

State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1733/P2 ← stays
PJK:bjk:ph
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stays

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note
Inserts

Regenerate ↓

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) (b), 703.15 (2) (c) 1. (intro.),
10 703.15 (2) (c) 1. a., 703.15 (2) (c) 1. b., 703.15 (2) (c) 1. c., 703.15 (2) (c) 2., 703.15
11 (2) (d), 703.15 (2) (e), 703.15 (2) (f), 703.15 (3) (a) (intro.), 703.15 (3) (a) 1., 703.15
12 (3) (a) 2., 703.15 (3) (a) 3., 703.15 (3) (b) (intro.), 703.15 (4) (d) 1., 703.15 (4) (e),
13 703.155 (1), 703.155 (2), 703.16 (1), 703.16 (2) (b), 703.161 (2) (intro.), 703.165
14 (2), 703.165 (3), 703.165 (5) (c), 703.165 (7), 703.17 (1), 703.18 (2) (b), 703.19 (3)
15 (intro.), 703.19 (3) (b), 703.19 (3) (c), 703.20 (1), 703.22 (title), 703.22 (2), 703.22

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

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.

Enset 3-5

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) (b) of the statutes is amended to read:

1 703.15 (2) (b) *Power and responsibility prior to ~~establishment~~ existence*. Until
2 an association is ~~established~~ exists under par. (a), a declarant has the power and
3 responsibility to act in all instances where this chapter, any other provision of the
4 law, or the declaration require action by the association or its officers.

5 **SECTION 53.** 703.15 (2) (c) 1. (intro.) of the statutes is amended to read:

6 703.15 (2) (c) 1. (intro.) Except as provided in par. (d), a declarant may
7 authorize the declarant or persons designated by him or her to appoint and remove
8 the officers of the association or to exercise the powers and responsibilities otherwise
9 assigned by the declaration or this chapter to the association or its officers. A
10 declaration may not authorize any declarant control of the association for a period
11 exceeding ~~the earlier of~~ any of the following:

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

13 703.15 (2) (c) 1. a. ~~Ten~~ Except as provided in subd. 1. c., 10 years in the case of
14 an expandable condominium.

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

16 703.15 (2) (c) 1. b. ~~Three~~ Except as provided in subd. 1. c., 3 years in the case
17 of any other condominium.

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

19 703.15 (2) (c) 1. c. Thirty days after the conveyance of ~~75%~~ 75 percent of the
20 common element interest to purchasers if the conveyance of 75 percent of the
21 common element interest occurs before the time specified in subd. 1. a. or b.,
22 whichever is applicable.

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

24 703.15 (2) (c) 2. The period of declarant control begins on the date that the first
25 condominium unit is conveyed by a declarant to any person other than the declarant.

1 If there is any other unit owner other than a declarant, a declaration may not be
2 amended to increase the scope or the period of the declarant control. The declarant
3 may transfer control of the association before the mandatory expiration of the period
4 of declarant control.

5 **SECTION 58.** 703.15 (2) (c) 3. of the statutes is created to read:

6 703.15 (2) (c) 3. Upon the termination of declarant control, the declarant shall
7 turn over all association records and accounts to the directors elected under par. (f).

8 **SECTION 59.** 703.15 (2) (d) of the statutes is amended to read:

9 703.15 (2) (d) *Meeting to elect directors.* ~~Prior to~~ Within 30 days after the
10 conveyance of ~~25%~~ 25 percent of the common element interest to purchasers, an
11 association shall hold a meeting and the unit owners other than the declarant shall
12 elect at least ~~25%~~ 25 percent of the directors of the executive board. ~~Prior to~~ Within
13 30 days after the conveyance of ~~50%~~ 50 percent of the common element interest to
14 purchasers, an association shall hold a meeting and the unit owners other than the
15 declarant shall elect at least ~~33-1/3%~~ 33 1/3 percent of the directors of the executive
16 board.

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

18 703.15 (2) (e) *Calculation of percentage.* The calculation of the percentage of
19 common element interest conveyed to purchasers under pars. (c) and (d) shall be
20 based on the percentage of undivided interest appertaining to each unit ~~which~~ that
21 has been conveyed assuming that all the units to be completed are included in the
22 condominium, including, in the case of an expanding condominium, the maximum
23 number of units that may be added.

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

1 703.15 (2) (f) *Elections after expiration of declarant control.* Not later than 45
2 days after ~~the expiration of any period of declarant control ends~~, an association shall
3 hold a meeting and the unit owners shall elect an executive board of at least 3
4 directors and officers of the association. The directors and officers shall take office
5 upon election.

6 **SECTION 62.** 703.15 (3) (a) (intro.) of the statutes is amended to read:

7 703.15 (3) (a) *Powers.* (intro.) ~~An~~ In addition to any other powers vested in it
8 by law, an association has the power to do all of the following:

9 **SECTION 63.** 703.15 (3) (a) 1. of the statutes is amended to read:

10 703.15 (3) (a) 1. Adopt and amend budgets for revenues, expenditures, and
11 reserves and levy and collect assessments for common expenses from unit owners;.

12 **SECTION 64.** 703.15 (3) (a) 2. of the statutes is amended to read:

13 703.15 (3) (a) 2. Employ and dismiss employees and agents;.

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

15 703.15 (3) (a) 3. Sue on behalf of all unit owners; ~~and~~.

16 **SECTION 66.** 703.15 (3) (b) (intro.) of the statutes is amended to read:

17 703.15 (3) (b) *Conditional powers.* (intro.) Subject to any restrictions and
18 limitations specified by the declaration, an association may do any of the following:

19 **SECTION 67.** 703.15 (4) (d) 1. of the statutes is amended to read:

20 703.15 (4) (d) 1. At meetings of the association every unit owner is entitled to
21 cast the number of votes appurtenant to his or her unit, as established in the
22 declaration under s. 703.09 (1) (f). Unit owners may vote by proxy, but, the proxy is
23 effective only for a maximum period of 180 days following its issuance, unless
24 granted to a mortgagee or lessee. If only one of multiple owners of a unit is present
25 at a meeting of the association, the owner who is present is entitled to cast the votes

1 allocated to that unit. Voting records, including official rosters and ballots cast, shall
2 be open to review by any unit owner.

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

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

8 **SECTION 69.** 703.15 (6) of the statutes is created to read:

9 703.15 (6) RIGHT OF ACTION AGAINST DECLARANT TOLLED. Except with respect to
10 any warranties included in a contract of purchase for a specific unit, any applicable
11 statute of limitations affecting the association's right of action against the declarant
12 is tolled until declarant control terminates under sub. (2) (c).

13 **SECTION 70.** 703.155 (1) of the statutes is amended to read:

14 703.155 (1) DEFINITION. In this section, "master association" means a ~~profit or~~
15 nonprofit corporation or unincorporated association ~~which~~ that exercises the powers
16 under s. 703.15 (3) on behalf of one or more condominiums or for the benefit of the
17 unit owners of one or more condominiums.

18 **SECTION 71.** 703.155 (2) of the statutes is amended to read:

19 703.155 (2) DELEGATION. If a declaration provides that any of the powers
20 ~~described in s. 703.15 (3) of an association~~ are to be exercised by or may be delegated
21 to a master association, all provisions of this chapter applicable to an association
22 apply to the master association, except as modified by this section or the declaration.

23 **SECTION 72.** 703.16 (1) of the statutes is amended to read:

24 703.16 (1) DISPOSITION OF COMMON SURPLUSES. All common surpluses of the
25 association ~~shall be credited to the unit owners' assessments for common expenses~~

1 may be used by the association in the manner determined by the association. If
2 surpluses are credited or distributed to the unit owners, they shall be allocated
3 among the unit owners as provided in the declaration or, if there is no applicable
4 provision in the declaration, in proportion to their percentage interests in the
5 common elements or as otherwise provided in the declaration or shall be used for any
6 other purpose as the association decides.

7 **SECTION 73.** 703.16 (2) (b) of the statutes is amended to read:

8 703.16 (2) (b) During the period of declarant control of the association under
9 s. 703.15 (2) (e), if any period in which any unit owned by the declarant is exempt from
10 assessments for common expenses until the unit is sold, the total amount assessed
11 against units that are not exempt from assessments may not exceed the amount that
12 equals nonexempt units' budgeted share of common expenses, based on the
13 anticipated common expenses set forth in the annual budget under s. 703.161 (2) (a).
14 The declarant is liable for the balance of the actual common expenses. Declarant
15 obligations under this paragraph shall be considered (an) assessment under s.
16 703.165.

17 **SECTION 74.** 703.161 (2) (intro.) of the statutes is amended to read:

18 703.161 (2) REQUIREMENT. (intro.) An association annually shall adopt and
19 distribute to ~~all unit owners~~ each unit owner an annual budget setting forth all of the
20 following:

21 **SECTION 75.** 703.161 (2) (g) of the statutes is created to read:

22 703.161 (2) (g) The amount assessed to the owner's unit.

23 **SECTION 76.** 703.161 (3) of the statutes is created to read:

1 703.161 (3) AMENDMENT. An association may adopt amendments to its budget
2 during the course of its fiscal year, and shall use the same procedures and actions as
3 are required for adoption of the original budget.

4 **SECTION 77.** 703.165 (2) of the statutes is amended to read:

5 703.165 (2) LIABILITY FOR ASSESSMENTS. A unit owner shall be liable for all
6 assessments, or installments thereof, coming due while owning a unit, including any
7 assessments coming due during the pendency of any claim by the unit owner against
8 the association or during any period in which the unit is not occupied by the unit
9 owner or is leased or rented to any other person. In a ~~voluntary~~ any grant, other than
10 one resulting from the foreclosure of a first mortgage or an equivalent security

11 interest in the unit, ^{on} the grantee shall be jointly and severally liable with the grantor
12 for all unpaid assessments against the grantor for his or her share of the common
13 expenses up to the time of the ~~voluntary~~ grant for which a statement of condominium
14 lien is recorded, without prejudice to the rights of the grantee to recover from the
15 grantor the amounts paid by the grantee for such assessments. Liability for
16 assessments may not be avoided by waiver of the use or enjoyment of any common
17 element or by abandonment of the unit for which the assessments are made.

18 **SECTION 78.** 703.165 (3) of the statutes is amended to read:

19 703.165 (3) ASSESSMENTS CONSTITUTE LIEN. All assessments, until paid,
20 together with interest on them and actual costs of collection, constitute a lien on the
21 units on which they are assessed, if a statement of lien is filed within ~~2~~ 3 years after
22 the date the last installment of the assessment becomes due. The lien is effective
23 against a unit at the time the last installment of the assessment became due
24 regardless of when within the ~~2-year~~ 3-year period it is filed. A statement of
25 condominium lien is filed in the land records of the clerk of circuit court of the county

1 where the unit is located, stating the description of the unit, the name of the record
2 owner, the amount due, and the period for which the assessment was due. The clerk
3 of circuit court shall index the statement of condominium lien under the name of the
4 record owner in the judgment and lien docket. The statement of condominium lien
5 shall be signed and verified by an officer or agent of the association as specified in
6 the bylaws and then may be filed. On full payment of the amount of the assessment
7 for which the lien is claimed, the unit owner shall be entitled to a satisfaction of the
8 lien that may be filed with the clerk of circuit court.

9 **SECTION 79.** 703.165 (5) (c) of the statutes is amended to read:

10 703.165 (5) (c) ~~Mechanic's~~ Construction liens filed prior to the making of the
11 assessment.

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

13 703.165 (7) ENFORCEMENT OF LIEN. A lien may be enforced and foreclosed by an
14 association or any other person specified in the bylaws, in the same manner, and
15 subject to the same requirements, as a foreclosure of mortgages on real property in
16 this state, including the redemption time reductions under s. 846.101 for waiving a
17 deficiency judgment. An association may recover costs and actual attorney fees. An
18 association may, unless prohibited by the declaration, bid on the unit at foreclosure
19 sale and acquire, hold, lease, mortgage and convey the unit. Suit to recover a money
20 judgment for unpaid common expenses shall be maintainable without foreclosing or
21 waiving the lien securing the same. Suit for any deficiency following foreclosure may
22 be maintained in the same proceeding. No action may be brought to foreclose the lien
23 unless brought within 3 years following the recording of the statement of
24 condominium lien. No action may be brought to foreclose the lien except after 10

1 days' prior written notice to the unit owner given by registered mail, return receipt
2 requested, to the address of the unit owner shown on the books of the association.

3 **SECTION 81.** 703.17 (1) of the statutes is amended to read:

4 703.17 (1) ~~An~~ Unless otherwise provided in the declaration, an association
5 shall obtain insurance for the property against loss or damage by fire and such other
6 hazards for not less than full replacement value of the property insured and a
7 liability policy covering all claims commonly insured against. Insurance coverage
8 shall be written on the property in the name of the association as trustee for each of
9 the unit owners in the percentages established in the declaration. The declaration
10 may establish an allocation of insurance proceeds that differs from the percentage
11 interest in the common elements established under s. 703.13 (1). Premiums shall be
12 common expenses. The insurance may include reasonable deductibles, and, if it
13 does, the association shall determine by bylaw or rule whether a deductible shall be
14 paid as a common expense or, if not, how it will be allocated. Provisions for such
15 insurance shall be without prejudice to the right of each unit owner to insure his or
16 her own unit for personal benefit.

17 **SECTION 82.** 703.18 (2) (b) of the statutes is amended to read:

18 703.18 (2) (b) However, if a condominium is damaged to an extent more than
19 the available insurance proceeds, the condominium shall be subject to an action for
20 partition upon obtaining the written consent of the unit owners having ~~75%~~ 75
21 percent or more of the votes. In the case of partition, the net proceeds of sale together
22 with any net proceeds of insurance shall be considered as one fund and shall be
23 divided among all unit owners in proportion to their percentage interests in the
24 common elements as established under s. 703.13 (1) or, if the declaration so provides,

1 in an allocation that differs from the percentage interests in the common elements,
2 and shall be distributed in accordance with the priority of interests in each unit.

3 **SECTION 83.** 703.19 (3) (intro.) of the statutes is amended to read:

4 703.19 (3) ALLOCATION OF AWARD; IN ABSENCE OF PROVISIONS IN DECLARATION OR
5 BYLAWS. (intro.) Unless otherwise provided for in a declaration or bylaws, any
6 damages for a taking of all or part of a condominium shall, subject to sub. (6), be
7 awarded as follows:

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

9 703.19 (3) (b) Any award for the taking of limited common elements shall be
10 allocated to the unit owners of the units to which the use of those limited common
11 elements is restricted in proportion to their respective percentage interests in the
12 common elements as established under s. 703.13 (1) or, if the declaration so provides,
13 in an allocation that differs from the percentage interests in the common elements.

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

15 703.19 (3) (c) In the event no reconstruction is undertaken, any award for the
16 taking of common elements shall be allocated to all unit owners in proportion to their
17 respective percentage interests in the common elements as established under s.
18 703.13 (1) or, if the declaration so provides, in an allocation that differs from the
19 percentage interests in the common elements.

20 **SECTION 86.** 703.20 (1) of the statutes is amended to read:

21 703.20 (1) RECORD KEEPING; AVAILABILITY FOR EXAMINATION. An association shall
22 keep detailed, accurate records using standard bookkeeping procedures of the
23 receipts and expenditures affecting the common elements, specifying and itemizing
24 the maintenance and repair expenses of the common elements and any other
25 expenses incurred. The records, wherever maintained, are the property of the

1 association. The records and the vouchers authorizing the payments shall be
2 available for examination by the unit owners at convenient hours.

3 **SECTION 87.** 703.22 (title) of the statutes is amended to read:

4 **703.22 (title) Meehanies' Construction and suppliers' liens.**

5 **SECTION 88.** 703.22 (2) of the statutes is amended to read:

6 **703.22 (2)** Any ~~meehanies'~~ construction lien or suppliers' lien under subch. I
7 of ch. 779 arising as a result of repairs to or improvements of a unit by a unit owner
8 shall be a lien only against the unit.

9 **SECTION 89.** 703.22 (3) of the statutes is amended to read:

10 **703.22 (3)** Any ~~meehanies'~~ construction or suppliers' lien under subch. I of ch.
11 779 arising as a result of repairs to or improvements of the common elements, if
12 authorized in writing by the association, shall be paid by the association as a common
13 expense and until paid shall be a lien against each unit in proportion to its percentage
14 interest in the common elements. On payment of the proportionate amount by any
15 unit owner to the lienor or on the filing of a written undertaking in the manner
16 specified by s. 779.08, the unit owner shall be entitled to a release of his or her unit
17 from the lien and the association shall not be entitled to assess his or her unit for
18 payment of the remaining amount due for the repairs or improvements.

19 **SECTION 90.** 703.24 (2) of the statutes is amended to read:

20 **703.24 (2) LIABILITY FOR UNIT OWNER VIOLATION.** A unit owner who commits a
21 violation is liable for any charges, fines, or assessments imposed by the association
22 pursuant to the declaration or the association's bylaws or ~~assoeiation~~ rules as a result
23 of the violation and may be subject to a temporary or permanent injunction.

24 **SECTION 91.** 703.25 (3) of the statutes is renumbered 703.25 (3) (a) and
25 amended to read:

1 703.25 (3) (a) A judgment for money or a blanket lien under s. 703.22 against
2 an association shall be a lien against any property owned by the association, and
3 against each of the condominium units in proportion to the liability of each unit
4 owner for common expenses as established under the declaration in an amount not
5 exceeding the market value of the unit, but not against any other property of any unit
6 owner.

CS
Declaration

7 **SECTION 92.** 703.25 (3) (b) of the statutes is created to read:

8 703.25 (3) (b) An action for a money judgment against an association shall not
9 be the basis for filing a lis pendens against the units of the condominium.

CS
INCLUDE

10 **SECTION 93.** 703.26 (1) of the statutes is amended to read:

11

11 703.26 (1) ~~DECLARANT MAY RESERVE~~ RIGHT TO EXPAND. A declarant may reserve
12 the include in the original declaration of a condominium a right to expand ~~a~~ the
13 condominium by ~~subjecting additional property to the condominium declaration~~
14 adding land, one or more units, or both, in such a manner that ~~as each additional~~
15 property any added land or unit is subjected to the condominium declaration and, if
16 any unit or units are added, the percentage of undivided interests in the common
17 elements ~~of the preceding and new property shall be~~ are reallocated ~~between the unit~~
18 ~~owners on the basis of the aggregate undivided interest in the common elements~~
19 ~~appertaining to the property~~ among all units.

20 **SECTION 94.** 703.26 (2) (a) of the statutes is amended to read:

21 703.26 (2) (a) A declaration establishing a condominium shall describe each
22 parcel of property ~~which, along with its square footage, that~~ may be added to the
23 condominium.

24 **SECTION 95.** 703.26 (3) (a) of the statutes is amended to read:

1 703.26 (3) (a) If the conditions of sub. (2) are complied with, property may be
2 added to a condominium if the declarant records an amendment to the declaration,
3 showing the designation of the units being added, the new percentage interests of the
4 unit owners, and the votes ~~which~~ that each unit owner may cast in the condominium
5 as expanded, and records an addendum to the condominium plat that includes the
6 detail and information concerning the new property as required in the original
7 condominium plat.

8 **SECTION 96.** 703.275 (4m) of the statutes is created to read:

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

16 **SECTION 97.** 703.28 (1) of the statutes is amended to read:

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

24 **SECTION 98.** 703.28 (1m) of the statutes is repealed.

25 **SECTION 99.** 703.28 (2) of the statutes is repealed.

1 **SECTION 100.** 703.28 (2m) of the statutes is created to read:

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

11 **SECTION 101.** 703.28 (3) of the statutes is created to read:

12 703.28 (3) If less than all of the property is being removed, all of the following
13 apply:

14 (a) If the removal results from the exercise of the power of eminent domain, s.
15 703.195 applies.

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

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

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

20 If the property is to be owned differently from the manner in which it was owned
21 immediately before removal, the removal instrument shall contain language of
22 conveyance to the party or parties that will own the property after removal. The
23 conveyance language shall be effective to vest ownership in the party or parties even
24 if fewer than all of the unit owners of the condominium have joined in the removal
25 instrument.

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

3 2. A removal instrument under this paragraph must be signed by the unit
4 owners holding at least 80 percent of the aggregate of the votes established under s.
5 703.09 (1) (f), or a greater percentage if so provided in the declaration, plus all of the
6 owners of units that are being removed, and consented to by the holders of all liens
7 affecting the condominium or any unit.

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

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

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

- 19 1. The part of the property that is being removed.
- 20 2. Who will own the part of the property that is being removed after its removal.
- 21 3. The consideration received for the property being removed and how the
- 22 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?

are in compliance

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

5 SECTION 102. 703.28 (4) of the statutes is created to read:

6 703.28 (4) A removal instrument under sub. (3) (b) or (c) must meet the
7 requirements for an amendment to the declaration. An amendment to the
8 declaration and an addendum to the condominium plat must be recorded to reflect
9 the removal. The part that is removed must result in a legal parcel for its intended
10 use.

11 SECTION 103. 703.29 of the statutes is repealed.

12 SECTION 104. 703.33 (1) (intro.) of the statutes is amended to read:

13 703.33 (1) MATERIAL TO BE FURNISHED BY SELLER TO PURCHASER BEFORE CLOSING.
14 (intro.) Not later than 15 days prior to the closing of the sale of a residential unit to
15 a member of the public, the seller shall furnish to the purchaser the following:

16 SECTION 105. 703.33 (9) of the statutes is created to read:

17 703.33 (9) ELECTRONIC DISCLOSURE. Notwithstanding sub. (6), the information
18 required under subs. (1) and (2) may be disclosed electronically if the purchaser
19 agrees to that method of transmission and the seller verifies that the purchaser
20 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?

21 SECTION 106. 703.34 (title) of the statutes is amended to read:

22 703.34 (title) **Blanket mortgages and other blanket liens affecting a**
23 **unit at time of first conveyance; mortgage approvals.**

Insert 33-1 →

2m

1

SECTION 107. 703.34 (4) of the statutes is created to read:

2

703.34 (4) ^{2m} (B) 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 under ch. 841, notwithstanding the missing consent or approval. In determining whether to permit the action for which mortgagee consent or approval has not been obtained, the court shall consider whether the action is needed to permit the effective management and operation of the condominium and any impact the action would have on the value of the units in the condominium as security for mortgages on the units.

10

SECTION 108. 703.365 (4) (b) of the statutes is amended to read:

11

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

if any

14

17

SECTION 109. 703.365 (6) of the statutes is repealed and recreated to read:

18

703.365 (6) ASSOCIATION OPERATIONS; ARBITRATION. (a) With respect to operational decisions in a small condominium, including decisions concerning repairs, maintenance, the exterior appearance, and expenditures, the association may submit a proposed action to arbitration under ch. 788 if any of the following applies:

23

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

24

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

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

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

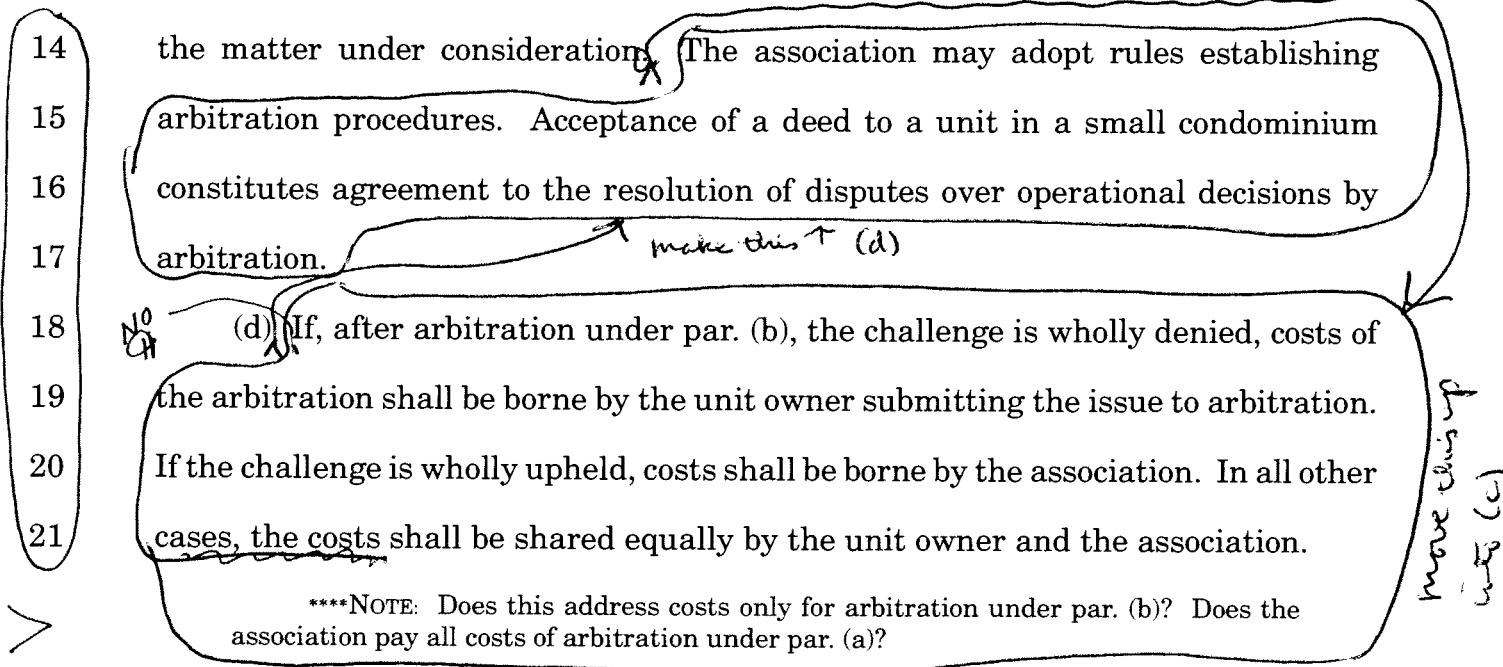
12 (c) Notice of arbitration under par. (a) or (b) shall be given to the first mortgagee
13 of any unit subject to a mortgage. The results of the arbitration shall be final as to

14 the matter under consideration. The association may adopt rules establishing
15 arbitration procedures. Acceptance of a deed to a unit in a small condominium
16 constitutes agreement to the resolution of disputes over operational decisions by
17 arbitration.

18 (d) If, after arbitration under par. (b), the challenge is wholly denied, costs of
19 the arbitration shall be borne by the unit owner submitting the issue to arbitration.
20 If the challenge is wholly upheld, costs shall be borne by the association. In all other
21 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)?

22 **SECTION 110.** 703.365 (7) of the statutes is renumbered 703.365 (9) and
23 amended to read:



1 703.365 (9) EXPANDING CONDOMINIUMS. Section 703.26 does not apply to a small
2 condominium, and the declaration for a small condominium may not provide that s.
3 703.26 applies to the small condominium.

4 **SECTION 111.** 703.365 (10) of the statutes is created to read:

5 703.365 (10) RESIDENT AGENT; TAXES. In the declaration for a small
6 condominium, the declarant shall designate one of the unit owners as the resident
7 agent of the condominium and shall specify how real estate taxes for the year the
8 condominium is created will be divided among the units if different from the
9 percentage interests in the common elements.

10 **SECTION 112.** 703.365 (11) of the statutes is created to read:

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

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

15 703.365 (12) TWO-UNIT CONDOMINIUMS. (a) Unless the declaration provides
16 otherwise, units in a 2-unit small condominium shall be insured by the same insurer.

17 (b) Any improvement, decoration, or repair to the exterior of either unit of a
18 2-unit small condominium must be agreed to by the owners of both units. In the
19 event of a dispute, the matter may be submitted to the board of directors, and the
20 decision of the board of directors may be challenged in an arbitration proceeding in
21 the manner provided in sub. (6) (a) and (c).

22 **SECTION 114.** 709.02 (2) (intro.) of the statutes is amended to read:

23 709.02 (2) (intro.) In regard to a transfer of a condominium unit, as defined in
24 s. 703.02 (15), if the owner is required to provide the information under sub. (1), the
25 owner shall furnish, in addition to and at the same time as the information required

1 under sub. (1), all the following information as an addendum to the real estate
2 condition report under s. 709.03:

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

4 709.02 (2) (d) ~~-A- Unless the condominium is a small condominium, as defined~~
5 in s. 703.02 (14m), a copy of the executive summary required under s. 703.33 (1) (h).

6 (END)

2009-2010 DRAFTING INSERT
FROM THE
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LRB-1733/P2ins
PJK:.....

INSERT 3-5

1 SECTION 1. 703.02 (9c) of the statutes is created to read:
2 703.02 (9c) "First mortgage" includes a security interest that is equivalent to
3 a first mortgage.

(END OF INSERT 3-5)

INSERT 33-1

1082

4 SECTION 2. 703.34 (intro.) (except 703.34 (title)) of the statutes is renumbered
5 703.34 (1m) (intro.) and amended to read:

6 703.34 (1m) (intro.) As a condition to the first transfer of title to each unit, one
7 of the following conditions must be met:

History: 1977 c. 407.

8 SECTION 3. 703.34 (1) of the statutes is renumbered 703.34 (1m) (a) and
9 amended to read:

10 703.34 (1m) (a) Every mortgage and other lien affecting such the unit,
11 including the undivided interest in the common areas and facilities appurtenant to
12 such the unit, shall be paid and satisfied of record;.

History: 1977 c. 407.

13 SECTION 4. 703.34 (2) of the statutes is renumbered 703.34 (1m) (b) and
14 amended to read:

15 703.34 (1m) (b) A unit being transferred and an undivided interest in the
16 common areas and facilities appurtenant ~~thereto~~ to the unit shall be released by
17 partial release duly recorded; ~~or~~.

History: 1977 c. 407.

18 SECTION 5. 703.34 (3) of the statutes is renumbered 703.34 (1m) (c) and
19 amended to read:

↓

Ins 33-1 contd 202

1 703.34 (1m) (c) A mortgage or other lien shall provide for or be amended to
2 provide for a release of the unit and the undivided interest in the common areas and
3 facilities appurtenant ~~thereto~~ to the unit from the lien of a mortgage or other lien
4 upon the payment of a sum certain.

History: 1977 c. 407.

(END OF INSERT 33-1)

5

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1733/P2dn *stays*

PJK:bjk:ph

✓
stays

④
September 10, 2009

Does this draft need an initial applicability? Should any of the changes be noted in a separate provision in s. 703.38?

Please review especially carefully proposed ss. 703.13 (7) (cm) and 703.28 (3). They may not accomplish what you intended.

I did not include a cross-reference to proposed s. 703.13 (7) (cm) 4. in s. 703.09 (2) or 703.28 (1m) (b), as was suggested. In this draft, the cross-references in s. 703.09 (2) were changed to "this chapter" and s. 703.28 (1m) was repealed. Do you want a cross-reference to proposed s. 703.13 (7) (cm) 4. in any other statute?

The draft contains a few embedded notes. In order to have an introducible version before October 9, I will need your responses to my questions and comments by September 28, if possible.

Pamela J. Kahler
Senior Legislative Attorney
Phone: (608) 266-2682
E-mail: pam.kahler@legis.wisconsin.gov

④ Your requested amendment to s. 703.26(1) removed the word "reserve" as it pertains to a right to expand. Section 703.26(2) (intro) and (d) still contain that word or some form of it. Okay?

④ Note the changes in this version to s. 703.34

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1733/P2dn
PJK:bjk:ph

September 14, 2009

Does this draft need an initial applicability? Should any of the changes be noted in a separate provision in s. 703.38?

Please review especially carefully proposed ss. 703.13 (7) (cm) and 703.28 (3). They may not accomplish what you intended.

I did not include a cross-reference to proposed s. 703.13 (7) (cm) 4. in s. 703.09 (2) or 703.28 (1m) (b), as was suggested. In this draft, the cross-references in s. 703.09 (2) were changed to "this chapter" and s. 703.28 (1m) was repealed. Do you want a cross-reference to proposed s. 703.13 (7) (cm) 4. in any other statute?

Your requested amendment to s. 703.26 (1) removed the word "reserve" as it pertains to a right to expand. Section 703.26 (2) (intro.) and (d) still contain that word or some form of it. Okay?

Note the changes in this version to s. 703.34.

The draft contains a few embedded notes. In order to have an introducible version before October 9, I will need your responses to my questions and comments by September 28, if possible.

Pamela J. Kahler
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WM. PHARIS HORTON
ATTORNEY AT LAW

MAILING ADDRESS
P.O. BOX 5621
MADISON, WISCONSIN 53705

September 29, 2009

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

BY FAX

Dear Ms. Kahler:

I have reviewed the P2 draft of LRB-1733 and the questions you posed both in the cover memo and the embedded notes. Also there is one addition. So, here we go:

1. As to applicability, I would think the general rule would work. There are no changes I can think of that require a lead time to phase them in.
- ✓2. 703.13(7)(cm)4: include the same requirement that this be permitted in the Declaration as applies to sub. 3. With that change, 7(cm) works for me.
- ✓3. 703.28(3) is what I want. I may be foolish but those are the concepts I want.
- ✓4. Changing the cross-reference to 703.13(7)(cm)4 "in this chapter" works for .09(2) and I can't think of anywhere else it is needed.
- ✓5. 703.26 should use "reserve". This is what has become common usage in condo discussion and I shouldn't have tried to change that. I do want to be sure that the reservation must be in the original declaration, however.
- ✓6. 703.34 looks good to me; I am not sure if the Wisconsin Bankers will love it, but I think it is the best way to save the lenders a position without hamstringing condo associations because some lenders won't respond.
- ✓7. 703.10(2)(d) takes care of the base problem (how do you have at least 1/3 of the directors elected each year when you have three-year terms and five directors), but I would like wording added that assures that a director may be reelected for consecutive terms.
- ✓8. 703.13(7)(b)2 - okay to deleted principal officer.
- ✓9. 703.15(2)(a) - the declarant has the authority to control the association until it expires or is terminated so this would remain with the declarant until that time.
- ✓10. In 703.28(3) it is okay that (c) requires less than (b).
- ✓11. 703.33(9) is fine as far as I know; maybe someone will come in to amend it but it looks good to me.
- ✓12. In 703.365(6) I would see the arbitration being an association expense under (a) but handled as the draft does for the other situations.

Thanks,

Pharis Horton

cc: Gary Hill

HORTON LAW OFFICE, S.C.

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WM. PHARIS HORTON
ATTORNEY AT LAW

October 1, 2009

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

BY FAX

Dear Ms. Kahler:

Thanks for the draft of 703.38 for the initial applicability of the condo amendments. My only comments are: (a) in (4) I would want "bylaws adopted or amended on the . . ."; (b) (8) corrects and error; (c) (9) is a change; (d) (11) clarifies current law except it extends the time from 2 to 3 years so it is a change; (e) in (12) "filed" would be better; and (f) (16) is current practice.

The folks who requested a couple of the changes have minor wording corrections, if it is still time for them. The first is in sec. 106 would read: The information required under subs. (1) and (2) may be disclosed electronically if the purchaser, in the manner prescribed by law, agrees to that method of transmission." [There are federal and state laws on electronic document transmission which are beyond a mere agreement to receive them and which take out the verification requirement.] Section 120 would read: "Unless excused by s. 703.365, a copy of the executive summary required under s. 703.33(1)(h)." [Not all small condominiums opt into the benefits of 703.365 so this exemption would be limited to those who do.]

Once again, thanks,

HORTON LAW OFFICE, S.C.

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WM. PHARIS HORTON
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MAILING ADDRESS
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MADISON, WISCONSIN 53706

October 2, 2009

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

BY FAX

Dear Ms. Kahler:

I received the analysis of the condo proposal and have some comments on it. A marked up copy is forwarded with this letter to cover the changes I recommend.

1. I would prefer that your current section 1 be placed lower, perhaps exchanged with section 4, to reduce its impact. Having the first mortgagee sign is current practice as is recording the condominium plat. The amendments were intended to make the Act consistent. The mortgagee, for notice purposes, includes the servicing party but it just adds that party to the actual mortgage holder.
2. OK
3. The approval without signature applies only after the review time has run.
4. I would use "clarifies" in place of "specifies" since I think the Supreme Court twisted the Act out of shape to achieve a non-condominium goal.
5. Instead of "agrees" I would like to use "properly consents" since there are steps beyond mere agreement to make the electronic transmission effective.
- 6-9. OK
10. The section deals with display of the American flag as well as political signs.
11. While the law does mention declarants in this section, the real issue is between unit owners (and one may happen to be the declarant, but in a unit owner capacity).
- 12-15. OK
16. This change is offered only because I feel it is more consistent with this dealing with the length of a term rather than limiting terms a director can serve.
17. OK
18. The function of relieving the association from carrying the insurance is to allow it to be sure the property is covered by doing it or requiring unit owners to do it.
- 19-21. OK
22. There is one minor spelling correction in the first paragraph. Also, only small condominiums that elect to be covered by 703.365 are covered by its terms. My added wording perhaps would be better in a first sentence to read: "Under current law, a small condominium is one with 12 or fewer units, and the special provisions of s. 703.365 apply only to those small condominiums that elect to be covered by that section."

Thanks,



the last installment of the assessment becomes due. Current law provides that such a lien may be enforced in the same manner and subject to the same requirements as a foreclosure of mortgages on real property in this state. The bill clarifies that this includes the reductions in the time for redeeming the property if the party foreclosing waives a deficiency judgment.

20. Current law provides for condominiums to merge. The bill specifies requirements for the plat of the resultant condominium when two or more condominiums merge, such as identifying the plat of every condominium that is included in the merger by name and recording data and identifying units both by their designations in the merged condominiums and in the resultant condominium.

21. Current law provides that all of the unit owners may remove a part or all of the condominium property from the condominium provisions of the statutes by recording a removal instrument; that if a merger of two or more condominiums would result in a new plat for the resultant condominium, the merged condominiums must first be removed from the condominium provisions of the statutes by recording a removal instrument; and that condominium property removed from the condominium provisions of the statutes is deemed to be owned in common by the unit owners. The bill modifies these provisions.

Under the bill, all or any part of the condominium property may be removed from the condominium provisions of the statutes by recording a removal instrument as an amendment to the declaration and an addendum to the plat. If all of the property is being removed, all unit owners must approve, and, upon removal from the provisions, the property is owned in common by the unit owners. If less than all of the property is being removed, the removal instrument must be signed by unit owners holding at least 80 percent of the aggregate votes, including all the owners of the units being removed, and must specify the part of the property being removed, who will own the property being removed after its removal, and the consideration, if any, being given to the association for the removal. If the property will be owned differently from the manner in which it was owned before removal, the removal instrument must contain language conveying the property.

22. Under current law, a small condominium is one with 12 or fewer units. Current law provides that the provisions related to expanding a condominium do not apply to a small condominium, and the bill prohibits a declaration for a small condominium from providing that those provisions do apply.

Current law sets out arbitration procedures if the board of a small condominium association does not approve an expenditure or action proposed by a unit owner or if a unit owner objects to an expenditure or action proposed by the board. The bill modifies the arbitration process. Under the bill, any operational decision in a small condominium may be submitted to arbitration if the required majority for the action cannot be achieved or if the proposed action would involve unbudgeted expenditures in excess of \$2,500 per unit in any one year or in excess of \$5,000 overall. In addition, if a unit owner in a small condominium proposes an action or expenditure by the association and the association does not adopt the unit owner's proposal, cannot achieve the majority necessary to take an action, or levies assessments for unbudgeted expenditures in excess of \$2,500 per unit in any one year

*which objects to be covered
by the Small Condominium provisions of the Act.*

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or in excess of \$5,000 overall, the unit owner may request reconsideration and, if not satisfied with the result, submit the matter to arbitration. The results of the arbitration are final, and the association must pay the costs if the unit owner's challenge is upheld, and the unit owner must pay the costs if the challenge is denied.

The bill requires the declaration for a small condominium to designate one of the unit owners as the resident agent and to specify how real estate taxes for the year the small condominium is created will be divided if different from the percentage interests in the common elements. The bill provides that any improvement, decoration, or repair to the exterior of a two-unit small condominium must be agreed to by the owners of both of the units and that, if they do not agree, the matter may be submitted to the board of directors and that the decision of the board of directors may be challenged in an arbitration proceeding.

(END OF INSERT A)

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LRB-1733/lins

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INSERT A

consistent with current practice

This bill makes a number of miscellaneous changes to the condominium provisions in current law, including the following:

1. Current law provides that a property may be subjected to the condominium form of ownership if the sole or all owners join in the execution and recording of a condominium declaration in accordance with the condominium provisions. The bill provides that any first mortgagee must also join in, and that a plat of the condominium must also be recorded. The bill provides that, for purposes of receiving notices or giving approvals under the condominium provisions, a mortgagee means the party servicing the mortgage or land contract. The bill also provides that if a mortgagee's consent or approval is required for any action related to the condominium and the mortgagee cannot be contacted with reasonable diligence, the condominium association (association) may seek approval from a court to proceed with the action. In deciding the matter, the court must consider whether the action is needed to permit the effective management and operation of the condominium and the action's impact on the value of the units as security for mortgages on the units.

Confirms

specifies

2. Under current law, residential real property may not be converted to a condominium unless the owner gives notice of the conversion to each tenant. Then, for 60 days after the notice, a tenant has the first right to purchase the unit if offered for sale and generally may not be required to vacate the property for 120 days after the notice. The bill clarifies that these provisions apply only to residential tenants.

once the time passes

3. Current law provides that a county may adopt an ordinance requiring local municipal review of condominium instruments before recording and that the review must be completed within 10 days or the instrument is approved for recording. The bill clarifies that the instrument is approved for recording without any signature of the reviewer or any certification that it has been reviewed or approved.

4. Under current law, a unit is defined as a part of a condominium intended for any type of independent use. In response to the holding in *ABKA Limited Partnership v. DNR*, 2002 WI 106, the bill specifies that a unit may be of any size and for any use.

clarifies

5. Current law requires that a seller of a condominium unit make certain disclosures to the purchaser before the sale closing by furnishing copies of certain documents. The bill specifically limits these disclosures to sales of residential units and authorizes them to be made electronically if the purchaser agrees to that method.

properly consents

6. The bill provides that if one or more units of a condominium are removed from the condominium or destroyed and not rebuilt, the percentage interests in the common elements must be adjusted to maintain the same ratio of those interests in the remaining units. Likewise, the bill provides that if a condominium plat shows a building with a specified number of units but the building is constructed in such a way that precludes it from containing all of the units, the percentage interests appertaining to the units not constructed must be added on a pro rata basis to the remaining units. Any change to the percentage interests in the common elements must be done by an amendment to the declaration.

7. The bill makes some modifications to the procedures for relocating mutual boundaries of adjoining units, merging adjoining units, and separating a unit into two or more units of the existing condominium, and provides for separating a unit into two or more ownership interests by subjecting the unit itself to the condominium form of ownership.

8. Current law provides that a unit owner may not make any alteration that would jeopardize the soundness or safety of the property or reduce its value or change the exterior appearance of a unit or any other portion of the condominium that is not a part of the unit. The bill additionally prohibits a unit owner from making any alteration that would interfere with the condition or operation of the mechanical systems affecting property that is not a part of the unit. The bill also clarifies that each occupant of a unit, as well as the unit owner, must comply with the bylaws and rules adopted under the bylaws.

9. Current law provides that a unit owner may not change the exterior appearance of his or her unit without the permission of the board of directors of the association. The bill provides that if a unit owner makes alterations within his or her unit that involve changing the configuration of the rooms, the unit owner must file plans with the association showing the reconfiguration.

an American flag or

10. Current law provides that a bylaw or rules may not prohibit a unit owner from displaying a sign related to a political candidate or a referendum question in his or her condominium but that the size and location may be regulated. The bill clarifies that a political sign may not be prohibited in a unit owner's unit, and provides that the display may be limited to those parts of the condominium over which the unit owner has the exclusive right to use.

flag or

11. Current law provides that, if an amendment to a condominium declaration has the effect of reducing the value of a unit owner's interest in any common element and increasing the value of the declarant's or another unit owner's interest in the common element, the declarant or other unit owner must compensate the unit owner whose interest was decreased in value. The bill provides that any action to recover this compensation must be commenced no later than one year after the amendment is recorded, or be barred.

12. Current law provides that title to a condominium unit is not rendered unmarketable by any provision of the bylaws. The bill provides that title is not rendered unmarketable because the unit is subject to the terms of a declaration, plat, bylaws, or rules.

13. While under current law a declarant may reserve the right to expand a condominium by subjecting additional property to the declaration, the bill provides that a declarant may include in the original declaration a right to expand the condominium by adding land or more units or both, and that if more units are added the percentage of undivided interests in the common elements must be reallocated among all the units.

14. Under current law, a declarant must establish an association to govern the condominium no later than the date of the first conveyance of a unit to a purchaser, and the association must be organized as a profit or nonprofit corporation or as an unincorporated association. The bill provides that an association shall immediately

exist as an unincorporated association as of the date of the first conveyance of a unit to a purchaser, unless the declarant has organized an association as a nonprofit corporation before the first conveyance; that after the first conveyance the association may be organized as a nonprofit corporation only with the consent of all the unit owners; and that the declarant shall operate the association until the declarant transfers control of it to the unit owners.

15. The bill clarifies that the period of declarant control of the association may not exceed ten years for an expandable condominium, three years for any other condominium, or thirty days after the conveyance to purchasers of 75 percent of the common element interest, if that is earlier, and that the declarant may transfer control of the association before the mandatory expiration of that period. The bill provides that the declarant must turn over all association records and accounts to the association directors when declarant control of the association ends. Under current law, the unit owners must elect at least 25 percent of the directors of the executive board of the association before the conveyance to purchasers of 25 percent of the common element interest and elect at least 33 1/3 percent of the directors before the conveyance of 50 percent of the common element interest. The bill changes this election requirement to at least 25 percent of the directors within 30 days after the conveyance of 25 percent of the common element interest and at least 33 1/3 percent of the directors within 30 days after the conveyance of 50 percent of the common element interest. The bill provides that any statute of limitations affecting the association's right of action against the declarant is tolled until declarant control ends.

16. Currently, condominium bylaws must provide that the terms of at least one-third of the elected directors must expire annually. The bill changes this so that the bylaws must provide that ~~the~~ terms of ~~the~~ elected directors may not exceed three years.

17. Current law requires an association to adopt and distribute to all unit owners an annual budget that includes specified information, such as all anticipated common expenses. The bill requires that each budget distributed to a unit owner include the amount assessed to the owner's unit for common expenses.

18. Current law provides that an association must obtain insurance for the property against loss or damage and that the premiums are common expenses. Under the bill, an association must obtain insurance unless the declaration provides otherwise. The insurance may include reasonable deductibles, and the association must determine whether the deductible will be paid as a common expense or how it will be allocated if not.

19. Current law provides that in a voluntary grant, the grantee is jointly and severally liable with the grantor for all unpaid assessments for which a statement of lien is recorded. The bill provides that this applies to all grants other than one resulting from foreclosure of a first mortgage on the unit, and changes the reference to "recorded" to "filed," since statements of lien are filed. Under current law, an unpaid assessment constitutes a lien on the unit on which it is assessed if a statement of lien is filed within two years after the date the assessment becomes due. The bill changes the time within which a statement of lien must be filed to three years after

L that coverage is obtained