majority of the unit votes of the residential units and a majority of the unit votes
4 of the nonresidential units, elects to be governed by this section.

5 (b) This section does not affect a reserve account or a similar account existing
6 on the effective date of this paragraph [revisor inserts date], or a reserve account
7 or similar account established on or after the effective date of this paragraph
8 [revisor inserts date], that is not a statutory reserve account.

9 **(3)** NEW CONDOMINIUMS; ESTABLISHMENT OF STATUTORY RESERVE ACCOUNT BY
10 DECLARANT. (a) Except as provided in par. (c), the declarant of a condominium that
11 is created on or after the effective date of this paragraph [revisor inserts date],
12 shall establish a statutory reserve account when the condominium is created and
13 shall execute a statutory reserve account statement. The declarant shall determine
14 the annual amount to be assessed unit owners for reserve funds after considering the
15 factors under sub. (7) (a) to (e) and, if the condominium is a conversion condominium
16 with more than 4 units, the report prepared under s. 703.33 (2) (cm) 1.

17 (b) Reserve fund assessments for the reserve account established under par. (a)
18 may first be assessed on a particular unit when a certificate of occupancy has been
19 issued that applies to that unit. The declarant may elect to defer payment of the
20 accrued assessments for a particular unit until the first conveyance of that unit. The
21 declarant may not defer payment of accrued reserve fund assessments for more than
22 5 years from the date the exterior construction of the building in which the unit is
23 located is completed. The declarant is liable for all reserve fund assessments on a
24 unit that accrue before the unit is conveyed. If there are accrued reserve fund
25 assessments against a unit, the declarant shall disclose in writing to the first

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1 purchaser of the unit whether the declarant has included any accrued reserve fund
2 assessments in the purchase price of the unit or, if not included, how any accrued
3 assessment will be paid.

4 (c) The declarant may elect not to establish a statutory reserve account under
5 par. (a) at the time the condominium is created or, at any time thereafter, may elect
6 to terminate a statutory reserve account during the period of declarant control under
7 s. 703.15 (2) (c). An election under this paragraph shall be made by executing a
8 statutory reserve account statement.

9 **(4)** NEW CONDOMINIUM; DETERMINATION BY ASSOCIATION TO ESTABLISH STATUTORY
10 RESERVE ACCOUNT. If a declarant has elected under sub. (3) (c) not to establish a
11 statutory reserve account or to terminate an account, establishment of a statutory
12 reserve account shall be addressed at the first annual meeting of the association held
13 after, or at a special meeting of the association held within one year after, the
14 expiration of any period of declarant control under s. 703.15 (2) (c). A statutory
15 reserve account is established under this subsection with the written consent of a
16 majority of the unit votes. If a statutory reserve account is established under this
17 subsection, the association shall execute a statutory reserve account statement.

18 **(5)** EXISTING CONDOMINIUMS; STATUTORY RESERVE ACCOUNT UNLESS ELECT
19 OTHERWISE. The association for a condominium created before the effective date of
20 this subsection [revisor inserts date], shall, within 18 months after the effective
21 date of this subsection [revisor inserts date], or within 18 months after the
22 expiration of any period of declarant control under s. 703.15 (2) (c), whichever is later,
23 establish a statutory reserve account unless the association, with the written
24 consent of a majority of the unit votes, elects not to establish a statutory reserve

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1 account. Upon the establishment of or the election not to establish a statutory
2 reserve account, the association shall execute a statutory reserve account statement.

3 **(6) ELECTION BY ASSOCIATION TO ESTABLISH OR TERMINATE STATUTORY RESERVE**
4 **ACCOUNT.** (a) If an association elects not to establish a statutory reserve account
5 under sub. (4) or (5), or if an association elects to terminate a statutory reserve
6 account under par. (b), the association may at any time thereafter elect to establish
7 a statutory reserve account with the written consent of a majority of the unit votes.

8 (b) An association may, at any time with the written consent of a majority of
9 the unit votes, terminate a statutory reserve account established under par. (a) or
10 sub. (3) (a), (4), or (5) except that a statutory reserve account established by a
11 declarant under sub. (3) (a) may not be terminated until after the expiration of any
12 period of declarant control under s. 703.15 (2) (c).

13 (c) Upon the establishment or termination of a statutory reserve account, the
14 association shall execute a statutory reserve account statement.

15 **(7) RESERVE FUND.** If there is a statutory reserve account for the condominium,
16 the annual budget adopted under s. 703.161 shall provide for reserve funds. Reserve
17 funds may be used as provided in sub. (8). The association shall determine the
18 amount to be assessed unit owners for reserve funds after considering all of the
19 following:

20 (a) The reserve funds currently in the statutory reserve account.

21 (b) The estimated cost of repairing or replacing common elements, other than
22 routine maintenance.

23 (c) The estimated remaining useful life of common elements.

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1 (d) The approximate proportion of the estimated cost of repairing or replacing
2 common elements that will be covered by the statutory reserve account and the
3 approximate proportion that will be funded by other means.

4 (e) Any other factor that the association considers relevant.

5 **(8) USE OF STATUTORY RESERVE ACCOUNT.** (a) Except as provided in par. (b), funds
6 in a statutory reserve account may be used for the repair and replacement of common
7 elements, other than routine maintenance.

8 (b) Funds in a statutory reserve account may be used for normal repair or
9 maintenance, customary services, or other operational costs in excess of amounts
10 budgeted and any contingency funds available for these purposes, with the written
11 consent of at least two-thirds of the unit votes. Funds from the statutory reserve
12 account used under this paragraph must be replaced within 3 years from the date
13 of withdrawal.

14 **(9) PERMITTED INVESTMENT OF RESERVE FUNDS.** Reserve funds may be invested
15 in any of the investments listed under s. 66.0603 (1m) (a).

16 **(10) LIABILITY IMMUNITY.** No declarant, unit owner, association, or director,
17 officer, manager, or employee of an association is liable in connection with the
18 establishment or termination of, or decision not to establish or terminate, a statutory
19 reserve account or for any deficiencies in the statutory reserve account that relate
20 to the determination of amounts to be assessed for reserve funds. This subsection
21 is in addition to any other liability protection available under law.

22 **(11) RECORDING OF STATUTORY RESERVE ACCOUNT STATEMENT.** Each statutory
23 reserve account statement executed under this section shall bear the name of the
24 condominium as it appears on the declaration, shall be prepared in the standard

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1 format for recorded documents under s. 59.43 (2m), and shall be recorded with the
2 register of deeds of the county where the condominium instruments are recorded.

3 **SECTION 34.** 703.165 (title) and (1) of the statutes are created to read:

4 **703.165 (title) Lien for unpaid common expenses, unpaid damages, and**
5 **unpaid penalties.**

6 **(1) DEFINITION.** In this section, “assessments” means regular and special
7 assessments for common expenses and charges, fines, or assessments against
8 specific units or unit owners for damages to the condominium or for penalties for
9 violations of the declaration, bylaws, or association rules.

NOTE: Creates a title for new s. 703.165 and a definition of assessment for use throughout the section. The definition expands the scope of the lien provisions of current s. 703.16 (3) to (9) (renumbered s. 703.165 (2) to (8) by SEC. 31 of the bill). Currently, those lien provisions apply to failure to pay assessments for common expenses. The new definition, in combination with the treatment of s. 703.16 (3) to (9) by SEC. 31 of the bill, expands the coverage of the lien provisions to include failure to pay charges, fines, or assessments for damages to the condominium and for violations of the declaration, bylaws, or association rules.

10 **SECTION 35.** 703.19 (8) of the statutes is amended to read:

11 **703.19 (8) PRESERVATION OF THE RIGHT OF APPEAL.** The owner of each unit taken
12 ~~shall have the individual right of may appeal of the necessity of taking and of the~~
13 ~~condemnation award made for the taking. An association shall have the right of A~~
14 ~~unit owner may appeal of the necessity of taking of the common elements and the~~
15 ~~right of appeal of, and the condemnation award made for the taking, of the owner's~~
16 ~~interest in the common elements. An appeal by an association shall be binding upon~~
17 ~~the individual unit owners for the necessity of taking or the condemnation award~~
18 ~~made for the taking of the common elements.~~ The unit owners having an interest
19 in the ownership of limited common elements may individually or as a group appeal
20 the necessity of taking or the condemnation award made for the taking of the limited
21 common elements.

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NOTE: Repeals the right of an association to appeal the necessity of taking, and the condemnation award made for the taking, of the common elements and the binding effect of the appeal upon individual unit owners. The revision reflects the policy judgment that individual unit owners should have the right of appeal. See also s. 703.195, created by SEC. 36 of the bill, below, for a related provision.

1 **SECTION 36.** 703.195 of the statutes is created to read:

2 **703.195 Acquisition of common elements by condemners. (1)**

3 DEFINITIONS. In this section:

4 (a) “Acquire” means to obtain title to real property by purchase or
5 condemnation.

6 (b) “Common elements” means all of a condominium except its units and any
7 limited common elements.

8 (c) “Condemnor” means a person specified in s. 32.01 (1) who has the authority
9 to condemn property under ch. 32.

10 **(2) APPLICABILITY.** This section applies to the acquisition by a condemnor of a
11 portion of the common elements of a condominium that is created 6 months or more
12 after the effective date of this subsection [revisor inserts date]. This section is in
13 addition to any applicable provision in ch. 32.

14 **(3) NOTICE TO UNIT OWNERS AND ASSOCIATION.** A condemnor who seeks to acquire
15 a portion of the common elements of a condominium and who wishes to negotiate
16 with the association instead of with each unit owner shall notify the association and
17 each unit owner of the proposed acquisition, in writing, at least 30 days before
18 delivery of the appraisal required under s. 32.05 (2) (b) or 32.06 (2) (b). The notice
19 to the unit owners shall be sent by certified mail, requesting a return receipt signed
20 by the addressee only. Notice is deemed complete on the date the addressee
21 acknowledges receipt. The notice required under this subsection is in addition to any
22 notice required under s. 32.05 or 32.06 and shall be provided simultaneously with the

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1 pamphlets that are prepared under s. 32.26 (6) and provided under ss. 32.05 (2a) and
2 32.06 (2a). The condemnor is responsible for the expense of sending the notice under
3 this subsection.

4 **(4) CONTENT OF NOTICE TO UNIT OWNERS.** The notice to the unit owners required
5 under sub. (3) shall, at a minimum, contain all of the following:

6 (a) The name and address of the condemnor.

7 (b) The legal description of the property to be acquired.

8 (c) The public purpose for which the property is being acquired and a statement
9 that the condemnor in good faith intends to use the property for that purpose.

10 (d) The following statement in substantially identical language, in at least
11 12-point bold type, if printed, or in capital letters, if typewritten:

12 THIS NOTICE IS REQUIRED BY SECTION 703.195 OF THE WISCONSIN
13 STATUTES. SECTION 703.195 OF THE WISCONSIN STATUTES PROVIDES
14 THAT THE CONDOMINIUM ASSOCIATION OF WHICH YOU ARE A MEMBER
15 MUST ACT AS YOUR AGENT TO CONVEY YOUR INTEREST IN THE
16 AFFECTED PORTION OF THE CONDOMINIUM'S COMMON ELEMENTS IF
17 YOU WISH. HOWEVER, YOU HAVE THE RIGHT TO NEGOTIATE WITH THE
18 (NAME OF ACQUIRING AGENCY) ON YOUR OWN AND MAY REFUSE TO BE
19 REPRESENTED BY THE ASSOCIATION.

20 IN ORDER FOR YOU TO PROCEED TO NEGOTIATE WITH THE (NAME
21 OF ACQUIRING AGENCY) ON YOUR OWN, YOU MUST WITHIN 30 DAYS
22 AFTER RECEIPT OF THIS NOTICE SIGN THIS DOCUMENT AT THE
23 INDICATED LOCATION AND DEPOSIT IT IN THE UNITED STATES MAIL.
24 (NAME OF ACQUIRING AGENCY) HAS ENCLOSED FOR YOUR
25 CONVENIENCE A POSTAGE PRE-PAID, ADDRESSED ENVELOPE FOR THIS

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1 PURPOSE. FAILURE TO SIGN AND RETURN THIS NOTICE MEANS THAT
2 YOU CONSENT TO THE ASSOCIATION ACTING AS YOUR AGENT TO
3 NEGOTIATE AND CONVEY YOUR INTEREST IN THE AFFECTED PORTION
4 OF THE CONDOMINIUM'S COMMON ELEMENTS.

5 IF THE ASSOCIATION ACTS AS YOUR AGENT, YOU WILL BE LEGALLY
6 BOUND BY ANY DECISION OF THE ASSOCIATION'S BOARD OF DIRECTORS
7 RELATING TO THE CONVEYANCE OF YOUR INTEREST IN THE AFFECTED
8 PORTION OF THE CONDOMINIUM'S COMMON ELEMENTS. REGARDLESS
9 OF WHETHER YOU CHOOSE TO NEGOTIATE ON YOUR OWN OR TO ALLOW
10 THE ASSOCIATION OR ANY OTHER PERSON OR ENTITY TO NEGOTIATE ON
11 YOUR BEHALF, YOU WILL RETAIN ALL RIGHTS TO CHALLENGE THE RIGHT
12 OF CONDEMNATION, THE NECESSITY OF CONDEMNATION, OR ANY
13 AMOUNT OF COMPENSATION AVAILABLE TO YOU UNDER CHAPTER 32 OF
14 THE WISCONSIN STATUTES.

15 (e) A prominent place for the unit owner to sign his or her name to indicate the
16 unit owner's objection to the association acting as the agent for the unit owner in the
17 conveyance of the common elements at issue.

18 **(5) METHOD OF OBJECTING BY UNIT OWNER.** A unit owner who objects to the
19 association acting as the agent for the owner shall indicate the objection as provided
20 on the form under sub. (4) (e) and send the form, within 30 days after the notice under
21 sub. (3) is received, to the condemnor by U.S. mail to the address indicated on the
22 notice. The objection is made when the completed form is mailed to the condemnor.
23 Before initiating negotiations with the unit owner under s. 32.05 (2a) or 32.06 (2a),
24 the condemnor shall provide the association and those unit owners who have
25 objected a written list of all of the unit owners who have objected.

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1 **(6)** NO OBJECTION BY UNIT OWNER; ASSOCIATION AS AGENT. If a unit owner does not
2 timely object under sub. (5), the unit owner is deemed to have consented to the
3 association acting as the unit owner’s agent in the conveyance of the common
4 elements at issue and the association shall act as the agent for the unit owner in the
5 conveyance to the condemnor of the unit owner’s interest in the common elements
6 at issue. Failure of the unit owner to object within the required time does not affect
7 any other rights of the unit owner under ch. 32.

8 **(7)** METHOD OF CONVEYANCE. The association shall execute any conveyance
9 under this section as the agent for each of the unit owners who did not timely object
10 under sub. (5). Those unit owners shall be identified, by name, on the conveyance.

11 **(8)** OBJECTION BY UNIT OWNER; UNIT OWNER RETAINS RIGHTS. A unit owner who
12 timely objects under sub. (5) retains all of his or her rights under ch. 32 with regard
13 to the acquisition of the common elements at issue and to unit ownership.

NOTE: Provides a procedure for a condemnor who wishes to negotiate with the association instead of with each unit owner for the acquisition of a portion of the common elements (excluding limited common elements) for a public project. The procedure is based on a Florida statute. [West’s F.S.A. s. 73.073 (2001 Supplement).] “Acquisition” refers to obtaining title to real property by purchase or condemnation.

In general terms, a condemnor who seeks to acquire a portion of the common elements is required to notify the association and each unit owner. If a unit owner fails to object to the association representing the unit owner in the property acquisition within 30 days after receiving the notice, the owner is deemed to have agreed to that representation in any subsequent proceeding relating to the acquisition of the common elements at issue.

A unit owner who timely objects to representation by the association in the acquisition retains all of his or her rights with regard to the acquisition and all other rights pertaining to unit ownership.

The optional procedure may be used only to acquire a portion of the common elements of a condominium that is created 6 months or more after the effective date of the bill.

14 **SECTION 37.** 703.20 (3) of the statutes is created to read:

15 **703.20 (3)** DECLARANT RESPONSIBILITIES FOR RECORDS. During the period of
16 declarant control under s. 703.15 (2) (c), the declarant is responsible for creating and
17 maintaining the financial and operational records of the association and shall turn

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1 the records over to the directors elected under s. 703.15 (2) (f). During the period of
2 declarant control under s. 703.15 (2) (c) and for one year thereafter, upon written
3 request to the association by the lesser of 3 unit owners or the owners of 10% of the
4 units, not including units owned by the declarant, the association shall arrange for
5 an independent audit of its financial records at the association's expense. The cost
6 of any audit requested within 36 months after the completion of a previous audit
7 shall be paid for by the requesting unit owners.

8 **SECTION 38.** 703.24 of the statutes is repealed and recreated to read:

9 **703.24 Remedies for violations by unit owner or tenant of a unit owner.**

10 **(1) DEFINITION.** In this section, "violation" means failure to comply with this chapter
11 or the declaration, bylaws, or association rules.

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

16 **(3) LIABILITY FOR VIOLATION BY TENANT.** (a) If a tenant of a unit commits a
17 violation that results in a charge, fine, or assessment imposed by the association
18 pursuant to the bylaws or association rules, the tenant is liable for the charge, fine,
19 or assessment.

20 (b) If the association complies with the notice requirement of sub. (4), the owner
21 of the unit occupied by the tenant when the violation occurred is liable for any
22 charges, fines, or assessments imposed by the association for which the tenant is
23 liable under par. (a) that are not paid by the tenant within 30 days after receiving
24 the notice under sub. (4). This paragraph does not affect the liability of the tenant

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1 to the unit owner for any charges, fines, or assessments paid by the unit owner under
2 this paragraph.

3 **(4) NOTICE REQUIREMENT FOR VIOLATION BY TENANT.** If an association imposes a
4 charge, fine, or assessment as a result of a violation by a tenant of a unit in the
5 condominium, the association shall give notice to the tenant by any method under
6 s. 704.21 (1) (a) to (e) and to the owner of the unit occupied by the tenant by any
7 method under s. 704.21 (2) (a) to (d). The notice shall include all of the following:

8 (a) The amount of charges, fines, or assessments for which the tenant is liable.

9 (b) Notice that if the tenant fails to pay the association the amount for which
10 the tenant is liable within 30 days after the tenant receives the notice, the owner is
11 liable to the association for the amount unpaid by the tenant although the tenant
12 may be liable to the unit owner for any amounts the unit owner pays.

13 **(5) OTHER LIABILITY NOT AFFECTED.** This section does not otherwise affect the
14 liability of a unit owner or tenant who commits a violation.

NOTE: 1. Repeals and recreates s. 703.24, relating to liability of a unit owner for damages or injunctive relief caused by the failure of the unit owner to comply with ch. 703, the declaration, or bylaws. Current s. 703.24 provides as follows:

“If any unit owner fails to comply with this chapter, the declaration or bylaws, the unit owner may be sued for damages caused by the failure or for injunctive relief, or both, by the association or by any other unit owner.”.

2. Subsection (2) revises current s. 703.24. It makes a unit owner who fails to comply with ch. 703, the declaration, the bylaws, or the association rules liable for any resulting charges, fines or assessments imposed pursuant to association bylaws or rules. Deletion of the current reference to suing a unit owner for damages for failure to comply is not intended to change the liability of a unit owner to the association or any other unit owner for damages caused by failure to comply with ch. 703, the declaration, bylaws, or rules. In this regard, see sub. (5).

3. Subsections (3) and (4) are new. The provisions make a tenant who commits a violation liable for any charges, fines, or assessments imposed by the association for the violation. Subsection (3) (b) provides that if the association complies with the notice requirement of sub. (4), the owner of the unit occupied by the tenant when the violation occurred is liable for any association charges, fines, or assessments for which the tenant is liable that remain unpaid 30 days after the tenant received notice. Double recovery by an association of any charges, fines, or assessments is not intended. Subsection (4) sets forth the notice requirement for holding the unit owner liable for a tenant’s violation if the tenant does not pay the charges, fines, or assessments within the specified time.

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See, also, SECS. 31 and 34, which expand the lien provisions of current s. 703.16 (3) to (9) (renumbered s. 703.165) to also include, among other things, unpaid assessments for penalties for violations of the declaration, bylaws, or association rules.

1 **SECTION 40.** 703.255 of the statutes is repealed.

NOTE: Repeals the current provision that deals with uncompleted units (other than those included in an expanding condominium under s. 703.26, stats.). Under that provision, if a declarant fails to complete any unit described in the declaration within 5 years after recording the declaration, the declarant must obtain the agreement of at least 75% of the unit owners permitting completion of the units within 5 years of the date of the agreement. If the agreement is not obtained, the declarant loses the uncompleted units (the declarant must remove the units from the declaration and adjust percentage interests and votes accordingly).

2 **SECTION 41.** 703.265 of the statutes is created to read:

3 **703.265 Addendum to plat to reflect changes in building codes or**

4 **zoning ordinances. (1)** If the revision or adoption of a building code or zoning
5 ordinance prevents or substantially affects the construction of a unit or common
6 elements as platted, the declarant may reasonably modify the condominium plat, by
7 addendum, to the extent necessary to comply with the code or ordinance in order to
8 construct the unit or common elements.

9 **(2)** If the revision or adoption of a building code or zoning ordinance prevents
10 or substantially affects the reconstruction of a unit or common element as platted,
11 the declarant, unit owner, or association, as appropriate, may reasonably modify the
12 condominium plat, by addendum, to the extent necessary to comply with the code or
13 ordinance in order to reconstruct the unit or common elements.

14 **(3)** An addendum made under this section shall be recorded as provided under
15 s. 703.095.

NOTE: Allows for the amendment of a condominium plat if the revision or adoption of a building code or zoning ordinance prevents or substantially affects the construction or reconstruction of a unit or common elements (including limited common elements) as platted. If such a revision or adoption of a building code or zoning ordinance occurs, the declarant, unit owner, or association, as appropriate, may reasonably modify the condominium plat to the extent necessary to comply with the code or ordinance in order to construct or reconstruct the unit or common elements. An amendment under this section is not subject to s. 703.11 (5); see SEC. 19 of the bill.

16 **SECTION 42.** 703.27 of the statutes is amended to read:

ASSEMBLY BILL 254**SECTION 42**

1 **703.27 Zoning and building regulations. (1)** A zoning or other land use
2 ordinance or regulations may not prohibit the condominium form of ownership or
3 impose any requirements upon a condominium ~~which~~ that it would not impose upon
4 ~~a physically identical~~ if the development were under a different form of ownership.
5 No provision of a state or local building code may be applied differently to a building
6 in a condominium than it would be applied to ~~a~~ if the building of similar structure
7 ~~or occupancy~~ were under a different form of ownership unless the different
8 application is expressly permitted in that provision and the different application is
9 reasonably related to the nature of condominium ownership. No subdivision
10 ordinance may apply to any condominium unless the ordinance is, by its express
11 terms, applicable to condominiums and the application is reasonably related to the
12 nature of condominium ownership.

13 **(2)** No county, city, or other jurisdiction may enact any law, ordinance, or
14 regulation ~~which~~ that would impose a greater burden or restriction on a
15 condominium ~~that is not imposed on all other property of similar character not~~
16 ~~subjected to a condominium declaration~~ or provide a lower level of services to a
17 condominium than would be imposed or provided if the condominium were under a
18 different form of ownership.

NOTE: 1. Clarifies, with editorial changes, the prohibition on imposing requirements under zoning or other land use ordinances or regulations that discriminate against the condominium form of ownership.

2. Clarifies the prohibition on applying a provision of a state or local building code differently to a building in a condominium than it would be applied if the building were under a different form of ownership, unless the different application is expressly permitted by the building code. Further clarifies that if the different application is expressly permitted, it must be reasonably related to the nature of condominium ownership. Similarly, clarifies that no subdivision ordinance may apply to a condominium unless, as currently required, the ordinance is expressly applicable to condominiums and, as added by the bill, its application is reasonably related to the nature of condominium ownership.

3. Clarifies the prohibition against enactment of any law, ordinance or regulation that would impose a burden or restriction on a condominium that is not imposed on all

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other property of similar character not subjected to a condominium declaration to specify that the law, ordinance or regulation may not impose a “greater” burden or restriction and, additionally, may not provide a lower level of service to a condominium than would be imposed or provided if the condominium were under a different form of ownership.

1 **SECTION 43.** 703.275 (1) of the statutes is amended to read:

2 703.275 (1) AGREEMENT; LEGAL EFFECT. Any 2 or more condominiums, including
3 2 or more small condominiums or any combination of small condominiums and other
4 condominiums, by agreement of the unit owners as provided in this section, may be
5 merged or consolidated into a single condominium. Unless the agreement otherwise
6 provides, the condominium resulting from a merger or consolidation is, for all
7 purposes, the legal successor of all of the preexisting condominiums and the
8 operations and activities of all associations of the preexisting condominiums shall be
9 merged or consolidated into a single association which shall hold all powers, rights,
10 obligations, assets and liabilities of the preexisting associations. The resultant
11 condominium must bear the name of one of the preexisting condominiums.

NOTE: Authorizes 2 or more small condominiums, or any combination of small condominiums and other condominiums, to merge, as provided under the current merger provision--s. 703.275, stats.

12 **SECTION 44.** 703.275 (2) (intro.) (except 703.275 (2) (title)) of the statutes is
13 renumbered 703.275 (2) (bc) (intro.).

14 **SECTION 45.** 703.275 (2) (a) of the statutes is renumbered 703.275 (2) (bc) 1.

15 **SECTION 46.** 703.275 (2) (ac) of the statutes is created to read:

16 703.275 (2) (ac) In this subsection, “allocated interests” means the undivided
17 percentage interest in the common elements, the liability for common expenses, and
18 the number of votes at meetings of the association appurtenant to each unit.

NOTE: Relocates the defined term from the general definition section of ch. 703 (s. 703.02) to s. 703.275, the only provision within the chapter that uses the defined term.

19 **SECTION 47.** 703.275 (2) (b) of the statutes is renumbered 703.275 (2) (bc) 2.

20 **SECTION 48.** 703.315 of the statutes is created to read:

ASSEMBLY BILL 254**SECTION 48****1 703.315 Lease or rental agreements for residential units. (1)**

2 DEFINITIONS. In this section:

3 (a) “Condominium rental agreement” means an agreement, whether oral or
4 written, for the rental or lease of a residential condominium unit by the same tenant
5 for a period of more than one month.

6 (b) “Tenant” means any of the following:

7 1. A person occupying or entitled to present or future occupancy of a residential
8 condominium unit under a condominium rental agreement.

9 2. A periodic tenant, as defined in s. 704.01 (2), of a residential condominium
10 unit that pays rent on a month-to-month or greater recurring interval of time.

11 (c) “Unit owner” means the owner of a unit that is rented or leased under a
12 condominium rental agreement or by a periodic tenant.

13 **(2) AGREEMENT FOR COMPLIANCE.** Entering into a condominium rental
14 agreement constitutes an agreement by the tenant, as a condition of the
15 condominium rental agreement, to comply with this chapter, the rules and bylaws
16 of the association, and the provisions of the declaration. Entitlement to occupancy
17 of a unit as a periodic tenant, as described in sub. (1) (b) 2., constitutes an agreement
18 by the periodic tenant, as a condition of the tenancy, to comply with this chapter, the
19 rules and bylaws of the association, and the provisions of the declaration.

20 **(3) COPY OF WRITTEN AGREEMENT TO ASSOCIATION.** Within 5 business days after
21 entering into or renewing a written condominium rental agreement, the unit owner
22 shall provide a copy of the agreement to the association. The association shall keep
23 a copy of any condominium rental agreement on file while the agreement is in effect.

24 **(4) CONTACT OF UNIT OWNER AND TENANT BY ASSOCIATION.** The association may
25 contact or give notice to the tenant or unit owner by:

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1 (a) Making the contact or giving the notice by the means indicated by the tenant
2 or unit owner in writing to the association.

3 (b) If par. (a) does not apply, by any method under s. 704.21 (1) (a) to (e), in the
4 case of the tenant, or by any method under s. 704.21 (2) (a) to (d), in the case of the
5 unit owner.

6 **(5) COPY OF CONDOMINIUM DOCUMENTS TO TENANT.** Before a tenant occupies a
7 unit, the unit owner shall provide a copy of the declaration and the association
8 bylaws and rules to the tenant or place the information in the unit.

9 **(6) TIME SHARE NOT COVERED.** This section does not apply to a time–share unit
10 governed under ch. 707.

NOTE: Provides a measure of regulation relating to agreements, whether oral or written, for the rental or lease of a residential condominium unit by the same tenant for a period of more than one month and to periodic tenancies with a recurring interval of time of one month or more.

Under sub. (2), a tenant who enters into a covered condominium rental agreement or who is entitled to occupancy under a covered periodic tenancy agrees to comply with ch. 703 (condominiums), the rules and bylaws of the association, and the provisions of the declaration. By making agreement to comply a matter of law, failure of a tenant to comply with the chapter, declaration, bylaws, or rules will trigger the provisions of ch. 704 (landlord and tenant) that relate to breach of a rental agreement or lease by a tenant.

Under sub. (3), if a written condominium rental agreement is entered into, the unit owner must provide a copy within five business days to the association. The association must keep a copy of the agreement on file while the agreement is in effect.

Subsection (4) provides a means of contacting or giving notice to a tenant or unit owner who is party to a covered condominium rental agreement or periodic tenancy. Contact or notice may be made or given by the means indicated by the tenant or unit owner in writing to the association or, if that does not apply, by any method currently provided under statutory landlord and tenant law for giving notice to a tenant or landlord.

Subsection (5) provides that a unit owner must provide a copy of the declaration and the association bylaws and rules to a covered tenant before the tenant occupies the unit or must place the information in the unit before the tenant occupies the unit.

Under sub. (6), the section expressly does not apply to a time–share unit governed under ch. 707. The inclusion of sub. (6) is not intended to affect or raise any inference concerning the meaning of current s. 707.09, stats., relating to the relationship of ch. 703, condominiums, and ch. 707, time shares.

Section 703.315, as created by this SECTION, first applies to condominium rental agreements renewed or entered into approximately 3 months after the effective date of the bill. See SEC. 69 (10) of the bill.

11 **SECTION 49.** 703.33 (1) (h) of the statutes is created to read:

ASSEMBLY BILL 254**SECTION 49**

1 703.33 (1) (h) An executive summary setting forth in clear plain language the
2 following information or location within the disclosure materials described in pars.

3 (a) to (g) where the information may be found:

4 1. ‘Condominium identification.’ The name of the condominium.

5 2. ‘Expansion plans.’ A description of the declarant’s expansion plan for the
6 condominium and deadline for implementation and the identity of the condominium
7 management during the expansion period.

8 3. ‘Governance.’ The name and address of the condominium association;
9 whether the association is self-managed or has hired or retained management; and
10 the name, address, and telephone number of the individual or individuals who may
11 be contacted regarding the condominium in general.

12 4. ‘Special amenities.’ A description of any special amenities, such as an
13 athletic club or golf course, and a statement of the obligation of a unit owner to join
14 or support the amenity.

15 5. ‘Maintenance and repair of units.’ A description of an owner’s
16 responsibilities for the repair and maintenance of the unit.

17 6. ‘Maintenance, repair, and replacement of common elements.’ The identity
18 of the person responsible for the maintenance, repair, and replacement of common
19 elements and limited common elements and whether repairs or replacements will be
20 funded from unit owner assessments, reserve funds, or both.

21 7. ‘Rental of units.’ Whether unit owners may rent their units and any
22 restrictions on rentals.

23 8. ‘Unit alterations.’ A description of any rules, restrictions, or procedures
24 governing a unit owner’s authority to alter the unit or use or enclose limited common
25 elements.

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1 9. ‘Parking.’ A description of the availability, restrictions, and costs of parking.

2 10. ‘Pets.’ A description of rules relating to unit owners’ pets.

3 11. ‘Reserves.’ Whether the association maintains reserves for repairs and
4 replacement of common elements beyond routine maintenance and, if so, whether a
5 statutory reserve account under s. 703.163 is maintained.

6 11m. ‘Fees on new units.’ A description of any provisions exempting the
7 declarant or modifying the declarant’s obligation to pay assessments on the
8 declarant’s unsold units during the period of the declarant’s control, and any other
9 provisions in the declaration, bylaws, or budget addressing the levying and payment
10 of assessments on units during the period of the declarant’s control.

11 11q. ‘Amendments.’ An indication that a unit purchaser’s rights and
12 responsibilities may be altered by an amendment of the declaration or bylaws, and
13 a description of the amendment process and requirements.

14 12. ‘Other restrictions or features.’ At the option of the declarant or association
15 a description of other restrictions or features of the condominium.

16 **SECTION 50.** 703.33 (1m) of the statutes is created to read:

17 703.33 **(1m)** PREPARATION OF EXECUTIVE SUMMARY. The executive summary
18 under sub. (1) (h) shall be prepared, and subsequently revised whenever a change
19 is made in the disclosure materials described in sub. (1) (a) to (g) that requires a
20 revision of a statement in the summary, by the declarant or the association,
21 whichever is in control of the condominium when the executive summary is prepared
22 or revised.

NOTE: Imposes an obligation on the declarant or association to prepare the
executive summary and to revise it consistent with changes in the required disclosure
materials.

23 **SECTION 51.** 703.33 (2) (intro.) of the statutes is amended to read:

ASSEMBLY BILL 254**SECTION 51**

1 703.33 (2) DISCLOSURE FORM. (intro.) The materials required in sub. (1) shall
2 be delivered to a prospective purchaser with cover sheet, index, and tables of contents
3 as prescribed in this section. A cover sheet and index shall precede all other
4 materials required in sub. (1). The executive summary required under sub. (1) (h)
5 shall appear immediately following the index. A table of contents shall precede the
6 section to which it applies.

NOTE: Specifies the location of the executive summary: immediately following the
index at the beginning of the disclosure materials.

7 **SECTION 52.** 703.33 (2) (a) (form) 2. of the statutes is amended to read:

8 703.33 (2) (a) (form) 2. THESE DISCLOSURE MATERIALS GIVEN TO YOU
9 AS REQUIRED BY LAW MAY, WITH THE EXCEPTION OF THE EXECUTIVE
10 SUMMARY, BE RELIED UPON AS CORRECT AND BINDING. FOR A
11 COMPLETE UNDERSTANDING OF THE EXECUTIVE SUMMARY, CONSULT
12 THE DISCLOSURE DOCUMENTS TO WHICH A PARTICULAR EXECUTIVE
13 SUMMARY STATEMENT PERTAINS. ORAL STATEMENTS MAY NOT BE
14 LEGALLY BINDING.

15 **SECTION 53.** 703.33 (2) (a) (form) 3. of the statutes is amended to read:

16 703.33 (2) (a) (form) 3. YOU MAY AT ANY TIME WITHIN 5 BUSINESS DAYS
17 FOLLOWING RECEIPT OF THESE DOCUMENTS, OR FOLLOWING NOTICE
18 OF ANY MATERIAL CHANGES IN THESE DOCUMENTS, CANCEL IN
19 WRITING THE CONTRACT OF SALE AND RECEIVE A FULL REFUND OF ANY
20 DEPOSITS MADE. IF THE SELLER DELIVERS LESS THAN ALL OF THE
21 DOCUMENTS REQUIRED, YOU MAY, WITHIN 5 BUSINESS DAYS
22 FOLLOWING RECEIPT OF THE DOCUMENTS, DELIVER A REQUEST FOR
23 ANY MISSING DOCUMENTS. IF YOU TIMELY DELIVER A REQUEST FOR
24 MISSING DOCUMENTS, YOU MAY, AT ANY TIME WITHIN 5 BUSINESS DAYS

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1 FOLLOWING THE EARLIER OF EITHER THE RECEIPT OF THE REQUESTED
2 DOCUMENTS OR THE SELLER'S DEADLINE TO DELIVER THE REQUESTED
3 DOCUMENTS, CANCEL IN WRITING THE CONTRACT OF SALE AND
4 RECEIVE A FULL REFUND OF ANY DEPOSITS MADE.

NOTE: SECTIONS 50 and 51 revise 2 of the disclosure statements that must appear in bold face type and capital letters on the cover sheet of the disclosure form given to a prospective purchaser of a condominium unit to indicate: (1) that the executive summary (when required; see SEC. 69 (11) of the bill) may not be relied upon as correct and binding and that the purchaser should consult the disclosure documents to which a particular executive summary statement pertains; and (2) that a buyer may request missing disclosure documents within 5 business days following receipt of the other documents and that, if a request is made, the 5-day cancellation period does not start to run until the earlier of the receipt of any missing documents that have been requested by the purchaser or the seller's deadline for delivery of the missing documents. (See SECS. 56 and 58 of the bill.)

5 **SECTION 54.** 703.33 (2) (b) (form) 1. of the statutes is renumbered 703.33 (2) (b)
6 (form) 1m.

7 **SECTION 55.** 703.33 (2) (b) (form) 1c. of the statutes is created to read:

8 703.33 **(2)** (b) (form) 1c. *Executive summary.* The executive summary
9 highlights for a buyer of a condominium unit essential information regarding the
10 condominium. The executive summary begins on page

NOTE: Places the executive summary required under this bill first in the list of items included in the index of disclosure materials that follows the cover sheet to the disclosure materials.

11 **SECTION 56.** 703.33 (2) (c) of the statutes is amended to read:

12 703.33 **(2)** (c) *Tables of contents and page numbers.* In addition to an index
13 required by par. (b), ~~there shall be provided~~ tables of contents for the declaration, and
14 ~~bylaws and articles of incorporation which shall identify~~ shall be provided,
15 identifying each section of these documents and ~~provide~~ providing a page number for
16 each section. Each section of disclosure material required in sub. (1) shall, on the first
17 page of that material, identify contents of that section but, with an the exception of
18 the declaration, and ~~bylaws and articles of incorporation, shall, is~~ not be required to

ASSEMBLY BILL 254**SECTION 56**

1 have a table of contents. ~~Each page of disclosure materials shall contain a page~~
2 ~~number sufficient to identify it within the body of disclosure materials. Page~~
3 ~~numbers for the declaration, bylaws and articles of incorporation required in par. (b)~~
4 ~~shall be the first page of the table of contents for that section. All other page numbers~~
5 ~~required in the index shall refer to the first page of that section on which the title~~
6 ~~appears~~ Each section of disclosure material shall be separately identified by a letter,
7 tab, or number. Pages within each section shall be consecutively numbered with an
8 indication of the section as part of the pagination.

NOTE: Clarifies that the entire body of disclosure materials furnished to purchasers of residential units need not be consecutively paginated by providing that the consecutive pagination requirement only applies to each section within the body of disclosure materials. Removes the requirement of a table of contents for the articles of incorporation. Also makes editorial changes.

9 **SECTION 57.** 703.33 (3) of the statutes is renumbered 703.33 (3m).

10 **SECTION 58.** 703.33 (3c) of the statutes is created to read:

11 **703.33 (3c) DELIVERY OF INCOMPLETE SET OF DISCLOSURE MATERIALS.** If the seller
12 delivers disclosure materials that include the cover sheet required in sub. (2) (a), but
13 that do not include all of the documents required under sub. (1), the purchaser may,
14 within 5 business days from receipt of the disclosure materials, request any
15 documents that were required to be delivered under sub. (1), but that were not timely
16 delivered. If no executive summary required under subs. (1) (h) and (1m) has been
17 prepared, the seller may so inform the purchaser when the seller delivers the
18 disclosure materials to the seller. The seller has 5 business days following receipt
19 of the purchaser's request to deliver the requested documents to the purchaser.

NOTE: Authorizes the purchaser to request any documents that are not included in the disclosure materials within 5 business days of receipt of the materials. The seller has 5 business days following receipt of the request to deliver the requested documents. See, also, SEC. 58 of the bill.

20 **SECTION 59.** 703.33 (4) of the statutes is renumbered 703.33 (4) (a) and
21 amended to read:

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1 703.33 (4) (a) Any purchaser may at any time within 5 business days following
2 receipt of all information of the documents required under sub. (1) and within 5
3 business days following receipt of all ~~information~~ of the amendments required under
4 sub. (3) ~~(3m)~~, rescind in writing a contract of sale without stating any reason and
5 without any liability on his or her part, ~~and the purchaser is entitled to the return~~
6 ~~of any deposits made in account of the contract.~~

7 **SECTION 60.** 703.33 (4) (b) and (c) of the statutes are created to read:

8 703.33 (4) (b) If the disclosure materials delivered by the seller do not include
9 all the documents required under sub. (1), the purchaser may rescind in writing a
10 contract of sale without stating any reason and without any liability on his or her
11 part as follows:

12 1. If the purchaser does not give notice requesting missing documents under
13 sub. (3c), the purchaser may rescind within 5 business days following receipt of the
14 incomplete disclosure materials.

15 2. If the purchaser gives notice requesting missing documents under sub. (3c),
16 the purchaser may rescind within 5 business days following the earlier of receipt of
17 the requested documents or the deadline, under sub. (3c), for the seller's delivery of
18 the requested missing documents.

19 (c) A purchaser who timely rescinds under par. (a) or (b) is entitled to the return
20 of any deposits made under the contract.

NOTE: Provides that the purchaser's 5-day cancellation period does not start to run
until the earlier of the receipt of any missing disclosure documents that have been
requested by the purchaser or 5 business days following the receipt by the seller of a
request for the missing documents.

21 **SECTION 61.** 703.365 (title), (1), (2) and (3) of the statutes are amended to read:

22 **703.365 (title) Small residential condominiums.**

ASSEMBLY BILL 254**SECTION 61**

1 **(1) APPLICABILITY.** (a) The declaration for a small ~~residential~~ condominium may
2 provide that any or all of subs. (2) to (8) or any parts of those subsections apply to the
3 small ~~residential~~ condominium.

NOTE: Revises a defined term to reflect the revision of that term by SEC. 3 of the
bill. See the NOTE to that SECTION. This change is made throughout provisions of s.
703.365, relating to small condominiums.

4 (b) If a declaration under par. (a) provides that any or all of subs. (2) to (8) or
5 any parts of those subsections apply, then, except as provided in those subsections
6 or parts of those subsections, this chapter applies to the small ~~residential~~
7 condominium in the same manner and to the same extent as to other condominiums.

8 **(2) DECLARATION.** (a) The declaration for a small ~~residential~~ condominium need
9 not contain those provisions otherwise required under s. 703.09 (1) (e) to (g) and (i).

10 (b) The undivided percentage interest in a small ~~residential~~ condominium shall
11 ~~be is~~ allocated equally among the units.

12 (c) Each unit in a small ~~residential~~ condominium shall ~~have~~ has one vote at
13 meetings of the association.

14 (d) Commercial activity is permitted in a small ~~residential~~ condominium that
15 consists solely of units restricted to residential uses only to the extent that
16 commercial activity is permitted in residences in a zoning ordinance adopted under
17 s. 59.69, 60.61, 61.35, or 62.23.

NOTE: Revised to reflect the revised defined term and the change in substance of
that term.

18 (e) All actions taken under this chapter ~~which~~ that require a vote of units or
19 unit owners must be approved by an affirmative vote or written consent of at least
20 75% of the unit votes of a small ~~residential~~ condominium, or a greater percentage if
21 required by the declaration or this chapter.

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1 **(3)** BYLAWS. (a) Notwithstanding s. 703.10 (2) (a), all aspects of the
2 management, operation, and duties of the association of a small residential
3 condominium shall be delegated to the board of directors, which may retain a
4 manager, including a master association under s. 703.155, for the small residential
5 condominium, and the bylaws shall so specify.

NOTE: Expressly allows a small condominium to utilize a master association.

6 (b) Under s. 703.10 (2) (c), notice of meetings shall be given in a manner best
7 calculated to assure that actual notice is received by the owners of all units of a small
8 residential condominium, and the bylaws shall so specify.

9 (c) Section 703.10 (2) (d) does not apply to a small residential condominium.
10 The board of directors shall be composed of one representative from each unit, chosen
11 by and from among the unit owners of that unit.

12 (d) All actions taken by the board of directors of a small residential
13 condominium under this chapter must be approved by an affirmative vote or written
14 consent of at least 75% of the board.

15 (e) Section 703.10 (4) does not apply to a small residential condominium.

16 **SECTION 62.** 703.365 (3m) of the statutes is created to read:

17 703.365 **(3m)** AGREEMENT IN LIEU OF BYLAWS. If approved by written consent of
18 all of the unit votes of a small condominium, an agreement may be substituted for
19 the bylaws under sub. (3). The terms of the agreement shall include the
20 requirements of sub. (3) (a) to (d) and shall be consistent with this section. An
21 amendment to an agreement may be made with the affirmative vote or written
22 consent of all the unit votes of the small condominium.

NOTE: Authorizes a small condominium, if approved by written consent of all of the unit votes, to substitute an agreement for the bylaws. The terms of the agreement must include the requirements of current s. 703.365 (3) and must otherwise be consistent with s. 703.365. An amendment to an agreement may be made with affirmative vote or written

ASSEMBLY BILL 254**SECTION 62**

consent of all of the unit votes of the small condominium. Compare ss. 180.1823 and 180.1825, stats., relating to agreements in place of bylaws for statutory close corporations.

1 **SECTION 63.** 703.365 (4), (5), (6) (a) (intro.) and (c), (7) and (8) of the statutes
2 are amended to read:

3 703.365 **(4)** CONDOMINIUM PLAT. (a) The survey under s. 703.11 (2) (b) shall be
4 an as-built survey of the property described in the declaration, building, and other
5 improvements on the land ~~which~~ that are part of the small ~~residential~~ condominium.

6 (b) The floor plans under s. 703.11 (2) (c) need only show the location and
7 designation of each unit in the building and the limited common elements
8 appurtenant to each unit of a small ~~residential~~ condominium. These plans may be
9 supplemented by an agreement among all unit owners and mortgagees regarding the
10 allocation of use and enjoyment of common elements, which agreement, in both its
11 original and any amended form, shall be recorded.

12 **(5)** ASSOCIATION. (a) Under s. 703.15 (2), an association shall exist immediately
13 upon establishment of a small ~~residential~~ condominium and the declarant shall have
14 rights in the association only as an owner of a unit or units.

15 (b) Directors of a small ~~residential~~ condominium shall be chosen in accordance
16 with sub. (3) (c). The board of directors shall meet at least quarterly.

17 (c) Unless included in the bylaws, s. 703.15 (4) (b) to (d) does not apply to a small
18 ~~residential~~ condominium.

19 **(6)** (a) (intro.) Paragraphs (b) to (e) apply to a small ~~residential~~ condominium
20 if any of the following criteria is met:

21 (c) The unit owner or owners may challenge the decision after reconsideration
22 by the board of directors under par. (b) only in an arbitration proceeding under ch.
23 788. Acceptance of a conveyance of a small ~~residential~~ condominium which that is

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1 subject to pars. (b) to (e) is deemed to constitute an agreement by the unit owner to
2 submit challenges to decisions of the board of directors to arbitration.

3 **(7) EXPANDING CONDOMINIUMS.** Section 703.26 does not apply to a small
4 residential condominium.

5 **(8) DISCLOSURE REQUIREMENTS.** The disclosure required for a small residential
6 condominium under s. 703.33 ~~shall be~~ is limited to the disclosure required under s.
7 703.33 (1) (a) to (e), if applicable, and a copy of the condominium plat.

8 **SECTION 64.** 703.37 of the statutes is amended to read:

9 **703.37 Interpretation.** For purposes of interpretation of this chapter, a
10 condominium is a form of ownership, not a form of land use, and is not a subdivision
11 as defined in ch. 236.

NOTE: Clarifies the current interpretation directive which provides that, for purposes of interpreting ch. 703, a condominium is not a subdivision under ch. 236, stats., by adding the statement that a condominium is “a form of ownership, not a form of land use”.

12 **SECTION 65.** 703.38 (10) of the statutes is renumbered 703.38 (10) (a) and
13 amended to read:

14 703.38 **(10)** (a) ~~Section~~ Except as provided in par. (b), s. 703.02 (14m), 2001
15 stats., and s. 703.365 applies, 2001 stats., apply to condominiums created on or after
16 April 22, 1986, and before the effective date of this paragraph [revisor inserts
17 date], and to condominiums created before April 22, 1986, that elect to be subject to
18 s. 703.02 (14m), 2001 stats., and s. 703.365, 2001 stats.

19 **SECTION 66.** 703.38 (10) (b) of the statutes is created to read:

20 703.38 **(10)** (b) Sections 703.02 (14m) and 703.365 apply to condominiums
21 created on or after the effective date of this paragraph [revisor inserts date], and
22 to condominiums created before the effective date of this paragraph [revisor
23 inserts date], that elect to be subject to ss. 703.02 (14m) and 703.365.

ASSEMBLY BILL 254**SECTION 67**

1 **SECTION 67.** 703.38 (11) of the statutes is repealed.

2 **SECTION 68.** 709.02 of the statutes is renumbered 709.02 (1).

3 **SECTION 69.** 709.02 (2) of the statutes is created to read:

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

8 (a) The name of the condominium and the date the condominium was created
9 by recording condominium instruments with the register of deeds under s. 703.07;
10 the unit number of the property offered for sale; and the name, address, and
11 telephone number of the seller or the seller's agent.

12 (b) The name and address of the condominium association; a statement
13 specifying whether the association is self-managed or has hired or retained
14 management; and the name, address, and telephone number of the individual who
15 may be contacted as a representative of the association regarding the sale, in
16 particular, or the condominium, in general.

17 (c) The amount of current condominium assessments, fees, special
18 assessments, or other charges for which a unit owner is responsible and whether the
19 current charges for the unit have been paid.

20 (d) A copy of the executive summary required under s. 703.33 (1) (h).

NOTE: Requires an owner of a condominium unit who is transferring ownership of the unit to include certain information in an addendum to the real estate condition report pertaining to the condominium unit. The information must include the name of the condominium and other identifying information; the condominium association and management authority; and the amount of current condominium assessments, fees, and other charges for which a unit owner is responsible and whether the current charges have been paid. The addendum must also include a copy of the executive summary under s. 703.33 (1) (h), stats., as created in SEC. 47 of the bill, if an executive summary is required under the initial applicability schedule set forth in SEC. 69 (11) of the bill.

21 **SECTION 70.** 823.015 of the statutes is created to read:

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1 **823.015 Action against condominium association.** If a city, village, town,
2 or county has grounds under this chapter to abate a nuisance occurring upon the
3 common elements of a condominium and the failure of a condominium association
4 under ch. 703 to perform its duties to maintain and control the common elements is
5 a reason the nuisance has not been abated, an action for a receivership under ch. 823
6 may be brought against the condominium association whether it is incorporated or
7 unincorporated. This section does not authorize the seizure of condominium
8 buildings or units.

SECTION 71. Initial applicability.

9
10 (1) The treatment of section 703.08 (2) (intro.) of the statutes, the renumbering
11 and amendment of section 703.08 (1) of the statutes, and the creation of section
12 703.08 (1) (a), (b), and (c) and (3) of the statutes first apply to notices to convert
13 residential real property to a condominium that are delivered on the effective date
14 of this subsection.

15 (2) The treatment of section 703.09 (1) (k) of the statutes first applies to
16 condominium declarations that are submitted for recording on the effective date of
17 this subsection.

18 (2m) The treatment of section 703.09 (2) and (4) of the statutes first applies to
19 condominium declaration amendments that are submitted for recording on the
20 effective date of this subsection.

21 (3) The treatment of section 703.11 (2) (c) of the statutes first applies to plats,
22 or amendments to plats, that are submitted for recording on the effective date of this
23 subsection.

24 (4) The treatment of section 703.11 (5) of the statutes first applies to addenda
25 that are submitted for recording on the effective date of this subsection.

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1 (5) The treatment of section 703.13 (6) (c) and (d) of the statutes first applies
2 to boundary relocations for which written application is made on the effective date
3 of this subsection.

4 (5m) The treatment of section 703.13 (8) of the statutes first applies to mergers
5 for which notice is provided on the effective date of this subsection.

6 (6) The renumbering of section 703.16 (2) of the statutes and the creation of
7 section 703.16 (2) (b) of the statutes first applies to condominiums that are created
8 on the effective date of this subsection.

9 (6m) The treatment of section 703.19 (8) of the statutes first applies to
10 condemnation proceedings commenced on the effective date of this subsection.

11 (7) The treatment of section 703.20 (3) of the statutes first applies to
12 condominiums that are created on the effective date of this subsection.

13 (8) The treatment of section 703.24 of the statutes first applies to violations
14 that are committed on the effective date of this subsection.

15 (9) The treatment of section 703.265 of the statutes first applies with respect
16 to revisions or adoptions of building codes or zoning ordinances that take effect on
17 the effective date of this subsection.

18 (10) The treatment of section 703.315 of the statutes first applies to
19 condominium rental agreements that are renewed or entered into, or periodic
20 tenancies that are commenced, on the first day of the 4th month beginning after the
21 effective date of this subsection.

22 (11) The treatment of section 703.33 (1) (h), (1m), and (2) (intro.), (a) (form) 2.,
23 and (b) (form) 1. and 1c. of the statutes first applies to all of the following:

24 (a) With respect to condominiums that are created on or after the first day of
25 the 6th month beginning after the effective date of this paragraph, to closings of sales

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1 of units that are scheduled to occur on the first day of the 6th month beginning after
2 the effective date of this paragraph.

3 (b) With respect to condominiums that are created before the first day of the
4 6th month beginning after the effective date of this paragraph, to closings of sales
5 of units that are scheduled to occur on the first day of the 19th month beginning after
6 the effective date of this paragraph.

7 (11m) The treatment of section 703.33 (2) (a) (form) 3. and (c), (3), and (3c) of
8 the statutes, the renumbering and amendment of section 703.33 (4) of the statutes,
9 and the creation of section 703.33 (4) (b) and (c) of the statutes first apply to closings
10 of sales of units that are scheduled to occur on the effective date of this subsection.

11 (12) The renumbering of section 709.02 of the statutes and the creation of
12 section 709.02 (2) of the statutes first applies to contracts of sale or option contracts,
13 with respect to condominium units, that are accepted on the effective date of this
14 subsection.

15 **SECTION 72. Effective date.**

16 (1) This act takes effect on the first day of the 7th month beginning after
17 publication.

18

(END)