



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRB-1733/P2 <sup>stays</sup>  
PJK:bjk:ph  
stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

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regm.

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

1 703.22 (2), 703.22 (3), 703.24 (2), 703.26 (1), 703.26 (2) (a), 703.26 (3) (a), 703.28  
2 (1), 703.33 (1) (intro.), 703.34 (title), 703.365 (4) (b), 709.02 (2) (intro.) and  
3 709.02 (2) (d); **to repeal and recreate** 703.365 (6); and **to create** 703.02 (9d),  
4 703.09 (3) (bm), 703.13 (4) (b), 703.13 (4) (c), 703.13 (4) (d), 703.13 (4) (e), 703.13  
5 (7) (b) 1., 703.13 (7) (cm), 703.13 (7) (dm), 703.15 (2) (c) 3., 703.15 (6), 703.161  
6 (2) (g), 703.161 (3), 703.25 (3) (b), 703.275 (4m), 703.28 (2m), 703.28 (3), 703.28  
7 (4), 703.33 (9), 703.34 (4), 703.365 (10), 703.365 (11) and 703.365 (12) of the  
8 statutes; **relating to:** miscellaneous modifications to the condominium laws.

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***Analysis by the Legislative Reference Bureau***

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

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

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

10 703.02 (5) "Condominium instruments" mean the declaration, plats, and plans  
11 of a condominium, as amended from time to time, together with any attached  
12 exhibits or schedules.

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

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

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

1           703.02 (6m) "Correction instrument" means an instrument drafted by a  
2 licensed land surveyor that complies with the requirements of s. 59.43 (2m) and that,  
3 upon recording, corrects an error in a condominium plat or updates a condominium  
4 plat for changes that do not require an addendum. "Correction instrument" does not  
5 include an instrument of conveyance.

6           **SECTION 4.** 703.02 (9d) of the statutes is created to read:

7           703.02 (9d) "First mortgagee" includes a holder of a security interest that is  
8 equivalent to a first mortgage.

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

10          703.02 (12) "Mortgagee" means the holder of any recorded mortgage  
11 encumbering one or more units ~~or~~, a land contract vendor, or for purposes of receiving  
12 notices or giving approvals the party servicing the mortgage or land contract.

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

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

18          **SECTION 7.** 703.02 (15) of the statutes is amended to read:

19          703.02 (15) "Unit" means a part of a condominium intended for any type of  
20 independent use, including one or more cubicles of air at one or more levels of space  
21 or one or more rooms or enclosed spaces located on one or more floors, or parts thereof,  
22 in a building. A unit may be of any size, may be for any use, and may include 2 or  
23 more noncontiguous areas.

24          **SECTION 8.** 703.02 (16) of the statutes is amended to read:

1           703.02 (16) "Unit number" means the number ~~identifying~~ designating a unit  
2 in a declaration.

3           **SECTION 9.** 703.03 of the statutes is amended to read:

4           **703.03 Application of chapter.** This chapter applies only to property, a sole  
5 owner or all of the owners, and any first mortgagee, of which submit the property to  
6 the provisions of this chapter by duly executing and recording a declaration and plat  
7 as provided in this chapter.

8           **SECTION 10.** 703.04 of the statutes is amended to read:

9           **703.04 Status of the units.** A unit, together with its undivided interest in the  
10 common elements and its other appurtenant interests, for all purposes constitutes  
11 real property.

12           **SECTION 11.** 703.05 of the statutes is amended to read:

13           **703.05 Ownership of units.** A unit owner is entitled to the exclusive  
14 ownership and possession of his or her unit and to the exercise of the rights  
15 appurtenant to it.

16           **SECTION 12.** 703.06 of the statutes is amended to read:

17           **703.06 Alterations prohibited.** Except as otherwise provided in this  
18 chapter, the declaration, or the bylaws, or any rules promulgated under any of them,  
19 no unit owner may make any alteration that would jeopardize the soundness or  
20 safety of the property, interfere with the condition or operation of the mechanical  
21 systems affecting property that is not a part of the unit, reduce the value ~~thereof~~ of  
22 the property, impair any easement or hereditament, or change the exterior  
23 appearance of a unit or any other portion of the condominium not part of the unit.

24           **SECTION 13.** 703.07 (2) of the statutes is amended to read:

1           703.07 (2) A condominium instrument, ~~and all amendments, addenda and~~  
2 ~~certifications of any amendment or addendum to a condominium instrument, and~~  
3 ~~any certification or statement relating to the condominium that must be recorded~~  
4 shall be recorded in every county in which any portion of the condominium is located,  
5 and shall be indexed in the name of the declarant and the name of the condominium.  
6 Subsequent instruments affecting the title to a unit ~~which~~ that is physically located  
7 entirely within a single county shall be recorded only in that county, notwithstanding  
8 the fact that the common elements are not physically located entirely within that  
9 county. Subsequent amendments and addenda shall be indexed under the name of  
10 the condominium.

11           **SECTION 14.** 703.08 (1) (intro.) of the statutes is amended to read:

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

20           **SECTION 15.** 703.08 (2) (intro.) of the statutes is amended to read:

21           703.08 (2) (intro.) A residential tenant may not be required to vacate the  
22 property during the 120-day period immediately following the date of delivery of the  
23 notice required under sub. (1) except for:

24           **SECTION 16.** 703.08 (3) of the statutes is amended to read:

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

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

5           703.09 (1c) A condominium declaration shall be signed by the owners of the  
6 property and by or on behalf of any first mortgagee of the property ~~or the holder of~~  
7 ~~an equivalent security interest in the property~~ in the same manner as required in  
8 conveyances of real property.

9           **SECTION 18.** 703.09 (2) of the statutes is amended to read:

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

23           **SECTION 19.** 703.09 (3) (bm) of the statutes is created to read:

24           703.09 (3) (bm) Any action to recover compensation under par. (a) shall be  
25 commenced no later than one year after the amendment is recorded or be barred.

1           **SECTION 20.** 703.10 (1) of the statutes is amended to read:

2           703.10 (1) BYLAWS TO GOVERN ADMINISTRATION. The administration of every  
3 condominium shall be governed by bylaws. Every unit owner and occupant shall  
4 comply strictly with the bylaws and with the rules adopted under the bylaws, as the  
5 bylaws or rules are amended from time to time, and with the covenants, conditions,  
6 and restrictions set forth in the declaration or in the deed to the unit. Failure to  
7 comply with any of the bylaws, rules, covenants, conditions, or restrictions is grounds  
8 for action to recover sums due, for damages or injunctive relief or both, maintainable  
9 by the association or, in a proper case, by an aggrieved unit owner, or for enforcement  
10 under s. 703.24.

11           **SECTION 21.** 703.10 (2) (d) of the statutes is amended to read:

12           703.10 (2) (d) The election by the unit owners of a board of directors of whom,  
13 except during the period of declarant control, not more than one is a nonunit owner,;  
14 the number of persons constituting the same board of directors and that the terms  
15 of ~~at least one-third of the~~ elected directors shall ~~expire annually,~~ not exceed 3 years;  
16 the powers and duties of the board,; the compensation, if any, of the directors,; the  
17 method of removal from office of directors; and whether or not the board may engage  
18 the services of a manager or managing agent.

19           **SECTION 22.** 703.10 (2) (f) of the statutes is amended to read:

20           703.10 (2) (f) The manner of borrowing money and acquiring and conveying  
21 property, if the association is to have these powers.

22           **SECTION 23.** 703.10 (6) of the statutes is amended to read:

23           703.10 (6) TITLE TO CONDOMINIUM UNITS UNAFFECTED BY CONDOMINIUM  
24 INSTRUMENTS OR BYLAWS. Title to a condominium unit is not rendered unmarketable  
25 or otherwise affected by any provision of the bylaws because the unit is subject to the

1 terms of a declaration, a condominium plat, bylaws, or rules, or by reason of any  
2 failure of the bylaws to comply with the provisions of this chapter.

3 **SECTION 24.** 703.105 (1m) of the statutes is amended to read:

4 703.105 (1m) No bylaw or rule may be adopted or provision included in a  
5 declaration or deed that prohibits a unit owner from displaying in his or her  
6 ~~condominium~~ unit a sign that supports or opposes a candidate for public office or a  
7 referendum question.

8 **SECTION 25.** 703.105 (2) of the statutes is amended to read:

9 703.105 (2) Notwithstanding subs. (1) and (1m), bylaws or rules may be  
10 adopted that regulate the size and location of signs, flags, and flagpoles, including  
11 limiting their display to those parts of the condominium that the unit owner has the  
12 exclusive right to use.

13 **SECTION 26.** 703.115 (1) (a) of the statutes is amended to read:

14 703.115 (1) (a) Requires the review to be completed within 10 working days  
15 after submission of the condominium instrument and provides that, if the review is  
16 not completed within this period, the condominium instrument is approved for  
17 recording without certification of review or approval or the signature of the reviewer.

18 **SECTION 27.** 703.115 (1) (b) of the statutes is amended to read:

19 703.115 (1) (b) Provides that a condominium instrument may be rejected only  
20 if it fails to comply with the applicable requirements of ss. 703.095, 703.11 (2) (a), (c),  
21 and (d) and (3), 703.275 (5), and 703.28 ~~(1m)~~ or if the surveyor's certificate under s.  
22 703.11 (4) is not attached to or included in the condominium plat.

23 **SECTION 28.** 703.12 of the statutes is amended to read:

24 **703.12 Description of units.** A description in any deed or other instrument  
25 affecting title to any unit ~~which~~ that makes reference to the letter or number or other



1 appropriate unit designation on the condominium plat together with a reference to  
2 the condominium instruments shall be a good and sufficient description for all  
3 purposes. Whenever a parcel identification number is required for any purpose, the  
4 designation of all units in the condominium may be shown by the parcel number or  
5 numbers of the property submitted to this chapter to create the condominium.

6 **SECTION 29.** 703.13 (2) of the statutes is amended to read:

7 703.13 (2) RIGHTS TO COMMON SURPLUSES. Common surpluses shall be disbursed  
8 used or allocated as provided under s. 703.16 (1).

9 **SECTION 30.** 703.13 (4) of the statutes is renumbered 703.13 (4) (a) and  
10 amended to read:

11 703.13 (4) (a) ~~The~~ Except as provided in this chapter, the undivided percentage  
12 interests ~~shall have a permanent character and, except as specifically provided by~~  
13 ~~this chapter, in the common elements established in the declaration~~ may not be  
14 changed without the written consent of all of the unit owners of every unit in the  
15 condominium and ~~their mortgagees.~~ ~~Any change shall be evidenced by an~~  
16 ~~amendment to the declaration and recorded among the appropriate land records~~ the  
17 approval of the first mortgagee of each unit subject to a mortgage. The percentage  
18 interests may not be separated from the unit to which they appertain. Any  
19 instrument, matter, circumstance, ~~action,~~ occurrence, or proceeding ~~in any manner~~  
20 affecting a unit ~~also~~ shall affect, in like manner, the undivided percentage interests  
21 appurtenant to the unit.

22 **SECTION 31.** 703.13 (4) (b) of the statutes is created to read:

23 703.13 (4) (b) Except for the total destruction of the condominium, in the event  
24 that one or more units of a condominium are destroyed and not rebuilt, or in the event  
25 that one or more units are removed from the condominium, the percentage interests

1 in the common elements shall be adjusted to maintain the same ratio of those  
2 interests among the remaining units.

3 **SECTION 32.** 703.13 (4) (c) of the statutes is created to read:

4 703.13 (4) (c) If a condominium plat depicts a building as containing a specified  
5 number of units but the building is constructed in such a manner as to physically  
6 preclude the building from containing the full number of units shown on the plat, the  
7 declaration may be amended as provided in s. 703.09 (2) to remove the excess units  
8 from the condominium. The percentage interests appertaining to the excess units  
9 shall be added on a pro rata basis to the percentage interests appertaining to the  
10 remaining units. Amendments enacted under this paragraph shall specify the new  
11 percentage interests for all of the remaining units, which percentage interests  
12 collectively shall total 100 percent.

13 **SECTION 33.** 703.13 (4) (d) of the statutes is created to read:

14 703.13 (4) (d) Any change to the undivided percentage interests in the common  
15 elements must be evidenced by amending the declaration in the manner provided in  
16 s. 703.09 (2).

17 **SECTION 34.** 703.13 (4) (e) of the statutes is created to read:

18 703.13 (4) (e) Section 703.09 (3) does not apply to any amendment made to a  
19 declaration under this subsection.

20 **SECTION 35.** 703.13 (5) (a) of the statutes is amended to read:

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

1 common elements. A unit owner may not change the exterior appearance of a unit  
2 or of any other portion of the condominium without permission of the board of  
3 directors of the association. A unit owner making alterations within his or her unit  
4 that involve changing the configuration of rooms within the unit shall file plans with  
5 the association showing the reconfiguration.

6 **SECTION 36.** 703.13 (5) (b) of the statutes is amended to read:

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

16 **SECTION 37.** 703.13 (5m) (a) 3. of the statutes is amended to read:

17 703.13 (5m) (a) 3. The improvement will not impair the structural integrity of  
18 the condominium or interfere with the condition or operation of the mechanical  
19 systems affecting property that is not a part of the unit.

20 **SECTION 38.** 703.13 (5m) (b) of the statutes is amended to read:

21 703.13 (5m) (b) All costs and expenses of an improvement under this  
22 subsection and any increased costs of maintenance and repair of the limited common  
23 elements resulting from the improvement, as determined by the association, are the  
24 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 39.** 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.

10 **SECTION 40.** 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 first  
22 mortgagees of the adjoining units, which amendment shall constitute a conveyance  
23 between the unit owners of the affected part or parts of the unit or units.

24 **SECTION 41.** 703.13 (6) (e) of the statutes is amended to read:

1           703.13 (6) (e) Plats and plans showing the altered boundaries and the  
2 dimensions thereof between adjoining units, and their ~~identifying numbers or letters~~  
3 designations, shall be prepared. The plats and plans shall be certified as to their  
4 accuracy in compliance with this subsection by a civil engineer, architect, or licensed  
5 land surveyor authorized to practice his or her profession in the state.

6           **SECTION 42.** 703.13 (7) (b) of the statutes is renumbered 703.13 (7) (b) 2. and  
7 amended to read:

8           703.13 (7) (b) 2. The ~~principal officer of the~~ association, upon written  
9 application of a person proposing the separation of a unit (separator), and after  
10 determining that the separation does not violate the condominium instruments and  
11 providing 30 days' written notice to all other unit owners, shall promptly prepare and  
12 execute appropriate instruments under this subsection paragraph. An amendment  
13 to the condominium instruments shall assign a new ~~identifying number~~ designation  
14 to each new unit created by the separation of a unit, except that one of the new units  
15 may retain the original designation of the separated unit. The amendment shall  
16 allocate to those new units, on a reasonable basis acceptable to the separator and the  
17 executive board, all of the undivided interest in the common element elements and  
18 rights to use the limited common elements and the votes in the association formerly  
19 appertaining to the separated unit. The amendment shall reflect a proportionate  
20 allocation to the new units of the liability for common expenses and rights to common  
21 surpluses formerly appertaining to the subdivided unit.

\*\*\*\*NOTE: I deleted "principal officer" in this provision, as you requested that I do  
in s. 703.13 (6) (b). Okay?



>

22           **SECTION 43.** 703.13 (7) (b) 1. of the statutes is created to read:

1           703.13 (7) (b) 1. This paragraph applies when the effect of the separation is to  
2 create 2 or more units of the existing condominium and the resulting interests will  
3 not be subject to organizational or operating documents other those of the existing  
4 condominium.

5           **SECTION 44.** 703.13 (7) (c) of the statutes is renumbered 703.13 (7) (b) 3. and  
6 amended to read:

7           703.13 (7) (b) 3. Plats and plans showing the boundaries and dimensions  
8 ~~separating of the new units together with their other boundaries and their new~~  
9 ~~identifying numbers or letters, including the boundary separating them, together~~  
10 ~~with their new designations,~~ shall be prepared. The plats and plans shall be certified  
11 as to their accuracy and compliance with this ~~subsection~~ paragraph by a civil  
12 engineer, architect, or licensed land surveyor authorized to practice his or her  
13 profession in the state.

14           **SECTION 45.** 703.13 (7) (cm) of the statutes is created to read:

15           703.13 (7) (cm) 1. This paragraph applies when the effect of the separation  
16 involves the creation of 2 or more ownership interests in the unit that are subject to  
17 organizational or operating documents in addition to those of the existing  
18 condominium.

19           2. If the interests are based on time intervals, ch. 707 applies.

20           3. If permitted in the declaration, a condominium unit itself may be subjected  
21 to the condominium form of ownership in accordance with this paragraph and any  
22 restrictions and limitations that the condominium instruments may specify. In that  
23 case, all of the following apply:

24           a. The unit subjected to the condominium form of ownership shall be considered  
25 to be property.

1           b. The unit subjected to the condominium form of ownership shall remain a unit  
2 in the original condominium and shall continue to be subject to the condominium  
3 instruments for the the original condominium.

4           c. The association of the new condominium shall have all rights and obligations  
5 of the unit owner of the unit in the original condominium from which the new  
6 condominium is created.

7           d. All assessments and other expenses chargeable to the unit from which the  
8 new condominium is created shall be common expenses of the new condominium.

9           e. Upon the creation of separate tax parcels under s. 703.21 for the units in the  
10 newly created condominium, the unit subjected to the condominium form of  
11 ownership shall cease to be a separate tax parcel under s. 703.21.

12           f. Creation of the new condominium shall not require the unit from which the  
13 new condominium is created to be removed from the provisions of this chapter.

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

17           **SECTION 46.** 703.13 (7) (d) of the statutes is renumbered 703.13 (7) (b) 4. and  
18 amended to read:

19           703.13 (7) (b) 4. After appropriate instruments have been prepared and  
20 executed, they shall be delivered promptly to the separator upon payment by him or  
21 her of all reasonable cost for their preparation. Those instruments are effective when  
22 the separator has executed them and they are recorded. The recording of the  
23 instruments is conclusive evidence that the separation did not violate any  
24 restrictions or limitation specified by the condominium instruments and that any  
25 reallocations made under this ~~subsection~~ paragraph were reasonable.

1           **SECTION 47.** 703.13 (7) (dm) of the statutes is created to read:

2           703.13 (7) (dm) All interests created in connection with the separation of a unit  
3 remain subject to the condominium instruments and association documents.

4           **SECTION 48.** 703.13 (8) (b) of the statutes is amended to read:

5           703.13 (8) (b) If the unit owners of adjoining units that may be merged desire  
6 to merge the units and the association determines that the merger does not violate  
7 the condominium instruments, the unit owners, after providing 30 days' written  
8 notice to all other unit owners, shall prepare and execute appropriate instruments  
9 under this subsection. An amendment to the condominium instruments shall assign  
10 a new ~~identifying number~~ designation to the new unit created by the merger of the  
11 units, which designation may be the original designation of one of the merged units,  
12 and shall allocate to the new unit all of the undivided interest in the common  
13 elements and rights to use the limited common elements and the votes in the  
14 association formerly appertaining to the separate units. The amendment shall  
15 reflect an allocation to the new unit of the liability for common expenses and rights  
16 to common surpluses formerly appertaining to the separate units. An amendment  
17 to a declaration under this paragraph shall be adopted either under s. 703.09 (2) or  
18 by the written consent of the owners of the units to be merged, the written consent  
19 by or on behalf of the first mortgagees of those units, if any, and the written consent  
20 of the board of directors of the association.

21           **SECTION 49.** 703.13 (8) (c) of the statutes is amended to read:

22           703.13 (8) (c) Plats and plans showing the boundaries and dimensions of the  
23 new unit, together with the new ~~identifying number or letter~~ designation, shall be  
24 prepared. The plats and plans shall be certified as to their accuracy and compliance



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

3 **SECTION 50.** 703.14 (1) of the statutes is amended to read:

4 703.14 (1) The common elements may be used only for the purposes for which  
5 they were intended and, except as provided in the condominium instruments or  
6 association bylaws or rules, the common elements are subject to mutual rights of  
7 support, access, use, and enjoyment by all unit owners. However, any portion of the  
8 common elements designated as limited common elements may be used only by the  
9 unit owner of the unit to which their use is limited in the condominium instruments  
10 and association bylaws and rules.

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

12 703.15 (2) (a) *Establishment.* ~~Every~~ Unless the declarant shall establish  
13 earlier establishes an association to govern the condominium not later than, as of the  
14 date of the first conveyance of a unit to a purchaser, an association shall immediately  
15 exist to govern the affairs of the condominium. The association shall ~~be organized~~  
16 ~~as a profit or nonprofit corporation or exist~~ as an unincorporated association, ~~unless~~  
17 ~~the declarant has organized it as a nonprofit corporation before the first conveyance.~~  
18 ~~After it is organized, the the first conveyance, the association may be organized as~~  
19 a nonprofit corporation only with the consent of all of the unit owners. The declarant  
20 shall operate the association until the declarant transfers control of the association  
21 to the unit owners. The membership of the association shall at all times consist  
22 exclusively of all of the unit owners.

\*\*\*\*NOTE: Who may organize the association after the first conveyance? May the unit owners do so? Only the declarant with the consent of all unit owners? Either the unit owners or the declarant with the consent of all unit owners?

23

**SECTION 52.** 703.15 (2) (a) of the statutes is amended to read:

1           703.15 (2) (a) *Establishment.* ~~Every~~ Unless the declarant shall establish  
2 earlier establishes an association to govern the condominium ~~not later than, as of the~~  
3 date of the first conveyance of a unit to a purchaser. The association shall be  
4 organized as a profit or nonprofit corporation or as an unincorporated association.  
5 After it is organized, the membership of the association shall at all times consist  
6 exclusively of all of the unit owners.

7           **SECTION 53.** 703.15 (2) (b) of the statutes is amended to read:

8           703.15 (2) (b) *Power and responsibility prior to establishment* existence. Until  
9 an association is ~~established~~ exists under par. (a), a declarant has the power and  
10 responsibility to act in all instances where this chapter, any other provision of the  
11 law, or the declaration require action by the association or its officers.

12           **SECTION 54.** 703.15 (2) (c) 1. (intro.) of the statutes is amended to read:

13           703.15 (2) (c) 1. (intro.) Except as provided in par. (d), a declarant may  
14 authorize the declarant or persons designated by him or her to appoint and remove  
15 the officers of the association or to exercise the powers and responsibilities otherwise  
16 assigned by the declaration or this chapter to the association or its officers. A  
17 declaration may not authorize any declarant control of the association for a period  
18 exceeding ~~the earlier of~~ any of the following:

19           **SECTION 55.** 703.15 (2) (c) 1. a. of the statutes is amended to read:

20           703.15 (2) (c) 1. a. ~~Ten~~ Except as provided in subd. 1. c., 10 years in the case of  
21 an expandable condominium.

22           **SECTION 56.** 703.15 (2) (c) 1. b. of the statutes is amended to read:

23           703.15 (2) (c) 1. b. ~~Three~~ Except as provided in subd. 1. c., 3 years in the case  
24 of any other condominium.

25           **SECTION 57.** 703.15 (2) (c) 1. c. of the statutes is amended to read:

1           703.15 (2) (c) 1. c. Thirty days after the conveyance of ~~75%~~ 75 percent of the  
2 common element interest to purchasers if the conveyance of 75 percent of the  
3 common element interest occurs before the time specified in subd. 1. a. or b.,  
4 whichever is applicable.

5           **SECTION 58.** 703.15 (2) (c) 2. of the statutes is amended to read:

6           703.15 (2) (c) 2. The period of declarant control begins on the date that the first  
7 condominium unit is conveyed by a declarant to any person other than the declarant.  
8 If there is any other unit owner other than a declarant, a declaration may not be  
9 amended to increase the scope or the period of the declarant control. The declarant  
10 may transfer control of the association before the mandatory expiration of the period  
11 of declarant control.

12           **SECTION 59.** 703.15 (2) (c) 3. of the statutes is created to read:

13           703.15 (2) (c) 3. Upon the termination of declarant control, the declarant shall  
14 turn over all association records and accounts to the directors elected under par. (f).

15           **SECTION 60.** 703.15 (2) (d) of the statutes is amended to read:

16           703.15 (2) (d) *Meeting to elect directors.* ~~Prior to~~ Within 30 days after the  
17 conveyance of ~~25%~~ 25 percent of the common element interest to purchasers, an  
18 association shall hold a meeting and the unit owners other than the declarant shall  
19 elect at least ~~25%~~ 25 percent of the directors of the executive board. ~~Prior to~~ Within  
20 30 days after the conveyance of ~~50%~~ 50 percent of the common element interest to  
21 purchasers, an association shall hold a meeting and the unit owners other than the  
22 declarant shall elect at least ~~33 1/3%~~ 33 1/3 percent of the directors of the executive  
23 board.

24           **SECTION 61.** 703.15 (2) (e) of the statutes is amended to read:

1           703.15 (2) (e) *Calculation of percentage.* The calculation of the percentage of  
2 common element interest conveyed to purchasers under pars. (c) and (d) shall be  
3 based on the percentage of undivided interest appertaining to each unit ~~which that~~  
4 has been conveyed assuming that all the units to be completed are included in the  
5 condominium, including, in the case of an expanding condominium, the maximum  
6 number of units that may be added.

7           **SECTION 62.** 703.15 (2) (f) of the statutes is amended to read:

8           703.15 (2) (f) *Elections after expiration of declarant control.* Not later than 45  
9 days after ~~the expiration of any period of declarant control ends~~, an association shall  
10 hold a meeting and the unit owners shall elect an executive board of at least 3  
11 directors and officers of the association. The directors and officers shall take office  
12 upon election.

13           **SECTION 63.** 703.15 (3) (a) (intro.) of the statutes is amended to read:

14           703.15 (3) (a) *Powers.* (intro.) ~~An~~ In addition to any other powers vested in it  
15 by law, an association has the power to do all of the following:

16           **SECTION 64.** 703.15 (3) (a) 1. of the statutes is amended to read:

17           703.15 (3) (a) 1. Adopt and amend budgets for revenues, expenditures, and  
18 reserves and levy and collect assessments for common expenses from unit owners;.

19           **SECTION 65.** 703.15 (3) (a) 2. of the statutes is amended to read:

20           703.15 (3) (a) 2. Employ and dismiss employees and agents;.

21           **SECTION 66.** 703.15 (3) (a) 3. of the statutes is amended to read:

22           703.15 (3) (a) 3. Sue on behalf of all unit owners; ~~and~~.

23           **SECTION 67.** 703.15 (3) (b) (intro.) of the statutes is amended to read:

24           703.15 (3) (b) *Conditional powers.* (intro.) Subject to any restrictions and  
25 limitations specified by the declaration, an association may do any of the following:

1           **SECTION 68.** 703.15 (4) (d) 1. of the statutes is amended to read:

2           703.15 (4) (d) 1. At meetings of the association every unit owner is entitled to  
3 cast the number of votes appurtenant to his or her unit, as established in the  
4 declaration under s. 703.09 (1) (f). Unit owners may vote by proxy, but, the proxy is  
5 effective only for a maximum period of 180 days following its issuance, unless  
6 granted to a mortgagee or lessee. If only one of multiple owners of a unit is present  
7 at a meeting of the association, the owner who is present is entitled to cast the votes  
8 allocated to that unit. Voting records, including official rosters and ballots cast, shall  
9 be open to review by any unit owner.

10          **SECTION 69.** 703.15 (4) (e) of the statutes is amended to read:

11          703.15 (4) (e) Unless otherwise provided in this chapter, and subject to  
12 provisions in the bylaws requiring a different majority or manner of voting, decisions  
13 of an association shall be made on a majority of votes of the unit owners present and  
14 voting at a meeting at which a quorum is present.

15          **SECTION 70.** 703.15 (6) of the statutes is created to read:

16          703.15 (6) RIGHT OF ACTION AGAINST DECLARANT TOLLED. Except with respect to  
17 any warranties included in a contract of purchase for a specific unit, any applicable  
18 statute of limitations affecting the association's right of action against the declarant  
19 is tolled until declarant control terminates under sub. (2) (c).

20          **SECTION 71.** 703.155 (1) of the statutes is amended to read:

21          703.155 (1) DEFINITION. In this section, "master association" means a ~~profit or~~  
22 nonprofit corporation or unincorporated association ~~which~~ that exercises the powers  
23 under s. 703.15 (3) on behalf of one or more condominiums or for the benefit of the  
24 unit owners of one or more condominiums.

25          **SECTION 72.** 703.155 (2) of the statutes is amended to read:

1           703.155 (2) DELEGATION. If a declaration provides that any of the powers  
2 described in ~~s. 703.15 (3)~~ of an association are to be exercised by or may be delegated  
3 to a master association, all provisions of this chapter applicable to an association  
4 apply to the master association, except as modified by this section or the declaration.

5           **SECTION 73.** 703.16 (1) of the statutes is amended to read:

6           703.16 (1) DISPOSITION OF COMMON SURPLUSES. All common surpluses of the  
7 association ~~shall be credited to the unit owners' assessments for common expenses~~  
8 may be used by the association in the manner determined by the association. If  
9 surpluses are credited or distributed to the unit owners, they shall be allocated  
10 among the unit owners as provided in the declaration or, if there is no applicable  
11 provision in the declaration, in proportion to their percentage interests in the  
12 common elements or as otherwise provided in the declaration or shall be used for any  
13 other purpose as the association decides.

14           **SECTION 74.** 703.16 (2) (b) of the statutes is amended to read:

15           703.16 (2) (b) During the period of declarant control of the association under  
16 ~~s. 703.15 (2) (e), if any period in which~~ any unit owned by the declarant is exempt from  
17 assessments for common expenses until the unit is sold, the total amount assessed  
18 against units that are not exempt from assessments may not exceed the amount that  
19 equals nonexempt units' budgeted share of common expenses, based on the  
20 anticipated common expenses set forth in the annual budget under s. 703.161 (2) (a).

21           The declarant is liable for the balance of the actual common expenses. Declarant  
22 obligations under this paragraph shall be considered an assessment under s.  
23 703.165.

24           **SECTION 75.** 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 76.** 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 77.** 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 78.** 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 79.** 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~~ 3 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~~ 3-year period it is filed. A statement of  
7 condominium lien is filed in the land records of the clerk of circuit court of the county  
8 where the unit is located, stating the description of the unit, the name of the record  
9 owner, the amount due, and the period for which the assessment was due. The clerk  
10 of circuit court shall index the statement of condominium lien under the name of the  
11 record owner in the judgment and lien docket. The statement of condominium lien  
12 shall be signed and verified by an officer or agent of the association as specified in  
13 the bylaws and then may be filed. On full payment of the amount of the assessment  
14 for which the lien is claimed, the unit owner shall be entitled to a satisfaction of the  
15 lien that may be filed with the clerk of circuit court.

16           **SECTION 80.** 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 81.** 703.165 (7) of the statutes is amended to read:

20           703.165 (7) ENFORCEMENT OF LIEN. A lien may be enforced and foreclosed by an  
21 association or any other person specified in the bylaws, in the same manner, and  
22 subject to the same requirements, as a foreclosure of mortgages on real property in  
23 this state, including the redemption time reductions under s. 846.101 for waiving a  
24 deficiency judgment. An association may recover costs and actual attorney fees. An  
25 association may, unless prohibited by the declaration, bid on the unit at foreclosure



1 sale and acquire, hold, lease, mortgage and convey the unit. Suit to recover a money  
2 judgment for unpaid common expenses shall be maintainable without foreclosing or  
3 waiving the lien securing the same. Suit for any deficiency following foreclosure may  
4 be maintained in the same proceeding. No action may be brought to foreclose the lien  
5 unless brought within 3 years following the recording of the statement of  
6 condominium lien. No action may be brought to foreclose the lien except after 10  
7 days' prior written notice to the unit owner given by registered mail, return receipt  
8 requested, to the address of the unit owner shown on the books of the association.

9 **SECTION 82.** 703.17 (1) of the statutes is amended to read:

10 703.17 (1) ~~An~~ Unless otherwise provided in the declaration, an association  
11 shall obtain insurance for the property against loss or damage by fire and such other  
12 hazards for not less than full replacement value of the property insured and a  
13 liability policy covering all claims commonly insured against. Insurance coverage  
14 shall be written on the property in the name of the association as trustee for each of  
15 the unit owners in the percentages established in the declaration. The declaration  
16 may establish an allocation of insurance proceeds that differs from the percentage  
17 interest in the common elements established under s. 703.13 (1). Premiums shall be  
18 common expenses. The insurance may include reasonable deductibles, and, if it  
19 does, the association shall determine by bylaw or rule whether a deductible shall be  
20 paid as a common expense or, if not, how it will be allocated. Provisions for such  
21 insurance shall be without prejudice to the right of each unit owner to insure his or  
22 her own unit for personal benefit.

23 **SECTION 83.** 703.18 (2) (b) of the statutes is amended to read:

24 703.18 (2) (b) However, if a condominium is damaged to an extent more than  
25 the available insurance proceeds, the condominium shall be subject to an action for

1 partition upon obtaining the written consent of the unit owners having ~~75%~~ 75  
2 percent or more of the votes. In the case of partition, the net proceeds of sale together  
3 with any net proceeds of insurance shall be considered as one fund and shall be  
4 divided among all unit owners in proportion to their percentage interests in the  
5 common elements as established under s. 703.13 (1) or, if the declaration so provides,  
6 in an allocation that differs from the percentage interests in the common elements,  
7 and shall be distributed in accordance with the priority of interests in each unit.

8 **SECTION 84.** 703.19 (3) (intro.) of the statutes is amended to read:

9 703.19 (3) ALLOCATION OF AWARD; IN ABSENCE OF PROVISIONS IN DECLARATION OR  
10 BYLAWS. (intro.) Unless otherwise provided for in a declaration or bylaws, any  
11 damages for a taking of all or part of a condominium shall, subject to sub. (6), be  
12 awarded as follows:

13 **SECTION 85.** 703.19 (3) (b) of the statutes is amended to read:

14 703.19 (3) (b) Any award for the taking of limited common elements shall be  
15 allocated to the unit owners of the units to which the use of those limited common  
16 elements is restricted in proportion to their respective 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 **SECTION 86.** 703.19 (3) (c) of the statutes is amended to read:

20 703.19 (3) (c) In the event no reconstruction is undertaken, any award for the  
21 taking of common elements shall be allocated to all unit owners in proportion to their  
22 respective percentage interests in the common elements as established under s.  
23 703.13 (1) or, if the declaration so provides, in an allocation that differs from the  
24 percentage interests in the common elements.

25 **SECTION 87.** 703.20 (1) of the statutes is amended to read:

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

8           **SECTION 88.** 703.22 (title) of the statutes is amended to read:

9           **703.22** (title) **Mechanics' Construction and suppliers' liens.**

10          **SECTION 89.** 703.22 (2) of the statutes is amended to read:

11          703.22 (2) Any ~~mechanics'~~ construction lien or suppliers' lien under subch. I  
12 of ch. 779 arising as a result of repairs to or improvements of a unit by a unit owner  
13 shall be a lien only against the unit.

14          **SECTION 90.** 703.22 (3) of the statutes is amended to read:

15          703.22 (3) Any ~~mechanics'~~ construction or suppliers' lien under subch. I of ch.  
16 779 arising as a result of repairs to or improvements of the common elements, if  
17 authorized in writing by the association, shall be paid by the association as a common  
18 expense and until paid shall be a lien against each unit in proportion to its percentage  
19 interest in the common elements. On payment of the proportionate amount by any  
20 unit owner to the lienor or on the filing of a written undertaking in the manner  
21 specified by s. 779.08, the unit owner shall be entitled to a release of his or her unit  
22 from the lien and the association shall not be entitled to assess his or her unit for  
23 payment of the remaining amount due for the repairs or improvements.

24          **SECTION 91.** 703.24 (2) of the statutes is amended to read:

1           703.24 (2) LIABILITY FOR UNIT OWNER VIOLATION. A unit owner who commits a  
2 violation is liable for any charges, fines, or assessments imposed by the association  
3 pursuant to the declaration or the association's bylaws or association rules as a result  
4 of the violation and may be subject to a temporary or permanent injunction.

5           **SECTION 92.** 703.25 (3) of the statutes is renumbered 703.25 (3) (a) and  
6 amended to read:

7           703.25 (3) (a) A judgment for money or a blanket lien under s. 703.22 against  
8 an association shall be a lien against any property owned by the association, and  
9 against each of the condominium units in proportion to the liability of each unit  
10 owner for common expenses as established under the declaration in an amount not  
11 exceeding the market value of the unit, but not against any other property of any unit  
12 owner.

13           **SECTION 93.** 703.25 (3) (b) of the statutes is created to read:

14           703.25 (3) (b) An action for a money judgment against an association shall not  
15 be the basis for filing a lis pendens against the units of the condominium.

16           **SECTION 94.** 703.26 (1) of the statutes is amended to read:

17           703.26 (1) DECLARANT MAY RESERVE RIGHT TO EXPAND. A declarant may reserve  
18 the include in the original declaration of a condominium a right to expand a the <sup>x2</sup>  
19 ~~condominium by subjecting additional property to the condominium declaration~~  
20 adding land, one or more units, or both, in such a manner that ~~as each additional~~  
21 ~~property~~ any added land or unit is subjected to the condominium declaration and, if  
22 any unit or units are added, the percentage of undivided interests in the common  
23 elements ~~of the preceding and new property shall be~~ are reallocated between the unit  
24 owners ~~on the basis of the aggregate undivided interest in the common elements~~  
25 ~~appertaining to the property~~ among all units.

1           **SECTION 95.** 703.26 (2) (a) of the statutes is amended to read:

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

5           **SECTION 96.** 703.26 (3) (a) of the statutes is amended to read:

6           703.26 (3) (a) If the conditions of sub. (2) are complied with, property may be  
7 added to a condominium if the declarant records an amendment to the declaration,  
8 showing the designation of the units being added, the new percentage interests of the  
9 unit owners, and the votes ~~which that~~ each unit owner may cast in the condominium  
10 as expanded, and records an addendum to the condominium plat that includes the  
11 detail and information concerning the new property as required in the original  
12 condominium plat.

13           **SECTION 97.** 703.275 (4m) of the statutes is created to read:

14           703.275 (4m) PLAT. The plat of the resultant condominium shall be titled as  
15 an addendum to the plat of the resultant condominium, shall identify the plat of  
16 every condominium that is merged into the resultant condominium by name and  
17 recording data, and shall identify units both by their designations in the resultant  
18 condominium and by their designations in the merged condominiums. Any changes  
19 in the common elements, including the reservation of parts of them as limited  
20 common elements, shall be identified on the plat of the resultant condominium.

21           **SECTION 98.** 703.28 (1) of the statutes is amended to read:

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

1 ~~transferred to the percentage of the undivided interest of the unit owner in the~~  
2 ~~property as an amendment to the declaration, as provided in this section, and as an~~  
3 ~~addendum to the plat.~~

4 **SECTION 99.** 703.28 (1m) of the statutes is repealed.

5 **SECTION 100.** 703.28 (2) of the statutes is repealed.

6 **SECTION 101.** 703.28 (2m) of the statutes is created to read:

7 703.28 **(2m)** If all of the property is being removed, the removal instrument  
8 must be approved by all of the unit owners and consented to by the holders of all liens  
9 affecting the condominium or any unit. The removal instrument shall provide that  
10 any lien against a unit is transferred to the percentage interest of the owner of the  
11 unit that is encumbered by the lien and that any lien against the condominium as  
12 a whole is allocated among the units in accordance with s. 703.25 (3). Upon removal  
13 of the property from the provisions of this chapter, the property shall be owned in  
14 common by the unit owners. The percentage interest of each unit owner shall be  
15 determined as specified in the declaration.

16 **SECTION 102.** 703.28 (3) of the statutes is created to read:

17 703.28 **(3)** If less than all of the property is being removed, all of the following  
18 apply:

19 (a) If the removal results from the exercise of the power of eminent domain, s.  
20 703.195 applies.

21 (b) 1. Except as provided in par. (c), the removal instrument must specify all  
22 of the following:

23 a. The part of the property that is being removed.

24 b. Who will own the part of the property that is being removed after its removal.

25 If the property is to be owned differently from the manner in which it was owned

1 immediately before removal, the removal instrument shall contain language of  
2 conveyance to the party or parties that will own the property after removal. The  
3 conveyance language shall be effective to vest ownership in the party or parties even  
4 if fewer than all of the unit owners of the condominium have joined in the removal  
5 instrument.

6 c. The consideration, if any, that is being given to the association for the  
7 removal.

8 2. A removal instrument under this paragraph must be signed by the unit  
9 owners holding at least 80 percent of the aggregate of the votes established under s.  
10 703.09 (1) (f), or a greater percentage if so provided in the declaration, plus all of the  
11 owners of units that are being removed, and consented to by the holders of all liens  
12 affecting the condominium or any unit.

13 3. Removal of less than all of the property is permitted only if, following  
14 removal, the condominium and the property removed comply with the laws and  
15 ordinances regulating zoning and land division.

16 4. At the time a removal instrument under this paragraph is recorded, the  
17 party recording the instrument shall also record an addendum to the condominium  
18 plat containing the same details and information concerning the remaining  
19 condominium property as was required in the original condominium plat.

20 (c) If the part being removed does not include all of a unit, all of a limited  
21 common element, or a part of the common elements that is essential to the use and  
22 enjoyment of or access to any unit, the removal instrument must specify all of the  
23 following:

24 1. The part of the property that is being removed.

25 2. Who will own the part of the property that is being removed after its removal.

1           3. The consideration received for the property being removed and how the  
2 consideration will be used.

      \*\*\*\*NOTE: This is drafted in such a way that the situation in par. (c) requires less information than the situation in par. (b). Is that your intent? Is the only real difference between the two situations that, in the situation in par. (c), the removal instrument must also specify the use of the consideration?

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

7           **SECTION 103.** 703.28 (4) of the statutes is created to read:

8           703.28 (4) A removal instrument under sub. (3) (b) or (c) must meet the  
9 requirements for an amendment to the declaration. An amendment to the  
10 declaration and an addendum to the condominium plat must be recorded to reflect  
11 the removal. The part that is removed must result in a legal parcel for its intended  
12 use.

13          **SECTION 104.** 703.29 of the statutes is repealed.

14          **SECTION 105.** 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 106.** 703.33 (9) of the statutes is created to read:

19          703.33 (9) ELECTRONIC DISCLOSURE. Notwithstanding sub. (6), the information  
20 required under subs. (1) and (2) may be disclosed electronically if the purchaser  
21 agrees to that method of transmission and the seller verifies that the purchaser  
22 received the information transmitted electronically.



\*\*\*\*NOTE: Note how I modified this provision. The concern was that the purchaser might be unable to receive information by e-mail, or that it might be sent but not received. Do you want any changes?

1           **SECTION 107.** 703.34 (title) of the statutes is amended to read:

2           **703.34 (title) Blanket mortgages and other blanket liens affecting a**  
3 **unit at time of first conveyance; mortgage approvals.**

4           **SECTION 108.** 703.34 (4) of the statutes is created to read:

5           703.34 (4) If a mortgagee whose consent or approval is required for an action  
6 under this chapter cannot be contacted with the use of reasonable diligence, the  
7 association may seek the right to proceed with the proposed action under ch. 841,  
8 notwithstanding the missing consent or approval. In determining whether to permit  
9 the action for which mortgagee consent or approval has not been obtained, the court  
10 shall consider whether the action is needed to permit the effective management and  
11 operation of the condominium and any impact the action would have on the value of  
12 the units in the condominium as security for mortgages on the units.

13           **SECTION 109.** 703.365 (4) (b) of the statutes is amended to read:

14           703.365 (4) (b) The floor plans under s. 703.11 (2) (c) need only show the location  
15 and designation of each unit in the building and the limited common elements  
16 appurtenant to each unit of a small condominium. These plans may be  
17 supplemented by an agreement among all unit owners and their first mortgagees  
18 regarding the allocation of use and enjoyment of common elements, which  
19 agreement, in both its original and any amended form, shall be recorded.

20           **SECTION 110.** 703.365 (6) of the statutes is repealed and recreated to read:

21           703.365 (6) ASSOCIATION OPERATIONS; ARBITRATION. (a) With respect to  
22 operational decisions in a small condominium, including decisions concerning  
23 repairs, maintenance, the exterior appearance, and expenditures, the association

1 may submit a proposed action to arbitration under ch. 788 if any of the following  
2 applies:

3 1. The required majority under the declaration or bylaws for the proposed  
4 action cannot be achieved.

5 2. The proposed action would involve unbudgeted expenditures per unit in  
6 excess of \$2,500 in any one year or \$5,000 overall.

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

11 2. If the association does not adopt the unit owner's proposal, cannot achieve  
12 the majority required to take an action, or levies assessments for unbudgeted  
13 expenditures in excess of the amounts specified in par. (a) 2., a unit owner may  
14 request reconsideration of the decision and, if unsatisfied with the result, submit the  
15 issue to arbitration under ch. 788.

16 (c) Notice of arbitration under par. (a) or (b) shall be given to the first mortgagee  
17 of any unit subject to a mortgage. The results of the arbitration shall be final as to  
18 the matter under consideration. The association may adopt rules establishing  
19 arbitration procedures. Acceptance of a deed to a unit in a small condominium  
20 constitutes agreement to the resolution of disputes over operational decisions by  
21 arbitration.

22 (d) If, after arbitration under par. (b), the challenge is wholly denied, costs of  
23 the arbitration shall be borne by the unit owner submitting the issue to arbitration.  
24 If the challenge is wholly upheld, costs shall be borne by the association. In all other  
25 cases, the costs shall be shared equally by the unit owner and the association.

\*\*\*\*NOTE: Does this address costs only for arbitration under par. (b)? Does the association pay all costs of arbitration under par. (a)?

1           **SECTION 111.** 703.365 (7) of the statutes is renumbered 703.365 (9) and  
2 amended to read:

3           703.365 (9) EXPANDING CONDOMINIUMS. Section 703.26 does not apply to a small  
4 condominium, and the declaration for a small condominium may not provide that s.  
5 703.26 applies to the small condominium.

6           **SECTION 112.** 703.365 (10) of the statutes is created to read:

7           703.365 (10) RESIDENT AGENT; TAXES. In the declaration for a small  
8 condominium, the declarant shall designate one of the unit owners as the resident  
9 agent of the condominium and shall specify how real estate taxes for the year the  
10 condominium is created will be divided among the units if different from the  
11 percentage interests in the common elements.

12           **SECTION 113.** 703.365 (11) of the statutes is created to read:

13           703.365 (11) UTILITY EASEMENTS. The units and common elements of a small  
14 condominium are subject to cross easements for any utility services to other units in  
15 the condominium.

16           **SECTION 114.** 703.365 (12) of the statutes is created to read:

17           703.365 (12) TWO-UNIT CONDOMINIUMS. (a) Unless the declaration provides  
18 otherwise, units in a 2-unit small condominium shall be insured by the same insurer.

19           (b) Any improvement, decoration, or repair to the exterior of either unit of a  
20 2-unit small condominium must be agreed to by the owners of both units. In the  
21 event of a dispute, the matter may be submitted to the board of directors, and the  
22 decision of the board of directors may be challenged in an arbitration proceeding in  
23 the manner provided in sub. (6) (d) and (e).

1           **SECTION 115.** 709.02 (2) (intro.) of the statutes is amended to read:

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

7           **SECTION 116.** 709.02 (2) (d) of the statutes is amended to read:

8           709.02 (2) (d) ~~A- Unless the condominium is a small condominium, as defined~~  
9 in s. 703.02 (14m), a copy of the executive summary required under s. 703.33 (1) (h).

10

(END)

**Duerst, Christina**

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**From:** Battiato, Kate

**Sent:** Monday, October 26, 2009 12:45 PM

**To:** LRB.Legal

**Subject:** Draft Review: LRB 09-1733/1 Topic: Condominium revisions

Please Jacket LRB 09-1733/1 for the ASSEMBLY.