

Kahler, Pam

From: Battiato, Kate
Sent: Monday, August 31, 2009 11:39 AM
To: Kahler, Pam
Subject: Condo draft

Hi Pam,

I just spoke with Mr. Horton. It is totally ok to draft the new draft in preliminary form, sorry for the confusion.
Kate

Kate Battiato
Office of State Representative Gary Hebl
46th Assembly District
Phone: 266-7678

Kahler, Pam

From: Battiato, Kate
Sent: Monday, August 31, 2009 10:15 AM
To: Kahler, Pam
Subject: RE: Condo draft

Also, Pam, if you have technical questions, please feel free to discuss the draft with Mr. Horton. He has tons of experience working in this area of the law and I'm sure he could provide helpful insights. Also, Rep. Hebl would like this draft to be ready for introduction, not a preliminary draft. Thank you for your assistance in this matter,
Kate

Kate Battiato
Office of State Representative Gary Hebl
46th Assembly District
Phone: 266-7678

From: Kahler, Pam
Sent: Monday, August 31, 2009 10:11 AM
To: Battiato, Kate
Subject: Condo draft

Him, Kate:

I received your phone message about the draft and have also received the packet of information. I will review what I have and then let you know how long I think the next version will take. If I have any questions in the meantime, I will let you know.

Pam

Pamela J. Kahler
Legislative Attorney
Legislative Reference Bureau
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June 5, 2009

Pamela J. Kahler
Senior Legislative Attorney
Legislative Reference Bureau
1 East Main Street
Madison WI 53703

Dear Ms. Kahler:

Re: Condo Law Draft

I am sorry that I could not read the correct LRB number on the copies that I have, but this is the extensive draft of condominium law revisions that you prepared for Rep. Hebl's office> Your draft was excellent and your questions precise and penetrating enough so we have undertaken a review of some of the provisions which may have been proposed in an excess of enthusiasm but without full consideration.

What I have enclosed is a copy of the summary of the actions taken at a meeting of a group interested in this issue and a copy of the initial draft with some annotations. Those sections whose numbers are highlighted were agreeable to those present (we cannot guarantee the reactions of others). Ignore the notes written in; they were my first impressions and I wasn't smart enough to keep a clean copy.

I have given below a brief comment on each of the items that were not agreed to. Also, at the end of the summary there are six new ideas (more, I am sure, will be coming) and we would like the five highlighted to be added to the next draft. We are struggling with the concept on the sixth one.

Sec. 5. This will have to be coordinated with a redraft of the removal sections (83-90) referred to below.

Sec. 8. This should be first mortgagees and should be coordinated with the new definition of first mortgagee (including holders of equivalent security interests) which is one of the additional items to be added per the summary.

Sec. 10. Move the amended language to the end of the sentence and add "it" at the end. Some of the appurtenant rights may not be exclusive to a single unit.

Sec. 11. The wording of the mechanical systems insert is being redone. This also appears at various other points in the draft.

Sec. 12. Line 18 when amended should read: "any amendment or addendum to a condominium instrument" (additions underlined).

Sec. 16. This should pick up the definition change of Sec. 8.

Sec. 17. This is fine as written; it is intended that the association have both the court and private remedies available.

Sec. 21. New case law affects this and it is being reworked.

Sec. 24. What you added is great.

Sec. 25. This, like Sec. 5 will have to be coordinated with changes in the removal sections.

Sec. 28. This concept is under reconsideration.

Secs. 29-31. See Sec. 11.

Sec. 33. Delete "principal officer of the unit owners" so this becomes an association function however it wishes to handle it.

Sec. 34. Approval would be limited to the first mortgagee using the Sec. 8 change.

Secs. 36-38 and 41. The area of unit separation/multiple ownership is being redone.

Sec. 39. This should be first mortgagee (with appropriate wording revision) only.

Secs. 43-44. This confusing wording is being reworked.

Sec. 45. Insert "mandatory" before the word "expiration".

Sec. 54. Delete.

Sec. 65. Change 2 years to 3 years.

Sec. 67. Start the section with "Unless otherwise provided in the declaration" and delete the words added on lines 20-21.

Sec. 79. This is being reworded.

Secs. 83-90. The provisions dealing with removal are being reworked (with your questions being very helpful in working through it).

Secs. 92-93. These are being reworked.

Secs. 94-96, 99-100. Sections dealing with small condominiums are being reworked.

Clearly, there is a lot being rethought and reworked and your points were appreciated. I hope to have these worked out in the near future, a few more ideas added (they come trickling in), and a final product. Thanks.

Sincerely,

Wm Pharis Horton

cc: Hon. Gary Hebl

Actions taken at June 2 meeting

Sec. 703	Status	Actions	Assigned to
.02(5)	OK		
.02(6)	OK		
.02(6m)	OK		
.02(12)	WI Banker comment	Discuss; add "first mortgagee" definition	Horton
.02(14g)	HOLD pending work on removal sections		Horton
.02(15)	OK		
.02(16)	OK		
.03	Add "first" conform to .02(12)	Contact drafter	Horton
.04	OK		
.05	Move amendatory wording to end of sentence, add "it"	Contact drafter	Horton
.06	HOLD	Being reworded	Ishikawa
.07(2)	Add "or addendum", shift "an" to "any" line 18	Contact drafter	Horton
.08(1)	OK		
.08(2)	OK		
.08(3)	OK		
.09(1c)	OK (generic "first" mortgagee)	Contact drafter	Horton
.09(2)	OK, intend both	Contact drafter	Horton
.10(1)	OK, intended to be both	Contact drafter	Horton
.10(2)(d)	OK		
.10(2)(f)	OK		
.10(6)	HOLD	Reviewed, new case	Ishikawa
.105(1m)	OK		
.105(2)	OK		
.115(1)(a)	OK	Contact drafter	Horton
.115(1)(b)	HOLD, deleted item from removals	Contact drafter	Horton
.12	OK [possible challenge]		
.13(2)	OK		
.13(4)	HOLD	Check for rewording	Horton
.13(5)(a)	Delete items added p10, HOLD wording from .06	Contact drafter, await rewording of .06	Ishikawa, Horton
.13(5)(b)	HOLD wording from .06	Contact drafter, await rewording of .06	Ishikawa, Horton
.13(5m)(a)	HOLD wording from .06	Contact drafter, await rewording of .06	Ishikawa, Horton
.13(5m)(b)	OK		
.13(6)(b)	Drop "the principal officer of the unit owners"	Contact drafter	Horton
.13(6)(c)	First mortgagee only (generic wording)	Contact drafter	Horton

.13(6)(e)	OK		
.13(7)(a)	HOLD, concept/wording	Redraft, integrate with 13(9)	Ishikawa
.13(7)(b)	HOLD, concept/wording	Redraft, integrate with 13(9)	Ishikawa
.13(7)(c)	HOLD, concept/wording	Redraft, integrate with 13(9)	Ishikawa
.13(8)(b)	First mortgagee only (generic wording)	Contact drafter	Horton
.013(8)(c)	OK		
.13(9)	HOLD, concept/wording	Separate or with .13(7)	Ishikawa
.14(1)	OK		
.15(2)(a)	HOLD	Reword for clarity	Starkweather
.15(2)(b)	HOLD	Reword for clarity?	Starkweather
.15(2)(c)2	Add "mandatory" before "expiration"	Contact drafter	Horton
.15(2)(c)3	OK		
.15(2)(d)	OK		
.15(2)(f)	OK		
.15(3)(a)	OK		
.15(3)(a)1	OK		
.15(3)(a)2	OK		
.15(3)(a)3	OK		
.15(3)(b)	OK		
.15(4)(b)	Delete	Contact drafter	Horton
.15(4)(d)1	OK		
.15(4)(e)	OK		
.155(1)	OK		
.155(2)	OK		
.16(1)	OK		
.16(2)(b)	OK		
.161(2)	OK		
.161(2)(g)	OK		
.161(3)	OK		
.165(2)	OK		
.165(3)	Change 2 years to 3	Contact drafter	Horton
.165(5)(c)	OK		
.17(1)	Start section with "Unless otherwise provided in the Declaration" and delete words added on lines 20-21 of page 21	Contact drafter	Horton
.18(2)(b)	OK		
.19(3)	OK		
.19(3)(b)	OK		
.19(3)(c)	OK		
.20(1)	OK		
.22	OK		
.22(2)	OK		
.22(3)	OK		

.24(2)	OK		
.25(3)	OK		
.25(3)(b)	OK		
.26(1)	HOLD	Checking wording	Horton
.26(2)(a)	OK		
.26(3)(a)	OK		
.275(4m)	OK		
.28(1)	Removal being reworked		Horton
.28(1m)	“		Horton
.28(2)	“		Horton
.28(2m)	“		Horton
.28(3)	“		Horton
.28(4)	“		Horton
.28(5)	“		Horton
.29	“		Horton
.33(1)	OK		
.34	OK		
.34(4)	HOLD	Reword	Horton
.365(6)(a)3	HOLD	Reword	Horton
.365(6)(b)	HOLD	Reword	Horton
.365(6)(d)	HOLD	Reword	Horton
.365(7)	OK		
.365(10)	OK		
.365(11)	Change “limited common elements” to “common elements”	Contact drafter	Horton
.365(12)	HOLD, reword	Contact drafter	Horton

Additional proposals for drafting

Section	Concept	Source	Action
.02(?)	Create generic definition for “First Mortgagee” to include holder of equivalent interest; to be reflected in later sections	Meeting	To drafter
.15(2)(c)1a	Outside limited of declarant control if appropriate sell-out before 10 years	Meeting	Ishikawa
.16(7)	Association to have benefit of 846.101 reduction in timelines if it agrees to waive deficiency in foreclosure of line	Horton	To drafter
.33	Condominium disclosures can be made electronically if the recipient is qualified under 137.12(2p)	Realtors	To drafter
709.02	A condominium addendum is only required in those situations in which a real estate condition report is required	Realtors	To drafter
709.12(2)(d)	An executive summary is not required as part of the real estate condition report if it is excused under 703.365(8)	Realtors	To drafter

**2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1733/P2ins
PJK:bjk:ph

SECTION 1. 703.365 (6) of the statutes is repealed and recreated to read:

703.365 (6) ASSOCIATIONS OPERATIONS. This section applies to operational decisions, including repair, maintenance, exterior appearance and expenditures, in a small condominium when the required majority under the declaration or bylaws for an action cannot be achieved or when the action would involve unbudgeted expenditures per unit in excess of \$2,500 in any one year or \$5,000 overall.

(a) A unit owner in a small condominium may propose in writing an action or expenditure by the association which the unit owner believes is necessary for the proper operation of the condominium. The association shall act on any unit owner proposal in a timely manner.

(b) If the association does not adopt the unit owner proposal, cannot achieve the majority required to take an action, or levies assessments for unbudgeted expenditures in the amounts noted above, a unit owner may request reconsideration of the decision and, if unsatisfied with the result, submit the issue to arbitration under ch. 788. Notice of the arbitration shall be given to the first mortgagee of any unit subject to a mortgage. The results of the arbitration shall be final as to the matter under consideration. The association may adopt rules establishing arbitration procedures.

(c) Acceptance of a deed to a unit in a small condominium constitutes agreement to the resolution of disputes over operational decisions by arbitration.

(d) If the challenge is wholly denied, costs of the arbitration shall be borne by the unit owner submitting the issue to arbitration. If the challenge is wholly upheld,

repeal

costs shall be borne by the association. In all other cases, the costs shall be shared equally by the unit owner and the association.



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1733/P1
PJK:bjk:md

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT to repeal 703.28 (1m), 703.28 (2) and 703.29; to renumber and amend**
2 **703.25 (3) and 703.365 (7); to amend 703.02 (5), 703.02 (6), 703.02 (6m), 703.02**
3 **(12), 703.02 (14g), 703.02 (15), 703.02 (16), 703.03, 703.04, 703.05, 703.06,**
4 **703.07 (2), 703.08 (1) (intro.), 703.08 (2) (intro.), 703.08 (3), 703.09 (1c), 703.09**
5 **(2), 703.10 (1), 703.10 (2) (d), 703.10 (2) (f), 703.10 (6), 703.105 (1m), 703.105 (2),**
6 **703.115 (1) (a), 703.115 (1) (b), 703.12, 703.13 (2), 703.13 (4), 703.13 (5) (a),**
7 **703.13 (5) (b), 703.13 (5m) (a) 3., 703.13 (5m) (b), 703.13 (6) (b), 703.13 (6) (c),**
8 **703.13 (6) (e), 703.13 (7) (a), 703.13 (7) (b), 703.13 (7) (c), 703.13 (8) (b), 703.13**
9 **(8) (c), 703.14 (1), 703.15 (2) (a), 703.15 (2) (b), 703.15 (2) (c) 2., 703.15 (2) (d),**
10 **703.15 (2) (f), 703.15 (3) (a) (intro.), 703.15 (3) (a) 1., 703.15 (3) (a) 2., 703.15 (3)**
11 **(a) 3., 703.15 (3) (b) (intro.), 703.15 (4) (b), 703.15 (4) (d) 1., 703.15 (4) (e), 703.155**
12 **(1), 703.155 (2), 703.16 (1), 703.16 (2) (b), 703.161 (2) (intro.), 703.165 (2),**
13 **703.165 (3), 703.165 (5) (c), 703.17 (1), 703.18 (2) (b), 703.19 (3) (intro.), 703.19**
14 **(3) (b), 703.19 (3) (c), 703.20 (1), 703.22 (title), 703.22 (2), 703.22 (3), 703.24 (2),**
15 **703.26 (1), 703.26 (2) (a), 703.26 (3) (a), 703.28 (1), 703.33 (1) (intro.), 703.34**

1 (title), 703.365 (6) (b) and 703.365 (6) (d); and **to create** 703.13 (9), 703.15 (2)
 2 (c) 3., 703.161 (2) (g), 703.161 (3), 703.25 (3) (b), 703.275 (4m), 703.28 (2m),
 3 703.28 (3), 703.28 (4), 703.28 (5), 703.34 (4), 703.365 (6) (a) 3., 703.365 (10),
 4 703.365 (11) and 703.365 (12) of the statutes; **relating to:** miscellaneous
 5 modifications to the condominium laws.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a later version.

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

6 **SECTION 1.** 703.02 (5) of the statutes is amended to read:

7 703.02 (5) "Condominium instruments" mean the declaration, plats, and plans
 8 of a condominium, as amended from time to time, together with any attached
 9 exhibits or schedules.

10 **SECTION 2.** 703.02 (6) of the statutes is amended to read:

11 703.02 (6) "Conversion condominium" means property that includes a
 12 structure which that, before the recording of a condominium declaration, was wholly
 13 or partially occupied by persons other than those who have contracted for the
 14 purchase of condominium units and those who occupy with the consent of the
 15 purchasers.

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

17 703.02 (6m) "Correction instrument" means an instrument drafted by a
 18 licensed land surveyor that complies with the requirements of s. 59.43 (2m) and that,
 19 upon recording, corrects an error in a condominium plat or updates a condominium

1 plat for changes that do not require an addendum. "Correction instrument" does not
2 include an instrument of conveyance.

3 **SECTION 4.** 703.02 (12) of the statutes is amended to read:

4 703.02 (12) "Mortgagee" means the holder of any recorded mortgage
5 encumbering one or more units ~~of~~ a land contract vendor, or for purposes of receiving
6 notices or giving approvals the party servicing the mortgage or land contract.

7 **SECTION 5.** 703.02 (14g) of the statutes is amended to read:

8 703.02 (14g) "Removal instrument" means an instrument that complies with
9 the requirements of s. 59.43 (2m) and that removes property, either all or a portion
10 of a condominium, from the provisions of this chapter upon recording. "Removal
11 instrument" does not include an instrument of conveyance.

12 **SECTION 6.** 703.02 (15) of the statutes is amended to read:

13 703.02 (15) "Unit" means a part of a condominium intended for any type of
14 independent use, including one or more cubicles of air at one or more levels of space
15 or one or more rooms or enclosed spaces located on one or more floors, or parts thereof,
16 in a building. A unit may be of any size, may be for any use, and may include 2 or
17 more noncontiguous areas.

18 **SECTION 7.** 703.02 (16) of the statutes is amended to read:

19 703.02 (16) "Unit number" means the number ~~identifying~~ designating a unit
20 in a declaration.

21 **SECTION 8.** 703.03 of the statutes is amended to read:

22 **703.03 Application of chapter.** This chapter applies only to property, a sole
23 owner or all of the owners, and any mortgagee or holder of an equivalent security
24 interest, of which submit the property to the provisions of this chapter by duly
25 executing and recording a declaration and plat as provided in this chapter.

yesNOTE: Do you want this limited to first mortgagees?

1 SECTION 9. 703.04 of the statutes is amended to read:

2 703.04 Status of the units. A unit, together with its undivided interest in the
3 common elements and its other appurtenant interests, for all purposes constitutes
4 real property.

5 SECTION 10. 703.05 of the statutes is amended to read:

6 703.05 Ownership of units. A unit owner is entitled to the exclusive
7 ownership and possession of, and to the exercise of the rights appurtenant to, his or
8 her unit. ←

NoNOTE: Did you intend that "exclusive" also apply to "the exercise of the rights appurtenant to"?

9 SECTION 11. 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 make any alteration that would jeopardize the
12 soundness or safety of the property, interfere with the condition or operation of the
13 mechanical systems, reduce the value thereof of the property, impair any easement
14 or hereditament, or change the exterior appearance of a unit or any other portion of
15 the condominium not part of the unit.

16 SECTION 12. 703.07 (2) of the statutes is amended to read:

17 703.07 (2) A condominium instrument, ~~and all amendments, addenda and~~
18 ~~certifications of an amendment to a condominium instrument, and any certification~~
19 or statement relating to the condominium that must be recorded shall be recorded
20 in every county in which any portion of the condominium is located, and shall be
21 indexed in the name of the declarant and the name of the condominium. Subsequent
22 instruments affecting the title to a unit ~~which~~ that is physically located entirely
23 within a single county shall be recorded only in that county, notwithstanding the fact

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

4 **SECTION 13.** 703.08 (1) (intro.) of the statutes is amended to read:

5 703.08 (1) (intro.) Residential real property may not be converted to a
6 condominium unless the owner of the residential real property gives prior written
7 notice of the conversion to each of the residential tenants of the ~~building or buildings~~
8 ~~scheduled for conversion~~ structure or structures that are part of the property being
9 converted. During the 60-day period immediately following the date of delivery of
10 the notice a residential tenant has the first right to purchase the unit in which the
11 tenant resides, if the unit is offered for sale at any time during that period, for any
12 of the following:

13 **SECTION 14.** 703.08 (2) (intro.) of the statutes is amended to read:

14 703.08 (2) (intro.) A residential tenant may not be required to vacate the
15 property during the 120-day period immediately following the date of delivery of the
16 notice required under sub. (1) except for:

17 **SECTION 15.** 703.08 (3) of the statutes is amended to read:

18 703.08 (3) A residential tenant may waive in writing his or her first right of
19 purchase under sub. (1), his or her right to remain on the property under sub. (2), or
20 both.

21 **SECTION 16.** 703.09 (1c) of the statutes is amended to read:

22 703.09 (1c) A condominium declaration shall be signed by the owners of the
23 property and by or on behalf of any first mortgagee of the property or ~~the~~ holder of
24 an equivalent security interest in the property in the same manner as required in
25 conveyances of real property.

1 **SECTION 17.** 703.09 (2) of the statutes is amended to read:

2 703.09 (2) Except as otherwise provided in ~~sub. (4) and ss. 703.093, 703.13 (6)~~
3 ~~(c) and (d) and (8) (b), and 703.26 this chapter~~, a condominium declaration may be
4 amended with the written consent of at least two-thirds of the 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.

js ****NOTE: Is the way in which I amended this provision okay?

15 **SECTION 18.** 703.10 (1) of the statutes is amended to read:

16 703.10 (1) **BYLAWS TO GOVERN ADMINISTRATION.** The administration of every
17 condominium shall be governed by bylaws. Every unit owner and occupant shall
18 comply strictly with the bylaws and with the rules adopted under the bylaws, as the
19 bylaws or rules are amended from time to time, and with the covenants, conditions,
20 and restrictions set forth in the declaration or in the deed to the unit. Failure to
21 comply with any of the bylaws, rules, covenants, conditions, or restrictions is grounds
22 for action to recover sums due, for damages or injunctive relief or both, maintainable
23 by the association or, in a proper case, by an aggrieved unit owner, or for enforcement
24 under s. 703.24.

Both

****NOTE: Is the intention to authorize a civil action or in-house enforcement under s. 703.24?

1 **SECTION 19.** 703.10 (2) (d) of the statutes is amended to read:

2 703.10 (2) (d) The election by the unit owners of a board of directors of whom,
3 except during the period of declarant control, not more than one is a nonunit owner;
4 the number of persons constituting the ~~same~~ board of directors and that the terms
5 of at least ~~one-third of the~~ elected directors shall ~~expire annually~~; not exceed 3 years;
6 the powers and duties of the board; the compensation, if any, of the directors; the
7 method of removal from office of directors; and whether or not the board may engage
8 the services of a manager or managing agent.

9 **SECTION 20.** 703.10 (2) (f) of the statutes is amended to read:

10 703.10 (2) (f) The manner of borrowing money and acquiring and conveying
11 property, if the association is to have these powers.

12 **SECTION 21.** 703.10 (6) of the statutes is amended to read:

13 703.10 (6) **TITLE TO CONDOMINIUM UNITS UNAFFECTED BY BYLAWS.** Title to a
14 condominium unit is not rendered unmarketable or otherwise affected by any
15 provision of the bylaws, except for liens filed under the authority of the bylaws, or
16 by reason of any failure of the bylaws to comply with the provisions of this chapter.

17 **SECTION 22.** 703.105 (1m) of the statutes is amended to read:

18 703.105 (1m) No bylaw or rule may be adopted or provision included in a
19 declaration or deed that prohibits a unit owner from displaying in his or her
20 ~~condominium unit~~ a sign that supports or opposes a candidate for public office or a
21 referendum question.

22 **SECTION 23.** 703.105 (2) of the statutes is amended to read:

1 703.105 (2) Notwithstanding subs. (1) and (1m), bylaws or rules may be
2 adopted that regulate the size and location of signs, flags, and flagpoles, including
3 limiting their display to those parts of the condominium that the unit owner has the
4 exclusive right to use.

5 **SECTION 24.** 703.115 (1) (a) of the statutes is amended to read:

6 703.115 (1) (a) Requires the review to be completed within 10 working days
7 after submission of the condominium instrument and provides that, if the review is
8 not completed within this period, the condominium instrument is approved for
9 recording without certification of review or approval or the signature of the reviewer.

OK ****NOTE: In addition to without certification of approval, I added without
certification of review. Okay?

10 **SECTION 25.** 703.115 (1) (b) of the statutes is amended to read:

11 703.115 (1) (b) Provides that a condominium instrument may be rejected only
12 if it fails to comply with the applicable requirements of ss. 703.095, 703.11 (2) (a), (c),
13 and (d) and (3), and 703.275 (5) and 703.28 (1m) or if the surveyor's certificate under
14 s. 703.11 (4) is not attached to or included in the condominium plat.

○ ****NOTE: This draft repeals s. 703.28 (1m). Do you want to substitute another
section in its place in this paragraph?

15 **SECTION 26.** 703.12 of the statutes is amended to read:

16 **703.12 Description of units.** A description in any deed or other instrument
17 affecting title to any unit ~~which that~~ makes reference to the letter or number or other
18 ~~appropriate~~ unit designation on the condominium plat together with a reference to
19 the condominium instruments shall be a good and sufficient description for all
20 purposes. Whenever a parcel identification number is required for any purpose, the
21 designation of all units in the condominium may be shown by the parcel number or
22 numbers of the property submitted to this chapter to create the condominium.

1 **SECTION 27.** 703.13 (2) of the statutes is amended to read:

2 703.13 (2) **RIGHTS TO COMMON SURPLUSES.** Common surpluses shall be ~~disbursed~~
3 used or allocated as provided under s. 703.16 (1).

4 **SECTION 28.** 703.13 (4) of the statutes is amended to read:

5 703.13 (4) **CHANGE IN PERCENTAGE INTEREST.** The percentage interests shall have
6 a permanent character and, except as specifically provided by this chapter, may not
7 be changed without the written consent of all of the unit owners and ~~their~~ the consent
8 by or on behalf of all of the first mortgagees or holders of equivalent security
9 interests. Any change shall be evidenced by an amendment to the declaration and
10 recorded among the appropriate land records. The percentage interests may not be
11 separated from the unit to which they appertain. Any instrument, matter,
12 circumstance, action, occurrence, or proceeding in any manner affecting a unit also
13 shall affect, in like manner, the percentage interests appurtenant to the unit. In the
14 event that a condominium structure is not fully constructed as declared or one or
15 more units are destroyed and not rebuilt or are removed from the condominium, the
16 percentage interests in the common elements shall be adjusted to maintain the same
17 ratio among the units, unless otherwise changed as permitted under this chapter.



****NOTE: Have I interpreted the proposed language properly? Should this say that the destroyed units are removed from the condominium *plat*? (If they are destroyed and not rebuilt, they would seem to be automatically removed from the condominium.)

18 **SECTION 29.** 703.13 (5) (a) of the statutes is amended to read:

19 703.13 (5) (a) A unit owner may make any improvements or alterations within
20 his or her unit that do not impair the structural integrity or lessen the support of any
21 portion of the condominium or interfere with the condition or operation of the
22 mechanical systems and that do not create a nuisance substantially affecting the use
23 and enjoyment of other units or the common elements. A unit owner may not change

1 the exterior appearance of a unit or of any other portion of the condominium without
2 permission of the board of directors of the association. A unit owner making
3 alterations within his or her unit that involve changing the configuration of rooms
4 within the unit shall file plans with the association showing the reconfiguration.

5 SECTION 30. 703.13 (5) (b) of the statutes is amended to read:

6 703.13 (5) (b) Except to the extent prohibited by the condominium instruments,
7 and subject to any restrictions and limitation specified therein, a unit owner
8 acquiring an adjoining or adjoining part of an adjoining unit, may remove all or any
9 part of any intervening partition or create doorways or other apertures therein, even
10 if the partition may in whole or in part be a common element, if those acts do not
11 impair the structural integrity or lessen the support of any portion of the
12 condominium or interfere with the condition or operation of the mechanical systems.
13 The creation of doorways or other apertures is not deemed an alteration of
14 boundaries.

OK *****NOTE: Although not requested, I added the treatment of this provision for
consistency. Okay?

15 SECTION 31. 703.13 (5m) (a) 3. of the statutes is amended to read:

16 703.13 (5m) (a) 3. The improvement will not impair the structural integrity of
17 the condominium or interfere with the condition or operation of the mechanical
18 systems.

19 SECTION 32. 703.13 (5m) (b) of the statutes is amended to read:

20 703.13 (5m) (b) All costs and expenses of an improvement under this
21 subsection and any increased costs of maintenance and repair of the limited common
22 elements resulting from the improvement, as determined by the association, are the
23 obligation of the unit owner. The unit owner shall protect the association and other

1 unit owners from liens on property of the association or of other unit owners that
2 otherwise might result from the improvement.

3 SECTION 33. 703.13 (6) (b) of the statutes is amended to read:

4 703.13 (6) (b) If any unit owners of adjoining units whose mutual boundaries
5 may be relocated desire to relocate those boundaries, the principal officer of the unit
6 owners association, upon written application from those unit owners, and after
7 determining that the relocation does not violate the condominium instruments and
8 providing 30 days' written notice to all other unit owners, shall prepare and execute
9 appropriate instruments.

bed ****NOTE: Who must provide the notice? As drafted, the principal officer of the unit
owners association must. Okay?

10 SECTION 34. 703.13 (6) (c) of the statutes is amended to read:

11 703.13 (6) (c) An amendment to a declaration shall identify the units involved
12 and shall state that the boundaries between those units are being relocated by
13 agreement of the ~~unit owners thereof~~ of those units. The amendment shall contain
14 words of conveyance between those unit owners, and when recorded shall also be
15 indexed in the name of the grantor and grantee. If the adjoining unit owners have
16 specified in their written application the reallocation between their units of the
17 aggregate undivided interest in the common elements appertaining to those units,
18 the amendment to the declaration shall reflect that reallocation. An amendment to
19 a declaration under this paragraph shall be adopted, at the option of the adjoining
20 unit owners, either under s. 703.09 (2) or by the written consent of the owners of the
21 adjoining units involved and the written consent by or on behalf of the mortgagees
22 of the adjoining units, which amendment shall constitute a conveyance between the
23 unit owners of the affected part or parts of the unit or units.

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****NOTE: I added "consent by or on behalf of the mortgagees." Is this okay? If so, do you want to limit the consent to *first mortgagees* and add *holders of equivalent security interests*?

SECTION 35. 703.13 (6) (e) of the statutes is amended to read:

703.13 (6) (e) Plats and plans showing the altered boundaries and the dimensions thereof between adjoining units, and their ~~identifying numbers or letters designations~~, shall be prepared. The plats and plans shall be certified as to their accuracy in compliance with this subsection by a civil engineer, architect, or licensed land surveyor authorized to practice his or her profession in the state.

SECTION 36. 703.13 (7) (a) of the statutes is amended to read:

703.13 (7) (a) If any condominium instruments expressly permit the separation of a unit into 2 or more units, a separation shall be made in accordance with this section, or sub. (9) if the separation involves the creation of more than 2 units, and any restrictions and limitations which the condominium instruments may specify.

ok
1
****NOTE: Since sub. (9) is part of "this section," it is unnecessary to add the proposed language. Would you prefer to amend the paragraph to say, "a separation shall be made in accordance with this *subsection* [meaning sub. (7)], or sub. (9) if the separation involves the creation of more than 2 units"? Additionally, sub. (9) appears to divide the ownership interest of a unit, not the unit itself.

SECTION 37. 703.13 (7) (b) of the statutes is amended to read:

703.13 (7) (b) The principal officer of the association, upon written application of a person proposing the separation of a unit (separator), and after determining that the separation does not violate the condominium instruments and providing 30 days' written notice to all other unit owners, shall promptly prepare and execute appropriate instruments under this subsection. An amendment to the condominium instruments shall assign a new ~~identifying number~~ designation to each new unit created by the separation of a unit, except that one of the new units may retain the original designation of the separated unit. The amendment shall allocate to those

1 new units, on a reasonable basis acceptable to the separator and the executive board,
2 all of the undivided interest in the common ~~element~~ elements and rights to use the
3 limited common elements and the votes in the association formerly appertaining to
4 the separated unit. The amendment shall reflect a proportionate allocation to the
5 new units of the liability for common expenses and rights to common surpluses
6 formerly appertaining to the subdivided unit.

7 **SECTION 38.** 703.13 (7) (c) of the statutes is amended to read:

8 703.13 (7) (c) Plats and plans showing the boundaries and dimensions
9 ~~separating of~~ the new units ~~together with their other boundaries and their new~~
10 ~~identifying numbers or letters, including the boundary separating them, together~~
11 with their new designations, shall be prepared. The plats and plans shall be certified
12 as to their accuracy and compliance with this subsection by a civil engineer, architect,
13 or licensed land surveyor authorized to practice his or her profession in the state.

14 **SECTION 39.** 703.13 (8) (b) of the statutes is amended to read:

15 703.13 (8) (b) If the unit owners of adjoining units that may be merged desire
16 to merge the units and the association determines that the merger does not violate
17 the condominium instruments, the unit owners, after providing 30 days' written
18 notice to all other unit owners, shall prepare and execute appropriate instruments
19 under this subsection. An amendment to the condominium instruments shall assign
20 a new ~~identifying number~~ designation to the new unit created by the merger of the
21 units, which designation may be the original designation of one of the merged units,
22 and shall allocate to the new unit all of the undivided interest in the common
23 elements and rights to use the limited common elements and the votes in the
24 association formerly appertaining to the separate units. The amendment shall
25 reflect an allocation to the new unit of the liability for common expenses and rights

1 to common surpluses formerly appertaining to the separate units. An amendment
 2 to a declaration under this paragraph shall be adopted either under s. 703.09 (2) or
 3 by the written consent of the owners of the units to be merged, the written consent
 4 by or on behalf of the mortgagees of those units, if any, and the written consent of the
 5 board of directors of the association.

7
 ****NOTE: I added "by or on behalf of" before mortgagees. Okay? Do you want these mortgagees limited to first mortgagees, and do you want to add "holders of an equivalent security interest"?

6 SECTION 40. 703.13 (8) (c) of the statutes is amended to read:

7 703.13 (8) (c) Plats and plans showing the boundaries and dimensions of the
 8 new unit, together with the new ~~identifying number or letter designation~~, shall be
 9 prepared. The plats and plans shall be certified as to their accuracy and compliance
 10 with this subsection by a civil engineer, architect, or licensed land surveyor
 11 authorized to practice in this state.

12 SECTION 41. 703.13 (9) of the statutes is created to read:

13 703.13 (9) DIVISION OF UNITS. (a) If permitted in the declaration, a
 14 condominium unit may be divided into multiple separate ownership interests. This
 15 paragraph does not apply if the record ownership of the unit is not subdivided.

✓
 ****NOTE: I don't understand this provision. It sounds like what you are saying is that a unit may be divided into separate ownership interests, but only if the ownership is already subdivided. What is the difference between being subdivided and being multiple separate interests?

16 (b) 1. Except as provided in subd. 2., the separate interests shall be created by
 17 condominium, subdivision, or certified survey map, as appropriate, and must be
 18 further shown by amendment and addendum.

2
 ****NOTE: What do you mean that the interests shall be created "by condominium"? That phrase does not work with the definition of "condominium" in s. 703.02 (4). Do you mean that the unit must be subjected to the provisions of this chapter to create a condominium form of ownership? What do you mean that the interests shall be created "by subdivision"? I assume you are not referring to the technical requirements for subdividing property under ch. 236.

1 2. If the separate interests are based on a division of rights in the ownership
2 of the unit on the basis of time periods, the division shall be controlled by ch. 707, if
3 applicable.

✓ ****NOTE: I added "if applicable" here because a division of interests on the basis
of time periods might not be consistent with the definition of "time share" under ch. 707.

4 (c) Subdivision of a unit under this subsection does not require removal of the
5 condominium from the provisions of this chapter.

2, ****NOTE: Once again, I assume you are not referring to subdivision under ch. 286.
When you use "condominium" in this statement, do you mean the larger condominium
of which the unit is a part? Should this paragraph say "subdivision of the ownership
interest of a unit"? Should the entire subsection be entitled "Division of ownership
interests" instead of "Division of units"? "Division of units" sounds like a physical division
of the unit.

6 **SECTION 42.** 703.14 (1) of the statutes is amended to read:

7 703.14 (1) The common elements may be used only for the purposes for which
8 they were intended and, except as provided in the condominium instruments or
9 association bylaws or rules, the common elements are subject to mutual rights of
10 support, access, use, and enjoyment by all unit owners. However, any portion of the
11 common elements designated as limited common elements may be used only by the
12 unit owner of the unit to which their use is limited in the condominium instruments
13 and association bylaws and rules.

14 **SECTION 43.** 703.15 (2) (a) of the statutes is amended to read:

15 703.15 (2) (a) *Establishment.* ~~Every declarant shall establish an association~~
16 ~~to govern the condominium not later than~~ As of the date of the first conveyance of a
17 unit to a purchaser, an association shall immediately exist to govern the affairs of the
18 condominium. The declarant shall organize and operate the association until control
19 of the association is transferred to the unit owners. The association shall be
20 organized as a profit or nonprofit corporation or as an unincorporated association.

may be

1 After it is organized, the membership of the association shall at all times consist
2 exclusively of all of the unit owners.

****NOTE: I provided that the association would exist immediately, as provided in
s. 703.365 (5). It is not clear, however, when the declarant must organize the association.
Is that before or after it immediately exists?

3 SECTION 44. 703.15 (2) (b) of the statutes is amended to read:

4 703.15 (2) (b) *Power and responsibility prior to establishment.* Until an
5 association is established, a declarant has the power and responsibility to act in all
6 instances where this chapter, any other provision of the law, or the declaration
7 require action by the association or its officers.

✓ ↗
****NOTE: Should the paragraph above be amended to say "until an association
exists under sub. (1)," or is the intention that the declarant will act, even though an
association exists, until the declarant actually organizes one under sub. (1) (in which
case, should "established" be changed to "organized"), or until the declarant transfers
control of the association?

8 SECTION 45. 703.15 (2) (c) 2. of the statutes is amended to read:

9 703.15 (2) (c) 2. The period of declarant control begins on the date that the first
10 condominium unit is conveyed by a declarant to any person other than the declarant.
11 If there is any other unit owner other than a declarant, a declaration may not be
12 amended to increase the scope or the period of the declarant control. The declarant
13 may transfer control of the association before the expiration of the period of declarant
14 control.

****NOTE: Doesn't declarant control end when control of the association is
transferred?

15 SECTION 46. 703.15 (2) (c) 3. of the statutes is created to read:

16 703.15 (2) (c) 3. Upon the termination of declarant control, the declarant shall
17 turn over all association records and accounts to the directors elected under par. (f).

18 SECTION 47. 703.15 (2) (d) of the statutes is amended to read:

1 703.15 (2) (d) *Meeting to elect directors.* ~~Prior to~~ Within 30 days after the
2 conveyance of ~~25%~~ 25 percent of the common element interest to purchasers, an
3 association shall hold a meeting and the unit owners other than the declarant shall
4 elect at least ~~25%~~ 25 percent of the directors of the executive board. ~~Prior to~~ Within
5 30 days after the conveyance of ~~50%~~ 50 percent of the common element interest to
6 purchasers, an association shall hold a meeting and the unit owners other than the
7 declarant shall elect at least ~~33 1/3%~~ 33 1/3 percent of the directors of the executive
8 board.

9 **SECTION 48.** 703.15 (2) (f) of the statutes is amended to read:

10 703.15 (2) (f) *Elections after expiration of declarant control.* Not later than 45
11 days after ~~the expiration of any period of declarant control ends,~~ an association shall
12 hold a meeting and the unit owners shall elect an executive board of at least 3
13 directors and officers of the association. The directors and officers shall take office
14 upon election.

15 **SECTION 49.** 703.15 (3) (a) (intro.) of the statutes is amended to read:

16 703.15 (3) (a) *Powers.* (intro.) ~~An~~ In addition to any other powers vested in it
17 by law, an association has the power to do all of the following:

18 **SECTION 50.** 703.15 (3) (a) 1. of the statutes is amended to read:

19 703.15 (3) (a) 1. Adopt and amend budgets for revenues, expenditures, and
20 reserves and levy and collect assessments for common expenses from unit owners;.

21 **SECTION 51.** 703.15 (3) (a) 2. of the statutes is amended to read:

22 703.15 (3) (a) 2. Employ and dismiss employees and agents;.

23 **SECTION 52.** 703.15 (3) (a) 3. of the statutes is amended to read:

24 703.15 (3) (a) 3. Sue on behalf of all unit owners; ~~and,~~

25 **SECTION 53.** 703.15 (3) (b) (intro.) of the statutes is amended to read:

1 703.15 (3) (b) *Conditional powers.* (intro.) Subject to any restrictions and
2 limitations specified by the declaration, an association may do any of the following:

3 **SECTION 54.** 703.15 (4) (b) of the statutes is amended to read:

4 703.15 (4) (b) Every unit owner shall furnish the association with ~~his or her the~~
5 name and current mailing address of every owner of the unit and, if the unit is leased,
6 of every tenant of the unit. No unit owner may vote at meetings of the association
7 until this information is furnished.

8 **SECTION 55.** 703.15 (4) (d) 1. of the statutes is amended to read:

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

✓ ****NOTE: I added "who is present" for clarity. Okay?

17 **SECTION 56.** 703.15 (4) (e) of the statutes is amended to read:

18 703.15 (4) (e) Unless otherwise provided in this chapter, and subject to
19 provisions in the bylaws requiring a different majority or manner of voting, decisions
20 of an association shall be made on a majority of votes of the unit owners present and
21 voting at a meeting at which a quorum is present.

22 **SECTION 57.** 703.155 (1) of the statutes is amended to read:

23 703.155 (1) DEFINITION. In this section, "master association" means a ~~profit or~~
24 nonprofit corporation or unincorporated association ~~which~~ that exercises the powers

1 under s. 703.15 (3) on behalf of one or more condominiums or for the benefit of the
2 unit owners of one or more condominiums.

3 **SECTION 58.** 703.155 (2) of the statutes is amended to read:

4 703.155 (2) DELEGATION. If a declaration provides that any of the powers
5 ~~described in s. 703.15 (3) of an association~~ are to be exercised by or may be delegated
6 to a master association, all provisions of this chapter applicable to an association
7 apply to the master association, except as modified by this section or the declaration.

8 **SECTION 59.** 703.16 (1) of the statutes is amended to read:

9 703.16 (1) DISPOSITION OF COMMON SURPLUSES. All common surpluses of the
10 association ~~shall be credited to the unit owners' assessments for common expenses~~
11 may be used by the association in the manner determined by the association. If
12 surpluses are credited or distributed to the unit owners, they shall be allocated
13 among the unit owners as provided in the declaration or, if there is no applicable
14 provision in the declaration, in proportion to their percentage interests in the
15 common elements or as otherwise provided in the declaration or shall be used for any
16 other purpose as the association decides.

17 **SECTION 60.** 703.16 (2) (b) of the statutes is amended to read:

18 703.16 (2) (b) During ~~the period of declarant control of the association under~~
19 ~~s. 703.15 (2) (c), if any period in which~~ any unit owned by the declarant is exempt from
20 assessments for common expenses until the unit is sold, the total amount assessed
21 against units that are not exempt from assessments may not exceed the amount that
22 equals nonexempt units' budgeted share of common expenses, based on the
23 anticipated common expenses set forth in the annual budget under s. 703.161 (2) (a).
24 The declarant is liable for the balance of the actual common expenses.

25 **SECTION 61.** 703.161 (2) (intro.) of the statutes is amended to read:

1 703.161 (2) REQUIREMENT. (intro.) An association annually shall adopt and
2 distribute to ~~all unit owners~~ each unit owner an annual budget setting forth all of the
3 following:

4 **SECTION 62.** 703.161 (2) (g) of the statutes is created to read:

5 703.161 (2) (g) The amount assessed to the owner's unit.

6 **SECTION 63.** 703.161 (3) of the statutes is created to read:

7 703.161 (3) AMENDMENT. An association may adopt amendments to its budget
8 during the course of its fiscal year, and shall use the same procedures and actions as
9 are required for adoption of the original budget.

10 **SECTION 64.** 703.165 (2) of the statutes is amended to read:

11 703.165 (2) LIABILITY FOR ASSESSMENTS. A unit owner shall be liable for all
12 assessments, or installments thereof, coming due while owning a unit, including any
13 assessments coming due during the pendency of any claim by the unit owner against
14 the association or during any period in which the unit is not occupied by the unit
15 owner or is leased or rented to any other person. In ~~a voluntary~~ any grant, other than
16 one resulting from the foreclosure of a first mortgage or an equivalent security
17 interest in the unit, the grantee shall be jointly and severally liable with the grantor
18 for all unpaid assessments against the grantor for his or her share of the common
19 expenses up to the time of the ~~voluntary~~ grant for which a statement of condominium
20 lien is recorded, without prejudice to the rights of the grantee to recover from the
21 grantor the amounts paid by the grantee for such assessments. Liability for
22 assessments may not be avoided by waiver of the use or enjoyment of any common
23 element or by abandonment of the unit for which the assessments are made.

24 **SECTION 65.** 703.165 (3) of the statutes is amended to read:

1 703.165 (3) ASSESSMENTS CONSTITUTE LIEN. All assessments, until paid,
2 together with interest on them and actual costs of collection, constitute a lien on the
3 units on which they are assessed, if a statement of lien is filed within 2 years after
4 the date the last installment of the assessment becomes due. The lien is effective
5 against a unit at the time the last installment of the assessment became due
6 regardless of when within the 2-year period it is filed. A statement of condominium
7 lien is filed in the land records of the clerk of circuit court of the county where the unit
8 is located, stating the description of the unit, the name of the record owner, the
9 amount due, and the period for which the assessment was due. The clerk of circuit
10 court shall index the statement of condominium lien under the name of the record
11 owner in the judgment and lien docket. The statement of condominium lien shall be
12 signed and verified by an officer or agent of the association as specified in the bylaws
13 and then may be filed. On full payment of the amount of the assessment for which
14 the lien is claimed, the unit owner shall be entitled to a satisfaction of the lien that
15 may be filed with the clerk of circuit court.

? ****NOTE: Should "the last installment" also be added before "assessment" in the
? second sentence, as I have done?

16 **SECTION 66.** 703.165 (5) (c) of the statutes is amended to read:

17 703.165 (5) (c) Mechanic's Construction liens filed prior to the making of the
18 assessment.

19 **SECTION 67.** 703.17 (1) of the statutes is amended to read:

20 703.17 (1) An association shall obtain insurance, or ensure that insurance is
21 obtained, for the property against loss or damage by fire and such other hazards for
22 not less than full replacement value of the property insured and a liability policy
23 covering all claims commonly insured against. Insurance coverage shall be written

1 on the property in the name of the association as trustee for each of the unit owners
2 in the percentages established in the declaration. The declaration may establish an
3 allocation of insurance proceeds that differs from the percentage interest in the
4 common elements established under s. 703.13 (1). Premiums shall be common
5 expenses. The insurance may include reasonable deductibles, and, if it does, the
6 association shall determine by bylaw or rule whether a deductible shall be paid as
7 a common expense or, if not, how it will be allocated. Provisions for such insurance
8 shall be without prejudice to the right of each unit owner to insure his or her own unit
9 for personal benefit.

10 **SECTION 68.** 703.18 (2) (b) of the statutes is amended to read:

11 703.18 (2) (b) However, if a condominium is damaged to an extent more than
12 the available insurance proceeds, the condominium shall be subject to an action for
13 partition upon obtaining the written consent of the unit owners having ~~75%~~ 75
14 percent or more of the votes. In the case of partition, the net proceeds of sale together
15 with any net proceeds of insurance shall be considered as one fund and shall be
16 divided among all unit owners in proportion to their percentage interests in the
17 common elements as established under s. 703.13 (1) or, if the declaration so provides,
18 in an allocation that differs from the percentage interests in the common elements,
19 and shall be distributed in accordance with the priority of interests in each unit.

20 **SECTION 69.** 703.19 (3) (intro.) of the statutes is amended to read:

21 703.19 (3) ALLOCATION OF AWARD; IN ABSENCE OF PROVISIONS IN DECLARATION OR
22 BYLAWS. (intro.) Unless otherwise provided for in a declaration or bylaws, any
23 damages for a taking of all or part of a condominium shall, subject to sub. (6), be
24 awarded as follows:

25 **SECTION 70.** 703.19 (3) (b) of the statutes is amended to read:

1 703.19 (3) (b) Any award for the taking of limited common elements shall be
2 allocated to the unit owners of the units to which the use of those limited common
3 elements is restricted in proportion to their respective percentage interests in the
4 common elements as established under s. 703.13 (1) or, if the declaration so provides,
5 in an allocation that differs from the percentage interests in the common elements.

6 **SECTION 71.** 703.19 (3) (c) of the statutes is amended to read:

7 703.19 (3) (c) In the event no reconstruction is undertaken, any award for the
8 taking of common elements shall be allocated to all unit owners in proportion to their
9 respective percentage interests in the common elements as established under s.
10 703.13 (1) or, if the declaration so provides, in an allocation that differs from the
11 percentage interests in the common elements.

12 **SECTION 72.** 703.20 (1) of the statutes is amended to read:

13 703.20 (1) **RECORD KEEPING; AVAILABILITY FOR EXAMINATION.** An association shall
14 keep detailed, accurate records using standard bookkeeping procedures of the
15 receipts and expenditures affecting the common elements, specifying and itemizing
16 the maintenance and repair expenses of the common elements and any other
17 expenses incurred. The records, wherever maintained, are the property of the
18 association. The records and the vouchers authorizing the payments shall be
19 available for examination by the unit owners at convenient hours.

20 **SECTION 73.** 703.22 (title) of the statutes is amended to read:

21 **703.22 (title) Mechanics' Construction and suppliers' liens.**

22 **SECTION 74.** 703.22 (2) of the statutes is amended to read:

23 703.22 (2) Any ~~mechanics'~~ construction lien or suppliers' lien under subch. I
24 of ch. 779 arising as a result of repairs to or improvements of a unit by a unit owner
25 shall be a lien only against the unit.

1 **SECTION 75.** 703.22 (3) of the statutes is amended to read:

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

11 **SECTION 76.** 703.24 (2) of the statutes is amended to read:

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

16 **SECTION 77.** 703.25 (3) of the statutes is renumbered 703.25 (3) (a) and
17 amended to read:

18 703.25 (3) (a) A judgment for money or a blanket lien under s. 703.22 against
19 an association shall be a lien against any property owned by the association, and
20 against each of the condominium units in proportion to the liability of each unit
21 owner for common expenses as established under the declaration in an amount not
22 exceeding the market value of the unit, but not against any other property of any unit
23 owner.

24 **SECTION 78.** 703.25 (3) (b) of the statutes is created to read:

1 703.25 (3) (b) An action for a money judgment against an association shall not
2 be the basis for filing a lis pendens against the units of the condominium.

3 **SECTION 79.** 703.26 (1) of the statutes is amended to read:

4 703.26 (1) **DECLARANT MAY RESERVE RIGHT TO EXPAND.** A declarant may reserve
5 the right to expand a condominium in the original condominium declaration by
6 subjecting additional real property and units to the condominium declaration or
7 adding one or more units on real property already subject to the declaration in such
8 a manner that as each additional parcel of real property or unit is subjected to the
9 condominium declaration, the percentage of undivided interests in the common
10 elements of the ~~preceeding and new~~ property, including any new property, shall be
11 reallocated between the unit owners on the basis of the aggregate undivided interest
12 in the common elements appertaining to the property.

7
 ****NOTE: By "including any new property" do you mean the real property or units
that are being added?

13 **SECTION 80.** 703.26 (2) (a) of the statutes is amended to read:

14 703.26 (2) (a) A declaration establishing a condominium shall describe each
15 parcel of property which, along with its square footage, that may be added to the
16 condominium.

17 **SECTION 81.** 703.26 (3) (a) of the statutes is amended to read:

18 703.26 (3) (a) If the conditions of sub. (2) are complied with, property may be
19 added to a condominium if the declarant records an amendment to the declaration,
20 showing the designation of the units being added, the new percentage interests of the
21 unit owners, and the votes ~~which~~ that each unit owner may cast in the condominium
22 as expanded, and records an addendum to the condominium plat that includes the

1 detail and information concerning the new property as required in the original
2 condominium plat.

3 **SECTION 82.** 703.275 (4m) of the statutes is created to read:

4 703.275 (4m) PLAT. The plat of the resultant condominium shall be titled as
5 an addendum to the plat of the resultant condominium, shall identify the plat of
6 every condominium that is merged into the resultant condominium by name and
7 recording data, and shall identify units both by their designations in the resultant
8 condominium and by their designations in the merged condominiums. Any changes
9 in the common elements, including the reservation of parts of them as limited
10 common elements, shall be identified on the plat of the resultant condominium.

11 **SECTION 83.** 703.28 (1) of the statutes is amended to read:

12 703.28 (1) ~~All of the unit owners may remove all or any part of the property may~~
13 ~~be removed~~ from the provisions of this chapter by a removal instrument, duly
14 recorded, ~~provided that the holders of all liens affecting any of the units consent~~
15 ~~thereto or agree, in either case by instruments duly recorded, that their liens be~~
16 ~~transferred to the percentage of the undivided interest of the unit owner in the~~
17 ~~property as an amendment to the declaration, as provided in this section, and as an~~
18 addendum to the plat.

19 **SECTION 84.** 703.28 (1m) of the statutes is repealed.

20 **SECTION 85.** 703.28 (2) of the statutes is repealed.

21 **SECTION 86.** 703.28 (2m) of the statutes is created to read:

22 703.28 (2m) If all of the property is being removed, the removal instrument
23 must be approved by all of the unit owners and consented to by the holders of all liens
24 affecting the condominium or any unit. The removal instrument shall provide that
25 any lien against a unit is transferred to the percentage interest of the owner of the

1 unit that is encumbered by the lien and that any lien against the condominium as
2 a whole is allocated among the units in accordance with s. 703.25 (3). Upon removal
3 of the property from the provisions of this chapter, the property shall be owned in
4 common by the unit owners in their relative interests under s. 703.18 (2) (b).

3 ****NOTE: Is s. 703.18 (2) (b) the correct cross-reference here? That paragraph
relates to a division of insurance proceeds in proportion to the unit owners' interests in
the common elements.

5 SECTION 87. 703.28 (3) of the statutes is created to read:

6 703.28 (3) (a) If less than all of the property is being removed, the removal
7 instrument must specify all of the following:

- 8 1. The part of the property that is being removed.
- 9 2. Who will own the part of the property that is being removed after its removal.
- 10 3. The consideration that is being given to the remaining condominium for the
11 removal.
- 12 4. How the finances, including expenses, surpluses, assets, liabilities, and
13 reserves, will be allocated between the part of the property that is being removed and
14 the remaining condominium.

15 (b) A removal instrument under this subsection must be approved by 80
16 percent of the unit owners, including all of the owners of any units that are being
17 removed, and consented to by the holders of all liens affecting the condominium or
18 any unit. If the part of the property that is being removed will be owned by the
19 declarant or an affiliate of the declarant, the removal instrument must be approved
20 by all of the unit owners who are not the declarant and all of the holders of any liens
21 affecting their units. To the extent that the removal affects the value of any unit
22 owner's interest in the common elements, the removal instrument shall comply with
23 s. 703.09 (3). The removal instrument shall provide that any lien against a unit is

1 transferred to the percentage interest of the owner of the unit that is encumbered by
2 the lien and that any lien against the condominium as a whole is allocated among
3 the units in accordance with s. 703.25 (3).

2
****NOTE: Is it the removal instrument or the owner of the part being removed that
must comply with s. 703.09 (3)? That subsection seems to require compensation to a unit
owner if the value of their interest in the common elements is reduced.

4 (c) Any part of the property that is removed under this subsection must result,
5 after the removal, in a legal parcel for its intended purpose.

6 SECTION 88. 703.28 (4) of the statutes is created to read:

7 703.28 (4) The approvals and consents required under this section shall be
8 attested to in the instruments recorded with the removal instrument.

9 SECTION 89. 703.28 (5) of the statutes is created to read:

10 703.28 (5) A removal under this section does not bar the property or the part
11 of the property that is removed from subsequent resubmission to the provisions of
12 this chapter.

13 SECTION 90. 703.29 of the statutes is repealed.

14 SECTION 91. 703.33 (1) (intro.) of the statutes is amended to read:

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

18 SECTION 92. 703.34 (title) of the statutes is amended to read:

19 703.34 (title) **Blanket mortgages and other blanket liens affecting a**
20 **unit at time of first conveyance; mortgage approvals.**

21 SECTION 93. 703.34 (4) of the statutes is created to read:

22 703.34 (4) In those situations in which mortgagee consent or approval is
23 required, if a mortgagee cannot be contacted with the use of reasonable diligence or

1 if a mortgagee does not acknowledge receipt of the request for consent or approval
2 or respond to the request within a reasonable time, the association may seek the
3 right to proceed with the proposed action under ch. 840.

? *****NOTE: I don't understand the context of this provision. Is it intended to apply to any situation under the chapter in which mortgages consent or approval is required or only under s. 703.34? If it is intended to apply to situations throughout the chapter, it should not be placed in s. 703.34. Is the "proposed action" any action in the chapter for which mortgagee consent or approval is required or only an action under s. 703.34? Would the "proposed action" necessarily be listed in s. 840.03 or in another provision in ch. 840 or does an action under ch. 703 need to be added to ch. 840?

4 SECTION 94. 703.365 (6) (a) 3. of the statutes is created to read:

5 703.365 (6) (a) 3. An action is proposed by one unit owner that may have an
6 adverse impact on the condominium or the use and enjoyment of another unit in the
7 condominium.

8 SECTION 95. 703.365 (6) (b) of the statutes is amended to read:

9 703.365 (6) (b) The unit owner or owners challenging a decision of the board
10 of directors described under par. (a) 1. or 2. or the unit owner under par. (a) 3. shall
11 give written notice of the objection to all unit owners and mortgagees within 45 days
12 after the decision but before any action is taken or expenditure is made. Upon receipt
13 of this notice, the board of directors shall reconsider its decision and either affirm,
14 reverse or modify the decision.

? *****NOTE: The two provisions above do not work as proposed because no decision is being made by the board in par. (a) 3. to reconsider in par. (b), and the unit owner proposing the action in par. (a) 3. has nothing to object to, as stated in par. (b). How do you want to resolve this? Do you want the board to make a decision in par (a) 3. and either the unit owner proposing the action or the other unit owners may challenge the decision?

15 SECTION 96. 703.365 (6) (d) of the statutes is amended to read:

16 703.365 (6) (d) The board of directors, upon submission of the matter to
17 arbitration as provided in par. (c) or sub. (12) (b), shall name a proposed arbitrator.
18 The unit owner or owners may accept the proposed arbitrator or propose a different
19 arbitrator. If there is no agreement on a single arbitrator, the 2 arbitrators shall

1 select a 3rd person and the 3 shall serve as an arbitration panel chaired by the 3rd
2 person. The expense of the arbitration shall be shared equally by the association and
3 the unit owner or owners challenging the decision of the board of directors.

4 **SECTION 97.** 703.365 (7) of the statutes is renumbered 703.365 (9) and amended
5 to read:

6 703.365 (9) EXPANDING CONDOMINIUMS. Section 703.26 does not apply to a small
7 condominium, and the declaration for a small condominium may not provide that s.
8 703.26 applies to the small condominium.

9 **SECTION 98.** 703.365 (10) of the statutes is created to read:

10 703.365 (10) RESIDENT AGENT, TAXES. In the declaration for a small
11 condominium, the declarant shall designate one of the unit owners as the resident
12 agent of the condominium and shall specify how real estate taxes for the year the
13 condominium is created will be divided among the units if different from the
14 percentage interests in the common elements.

15 **SECTION 99.** 703.365 (11) of the statutes is created to read:

16 703.365 (11) UTILITY EASEMENTS. The units and limited common elements of
17 a small condominium are subject to cross easements for any utility services to other
18 units in the condominium.

? *****NOTE:** Is it unnecessary to provide that the common elements are subject to
those easements?

19 **SECTION 100.** 703.365 (12) of the statutes is created to read:

20 703.365 (12) TWO-UNIT CONDOMINIUMS. (a) Unless the declaration provides
21 otherwise, units in a 2-unit small condominium shall be insured by the same insurer.

22 (b) Any improvement, decoration, or repair to the exterior of either unit of a
23 2-unit small condominium must be agreed to by the owners of both units. In the

1 event of a dispute, the matter may be submitted to the board of directors, and the
2 decision of the board of directors may be challenged in an arbitration proceeding in
3 the manner provided in sub. (6) (d) and (e).

4 (END)

HORTON LAW OFFICE, S.C.

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*Original
instructions*

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D note

WM. PHARIS HORTON
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Pamela J. Kahler
Senior Legislative Attorney
Legislative Reference Bureau
1 East Main Street
Madison WI 53703

Dear Ms. Kahler:

I am sorry that I could not read the correct LRB number on the copies that I have, but this is the extensive draft of condominium law revisions that you prepared for Rep. Hebl's office. Your draft was excellent and your questions precise and penetrating enough so we have undertaken a review of some of the provisions which may have been proposed in an excess of enthusiasm but without full consideration.

What I have enclosed is a copy of the summary of the actions taken at a meeting of a group interested in this issue and a copy of the initial draft with some annotations. Those sections whose numbers are highlighted were agreeable to those present (we cannot guarantee the reactions of others). Ignore the notes written in; they were my first impressions and I wasn't smart enough to keep a clean copy.

I have given below a brief comment on each of the items that were not agreed to. Also, at the end of the summary there are six new ideas (more, I am sure, will be coming) and we would like the five highlighted to be added to the next draft. We are struggling with the concept on the sixth one.

← Sec. 5. This will have to be coordinated with a redraft of the removal sections (83-90) referred to below.

Sec. 8. This should be first mortgagees and should be coordinated with the new definition of first mortgagee (including holders of equivalent security interests) which is one of the additional items to be added per the summary.

Sec. 10. Move the amended language to the end of the sentence and add "it" at the end. Some of the appurtenant rights may not be exclusive to a single unit.

← Sec. 11. The wording of the mechanical systems insert is being redone. This also appears at various other points in the draft.

Sec. 12. Line 18 when amended should read: "any amendment or addendum to a condominium instrument" (additions underlined).

Sec. 16. This should pick up the definition change of Sec. 8.

Sec. 17. This is fine as written; it is intended that the association have both the court and private remedies available.

← Sec. 21. New case law affects this and it is being reworked.

Sec. 24. What you added is great.

← Sec. 25. This, like Sec. 5 will have to be coordinated with changes in the removal sections.

← Sec. 28. This concept is under reconsideration.

Secs. 29-31. See Sec. 11.

Sec. 33. Delete "principal officer of the unit owners" so this becomes an association function however it wishes to handle it.

Sec. 34. Approval would be limited to the first mortgagee using the Sec. 8 change.

← Secs. 36-38 and 41. The area of unit separation/multiple ownership is being redone.

Sec. 39. This should be first mortgagee (with appropriate wording revision) only.

← Secs. 43-44. This confusing wording is being reworked.

Sec. 45. Insert "mandatory" before the word "expiration".

Sec. 54. Delete.

Sec. 65. Change 2 years to 3 years.

Sec. 67. Start the section with "Unless otherwise provided in the declaration" and delete the words added on lines 20-21.

← Sec. 79. This is being reworded.

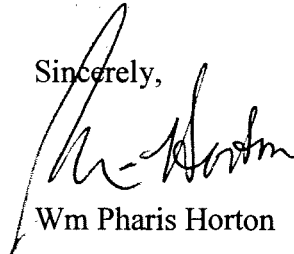
← Secs. 83-90. The provisions dealing with removal are being reworked (with your questions being very helpful in working through it).

← Secs. 92-93. These are being reworked.

← Secs. 94-96, 99-100. Sections dealing with small condominiums are being reworked.

Clearly, there is a lot being rethought and reworked and your points were appreciated. I hope to have these worked out in the near future, a few more ideas added (they come trickling in), and a final product. Thanks.

Sincerely,



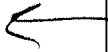
Wm Pharis Horton

cc: Hon. Gary Hebl

Actions taken at June 2 meeting

Sec. 703	Status	Actions	Assigned to
.02(5)	OK		
.02(6)	OK		
.02(6m)	OK		
.02(12)	WI Banker comment	Discuss; add "first mortgagee" definition	Horton
.02(14g)	HOLD pending work on removal sections		Horton
.02(15)	OK		
.02(16)	OK		
.03	Add "first" conform to .02(12)	Contact drafter	Horton
.04	OK		
.05	Move amendatory wording to end of sentence, add "it"	Contact drafter	Horton
.06	HOLD	Being reworded	Ishikawa
.07(2)	Add "or addendum", shift "an" to "any" line 18	Contact drafter	Horton
.08(1)	OK		
.08(2)	OK		
.08(3)	OK		
.09(1c)	OK (generic "first" mortgagee)	Contact drafter	Horton
.09(2)	OK, intend both	Contact drafter	Horton
.10(1)	OK, intended to be both	Contact drafter	Horton
.10(2)(d)	OK		
.10(2)(f)	OK		
.10(6)	HOLD	Reviewed, new case	Ishikawa
.105(1m)	OK		
.105(2)	OK		
.115(1)(a)	OK	Contact drafter	Horton
.115(1)(b)	HOLD, deleted item from removals	Contact drafter	Horton
.12	OK [possible challenge]		
.13(2)	OK		
.13(4)	HOLD	Check for rewording	Horton
.13(5)(a)	Delete items added p10, HOLD wording from .06	Contact drafter, await rewording of .06	Ishikawa, Horton
.13(5)(b)	HOLD wording from .06	Contact drafter, await rewording of .06	Ishikawa, Horton
.13(5m)(a)	HOLD wording from .06	Contact drafter, await rewording of .06	Ishikawa, Horton
.13(5m)(b)	OK		
.13(6)(b)	Drop "the principal officer of the unit owners"	Contact drafter	Horton
.13(6)(c)	First mortgagee only (generic wording)	Contact drafter	Horton

.13(6)(e)	OK		
.13(7)(a)	HOLD, concept/wording	Redraft, integrate with 13(9)	Ishikawa
.13(7)(b)	HOLD, concept/wording	Redraft, integrate with 13(9)	Ishikawa
.13(7)(c)	HOLD, concept/wording	Redraft, integrate with 13(9)	Ishikawa
.13(8)(b)	First mortgagee only (generic wording)	Contact drafter	Horton
.013(8)(c)	OK		
.13(9)	HOLD, concept/wording	Separate or with .13(7)	Ishikawa
.14(1)	OK		
.15(2)(a)	HOLD	Reword for clarity	Starkweather
.15(2)(b)	HOLD	Reword for clarity?	Starkweather
.15(2)(c)2	Add "mandatory" before "expiration"	Contact drafter	Horton
.15(2)(c)3	OK		
.15(2)(d)	OK		
.15(2)(f)	OK		
.15(3)(a)	OK		
.15(3)(a)1	OK		
.15(3)(a)2	OK		
.15(3)(a)3	OK		
.15(3)(b)	OK		
.15(4)(b)	Delete	Contact drafter	Horton
.15(4)(d)1	OK		
.15(4)(e)	OK		
.155(1)	OK		
.155(2)	OK		
.16(1)	OK		
.16(2)(b)	OK		
.161(2)	OK		
.161(2)(g)	OK		
.161(3)	OK		
.165(2)	OK		
.165(3)	Change 2 years to 3	Contact drafter	Horton
.165(5)(c)	OK		
.17(1)	Start section with "Unless otherwise provided in the Declaration" and delete words added on lines 20-21 of page 21	Contact drafter	Horton
.18(2)(b)	OK		
.19(3)	OK		
.19(3)(b)	OK		
.19(3)(c)	OK		
.20(1)	OK		
.22	OK		
.22(2)	OK		
.22(3)	OK		



.24(2)	OK		
.25(3)	OK		
.25(3)(b)	OK		
.26(1)	HOLD	Checking wording	Horton
.26(2)(a)	OK		
.26(3)(a)	OK		
.275(4m)	OK		
.28(1)	Removal being reworked		Horton
.28(1m)	“		Horton
.28(2)	“		Horton
.28(2m)	“		Horton
.28(3)	“		Horton
.28(4)	“		Horton
.28(5)	“		Horton
.29	“		Horton
.33(1)	OK		
.34	OK		
.34(4)	HOLD	Reword	Horton
.365(6)(a)3	HOLD	Reword	Horton
.365(6)(b)	HOLD	Reword	Horton
.365(6)(d)	HOLD	Reword	Horton
.365(7)	OK		
.365(10)	OK		
.365(11)	Change “limited common elements” to “common elements”	Contact drafter	Horton
.365(12)	HOLD, reword	Contact drafter	Horton

Additional proposals for drafting


Section	Concept	Source	Action
.02(?)	Create generic definition for “First Mortgagee” to include holder of equivalent interest; to be reflected in later sections	Meeting	To drafter
.15(2)(c)1a	Outside limited of declarant control if appropriate sell-out before 10 years	Meeting	Ishikawa
.16(7) .165(7)	Association to have benefit of 846.101 reduction in timelines if it agrees to waive deficiency in foreclosure of line	Horton	To drafter
.33	Condominium disclosures can be made electronically if the recipient is qualified under 137.12(2p)	Realtors	To drafter
709.02 (2)	A condominium addendum is only required in those situations in which a real estate condition report is required	Realtors	To drafter
709.12(2)(d) 709.02 (2)(d)	An executive summary is not required as part of the real estate condition report if it is excused under 703.365(8)	Realtors	To drafter

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1733/P2dn
PJK:.....

I did not include the amendment to s. 703.165 (7). That statute already says that a lien may be foreclosed by an association in the same manner and subject to the same requirements as foreclosure of a mortgage on real property, in other words, in the manner provided in, and subject to the requirements under, ch. 846.. That includes the shortened redemption periods under s. 846.101. The harm in explicitly stating that a part (s. 846.101) of a broader applicable provision (ch. 846) applies is that a question may then be raised about whether the parts not explicitly stated actually do apply even though they are part of the broader applicable provision.

Because you wanted "first mortgage" to include "a holder of an equivalent security interest," I changed every instance in ch. 703 of "mortgagee" that was associated with "a holder of an equivalent security interest" to "first mortgagee." Some of these changes were already in the draft and others I added. (Some instances in current law already referred to "first mortgagee.") Please review the following sections to make sure that you want them to refer to "first mortgagee":

1. 703.09 (1c) and (2)
2. 703.093 (1), (3), (4) (b), (5) (b), (6), (7), (8), and (9) (c) 
3. 703.13 (4), (6) (c), and (8) (b)
4. 703.165 (5) (b)

Please review the following sections, which refer (either in current law or in the draft) to just "mortgagee" to make sure that you do not want any of them to refer to "first mortgagee" instead:

5. 703.14 (2) *OK*
6. 703.15 (4) (d) 1. *OK*
7. 703.165 (5) (d) and (7) *OK*
8. 703.17 (2) *OK* ^{*OK*}
9. 703.26 (3) (b) *OK*

- 10. 703.33 (2) (b) 5. *OK*
- 11. 703.34 (1) and (3) *OK*
- 12. 703.365 (4) (b) and (6) (b)

first *first*

Pamela J. Kahler
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E-mail: pam.kahler@legis.wisconsin.gov

Additions and Revisions for final draft of condominium law proposal.

This supplements materials provided in June (attached); wording is subject to revision to meet statutory drafting criteria.

- ✓ 1. 703.02(14g) [Draft sec. 5]: this is okay as in original draft.
- ✓ 2. 703.06 (and others) [Draft sec. 11 and others]: wording on protection of mechanical systems to read: "Except as otherwise provided in this chapter, the declaration, bylaws or rules promulgated thereunder, no unit owner may make any alteration that would jeopardize the soundness or safety of the property, interfere with the condition or operation of the mechanical systems affecting property which is not a part of the unit, reduce the value of the property, impair any easement or hereditament, or change the exterior appearance of a unit or any other portion of the condominium not part of the unit."
- ✓ 3. 703.10(6) [Draft sec. 21] to read: "Title to a condominium unit is not rendered unmarketable because the unit is subject to the terms of a declaration, condominium plat, bylaws or rules, or by reason of any failure of the bylaws to comply with the provisions of this chapter."
- ✓ 4. 703.115(1)(b) [Draft sec. 25]: just refer to 703.28 without mentioning any subsection.
- ✓ 5. 703.13(4) [Draft sec. 28] to read:

"(a) Except as provided in this chapter, the elements established in the declaration may not be the unit owners of every unit in the condominium a unit subject to a mortgage. The percentage interest they appertain and any instrument, matter, circumstance unit shall affect in like manner the undivided interest

(b) In the event one or more units of a condominium for total destruction of the condominium, or are removed interests shall be adjusted to maintain the same ratio of

(c) {take from attached sheets marked 703.13(

(d) Any change to the undivided percentage interest evidenced by an amendment to the declaration. Changes under this section are exempt from s. 7

New instructions & attachments
6. 703.13(7) [Draft secs. 36, 37, 38 and 41] reword as follows:
 - ✓ (a) no amendment; effectively delete changes made by sec. 36 of Draft
 - "(b) Where the effect of the separation is to create two or more units of the existing condominium and the resulting interests will not be subject to organizational or operating documents other than those of the existing condominium:
 1. insert Sec. 37 of Draft
 2. insert Sec. 38 of Draft
 3. Existing 703.13(7)(d)"
 - "(c) Where the effect of the separation involves the creation of two or more ownership interests in the unit which are subject to organizational or operating documents in addition to those of the existing condominium:
 1. If the interests are based on time intervals, chap. 707 controls.

2. If the interests are units in a separate condominium, and for purposes of ss. 703.07 and 703.09 a unit shall be considered 'property' under 703.02(14) under these subs.

not a sentence ↓

3. {take from attached sheets marked 703.13(7)(c)3}

4. If the interests arise in any other way, the organizational and operating documents must be legally sufficient to create any entity involved and the proposed interests.

(d) All interests created in connection with the separate condominium instruments and association documents shall be subject to the

Delete Sec. 41 of the Draft

go over 703.28 in detail

7. 703.15(2)(a) and (b) [Draft secs. 43-44] See attached materials on 703.15(2)(a) and (b)

8. 703.26(1) [Draft sec. 79] amend to read:

"A declarant may include in the original declaration of a condominium a right to expand the condominium by adding additional land, one or more units, or both in such a manner that any added land or unit is subjected to the declaration and the percentage of undivided interests in the common elements are reallocated among all units if any unit or units are added."

9. 703.28 [Draft secs. 83-90] reword as follows:

? still repeal 703.29 + subs of current 703.28 not treated?

(1) Sec. 83 of the Draft

(2) Sec. 86 of the Draft and add at the end: "The percentage interest of each unit owner shall be as determined in the declaration, either the undivided percentage interest under s. 703.13(1) or that included in the declaration for this specific purpose."

(3) If less than all the property is being removed:

(a) If the removal is pursuant to an exercise of eminent domain, s. 703.195 controls.

(b) If the part being removed does not include all or any part of a unit, a limited common element, or a part of the common elements which is essential to the use and enjoyment of or access to any unit, the removal instrument must specify:

- 1. The part of the property that is being removed.
2. Who will own the part of the property being removed.
3. The consideration received for the removal and the use of application of the consideration received.

by whom?

(c) {See attached materials on 703.28(3)(c)} (b)

(d) If the property being removed is owned by the association and not any part of a unit or the common elements, its transfer shall be as provided in the declaration or association bylaws and shall not affect the percentage interests in the common elements..

(4) The removal instrument must meet the requirements for amendment of the declaration and an addendum to the declaration and an addendum to the condominium plat must be recorded to reflect the removal. The part which is removed must result in a legal parcel for its intended use.

this should apply to both (b) + (c)

10. 703.34 [Draft secs 93-93]

"Mortgagee Consent. If a mortgagee whose consent or approval is required for an action under this chapter cannot be contacted with the use of reasonable diligence, the association may seek the right to proceed with the proposed action, notwithstanding the missing consent or approval, under ch.841. In determining whether to permit the action for which mortgagee consent has not been approved, the court shall consider the need for the action to permit effective management and operation of the condominium and any

general intro. to ss (b), (c), + (d) of attachment could follow from it

only sub. (4)?

impact the action would have on the value of the units in the condominium as security for the mortgages on the units"

11. 703.365(6) [Draft secs 94-100]

"ASSOCIATIONS OPERATIONS. This section applies to operational decisions, including repair, maintenance, exterior appearance and expenditures, in a small condominium when the required majority under the declaration or bylaws for an action cannot be achieved or when the action would involve unbudgeted expenditures per unit in excess of \$2500 in any one year or \$5000 overall.

1. (a) A unit owner in a small condominium may propose in writing an action or expenditure by the association which the unit owner believes is necessary for the proper operation of the condominium. The association shall act on any unit owner proposal in a timely manner.

2. (b) If the association does not adopt the unit owner proposal, cannot achieve the majority required to take an action, or levies assessments for unbudgeted expenditures in the amounts noted above, a unit owner may request reconsideration of the decision and, if unsatisfied with the result, submit the issue to arbitration under ch. 788. Notice of the arbitration shall be given to the first mortgagee of any unit subject to a mortgage. The results of the arbitration shall be final as to the matter under consideration. The association may adopt rules establishing arbitration procedures.

3. (c) Acceptance of a deed to a unit in a small condominium constitutes agreement to the resolution of disputes over operational decisions by arbitration.

3. (d) If the challenge is wholly denied, costs of the arbitration shall be borne by the unit owner submitting the issue to arbitration. If the challenge is wholly upheld, costs shall be borne by the association. In all other cases, the costs shall be shared equally by the unit owner and the association."

The following items were not considered in the initial Draft and are in addition to the items at the end of the table of changes following the June 2 meeting.

12. 703.09(3)(a) add at the end "Any action to recover compensation under this subsection shall be commenced no later than one year after the amendment is recorded." *added (6m) instead*

13. 703.15(2)(c) *1.* "And in either event, thirty days after conveyance of 75% of the common element interest to purchasers."

14. 703.15(2)(e) "The calculation of the percentage of common element interest conveyed to purchasers under pars. (c) and (d) shall be based on the percentage of undivided interest appertaining to each unit which has been conveyed assuming that all the units to be completed, including in the case of an expanding condominium the maximum number of units that may be added, are included in the condominium."

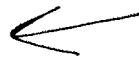
15. 703.15(6) add and new section to read:
"Except with respect to warranties included in a contract of purchase for a specific unit, any statute of limitations affecting the association's right of action against declarant is tolled until declarant control under sub. 2(c) terminates."

16. 703.16(2)(b) add at the end "Declarant obligations under this section shall be considered an assessment under sub. 1."

*par. (a) ?
as defined in 703.165(1)*

?
?
?

5/10/07
be nec.



J. Ishikawa revisions made
in response to Pharis's 7/31/09 letter

REDRAFT OF SECTION 28 OF PROPOSED BILL

SECTION 28. 703.13(4) of the statutes is amended to read:

703.13(4) **CHANGE IN PERCENTAGE INTEREST.**

~~(a) The percentage interests shall have a permanent character and, except as specifically provided by this chapter, may not be changed without the written consent of all of the unit owners and the consent by or on behalf of all of the first mortgagees or holders of equivalent security interests. Any change shall be evidenced by an amendment to the declaration and recorded among the appropriate land records. The percentage interests may not be separated from the unit to which they appertain. Any instrument, matter, circumstance, action, occurrence, or proceeding in any manner affecting a unit also shall affect, in like manner, the percentage interests appurtenant to the unit.~~

~~(c)~~

~~(b) Notwithstanding sub. (a), if a condominium plat depicts a building as containing a specified number of units, but the building is constructed in a manner that physically precludes the building from containing the full number of shown on the plat, then the declaration may be amended as provided in s. 703.09(2) to remove the excess units from the condominium, and the percentage interests appertaining to the excess units shall be added pro-rata to the percentage interests appertaining to the remaining units. Amendments enacted pursuant to this sub. (b) shall specify the new percentage interests for all remaining units~~

703.13(4)

(which collectively shall total 100 percent). Furthermore, amendments enacted pursuant to this sub. (b) shall not be subject to s. 703.09(3).

I earlier sent you language proposing a new Section 703.13(9). After our luncheon I thought of a few ways to improve what I'd drafted earlier. Here goes:

703.13(7)(c)3

~~(9)~~ **SUBJECTING UNIT TO CONDOMINIUM FORM OF OWNERSHIP.** If permitted in the declaration, a condominium unit may be itself be subjected to the condominium form of ownership in accordance with this section and any restrictions and limitations which the condominium instruments may specify. In such a case:

Chapter?

(a) The unit that is subjected to the condominium form of ownership shall remain a unit in the original condominium and shall continue to be subject to the condominium instruments for the original condominium.

(b) The association of the new condominium shall have all rights and obligations of the unit owner of the unit in the original condominium from which the new condominium is created.

(c) All assessments and other expenses chargeable to the unit from which the new condominium is created shall be common expenses of the new condominium.

(d) Upon creation of separate tax parcels under Section 703.21 for the units created under the new condominium, the unit that is subjected to the condominium form of ownership shall cease to be a separate tax parcel under Section 703.21.

703.13(7)(c)3

(e) Creation of the new condominium shall not require the unit from which the new condominium is created to be removed from the provisions of this chapter.

(7)(c)3

Other sections that will have to be modified to cross-reference new 703.13(9) would be 703.09(2) and 703.28(1m)(b) (which could be fixed by prefacing this section with, "Except as provided under Section 703.13(9), . . ."

D-note →

Best regards,



Jesse S. Ishikawa

JPS PROPOSED REVISION OF § 703.15(2)(a) & (b):

(2) ORGANIZATION OF ASSOCIATION. (a) *Establishment.* ~~Every declarant shall establish an association to govern the condominium not later than~~ As of the date of the first conveyance of a unit to a purchaser. The association shall, an association shall immediately exist to govern the affairs of the condominium. The association shall exist as an unincorporated association, unless the declarant has organized it as a ~~profit~~ nonprofit corporation prior to the first conveyance. After the first conveyance, the association may be organized as a ~~profit~~ nonprofit corporation or as an unincorporated association. After it is organized, the only with the consent of all of the unit owners. The declarant shall operate the association until control of the association is transferred to unit owners. The membership of the association shall at all times consist exclusively of all of the unit owners.

(b) *Power and responsibility prior to establishment.* Until an association is established exists under sub.(1), a declarant has the power and responsibility to act in all instances where this chapter, any other provision of the law, or the declaration require action by the association or its officers.

Explanation: The first sentence is changed to answer the question "What if the declarant fails to establish the association as required?" The answer is that the association immediately springs into existence upon the first conveyance. By default, the association is an unincorporated association, unless the declarant has already organized it as a profit or nonprofit corporation. If the declarant hasn't done so by the time of the first conveyance, and wants to do so later, then the consent of all unit owners is required.

See
43-44
9 draft

owners or either?

Declarant
does everything

D- wife

Pamie

→ who organizes the first conveyance?
declarant or owners?
who transfers control, declarant?
(I dropped it this way)

Is this generally but (b) is an exception to this?
(a specific instance?)

(which collectively shall total 100 percent). Furthermore, amendments enacted pursuant to this sub. (b) shall not be subject to s. 703.09(3).

REDRAFT OF SECTION 87 OF PROPOSED BILL:

SECTION 87. 703.28(3)^(c) of the statutes is created to read:

703.28(3)(a) If less than all of the property is being removed, the removal instrument must specify all of the following:

1. The part of the property being removed.
2. Who shall own the part of the property that is being removed

after its removal. If the property is to be owned in this (c) 1.

manner in which it was owned immediately prior to removal.

instrument shall contain language of conveyance

own the property following is removal. Such conveyance shall

to vest ownership in such parties even though fewer than all of the

owners of the condominium have joined in the removal instrument.

3. The consideration, if any, that is being received by the condominium association for the removal.

association for the removal.

(b) A removal instrument under this subsection must be signed by the unit owners holding 80 percent of the aggregate of the votes established under s. 703.09(1)(f) or a greater percentage if provided in the declaration, plus all of the owners of units that are being removed, and shall be consented to by the holders of all liens affecting the condominium or any unit.

is (b) an exception to (c)?
703.28(3)(c)

Same as general intro.
by a different person?
(ownership form is certainly diff)

apply to all of (3)?

(d) or (c) 2.?

↓ apply to all of (3)?

(e) of (c) 3.
?

(c) Removal of less than all of the property shall be permitted only if, following removal, the condominium and the property removed comply with laws and ordinances regulating zoning and land division.

(d) At the time a removal instrument is recorded under this section, the party recording the same shall also record an addendum to the condominium plat containing the detail and information concerning the remaining condominium property as was required in the original condominium plat.

(f) a
(c) 4. ?

703.28(3)(c)