



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1733/20

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PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D. vote
(in 10-2)
(by Tuesday, Oct. 6)
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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), 703.34 (intro.)

3 (except 703.34 (title)), 703.34 (1), 703.34 (2), 703.34 (3) and 703.365 (7); **to**

4 **amend** 703.02 (5), 703.02 (6), 703.02 (6m), 703.02 (12), 703.02 (14g), 703.02

5 (15), 703.02 (16), 703.03, 703.04, 703.05, 703.06, 703.07 (2), 703.08 (1) (intro.),

6 703.08 (2) (intro.), 703.08 (3), 703.09 (1c), 703.09 (2), 703.10 (1), 703.10 (2) (d),

7 703.10 (2) (f), 703.10 (6), 703.105 (1m), 703.105 (2), 703.115 (1) (a), 703.115 (1)

8 (b), 703.12, 703.13 (2), 703.13 (5) (a), 703.13 (5) (b), 703.13 (5m) (a) 3., 703.13

9 (5m) (b), 703.13 (6) (b), 703.13 (6) (c), 703.13 (6) (e), 703.13 (8) (b), 703.13 (8) (c),

10 703.14 (1), 703.15 (2) (a), 703.15 (2) (b), 703.15 (2) (c) 1. (intro.), 703.15 (2) (c)

11 1. a., 703.15 (2) (c) 1. b., 703.15 (2) (c) 1. c., 703.15 (2) (c) 2., 703.15 (2) (d), 703.15

12 (2) (e), 703.15 (2) (f), 703.15 (3) (a) (intro.), 703.15 (3) (a) 1., 703.15 (3) (a) 2.,

13 703.15 (3) (a) 3., 703.15 (3) (b) (intro.), 703.15 (4) (d) 1., 703.15 (4) (e), 703.155

14 (1), 703.155 (2), 703.16 (1), 703.16 (2) (b), 703.161 (2) (intro.), 703.165 (2),

15 703.165 (3), 703.165 (5) (c), 703.165 (7), 703.17 (1), 703.18 (2) (b), 703.19 (3)

1 (intro.), 703.19 (3) (b), 703.19 (3) (c), 703.20 (1), 703.22 (title), 703.22 (2), 703.22
 2 (3), 703.24 (2), 703.26 (1), 703.26 (2) (a), 703.26 (3) (a), 703.28 (1), 703.33 (1)
 3 (intro.), 703.34 (title), 703.365 (4) (b), 709.02 (2) (intro.) and 709.02 (2) (d); **to**
 4 **repeal and recreate** 703.365 (6); and **to create** 703.02 (9c), 703.02 (9d), 703.09
 5 (3) (bm), 703.13 (4) (b), 703.13 (4) (c), 703.13 (4) (d), 703.13 (4) (e), 703.13 (7) (b)
 6 1., 703.13 (7) (cm), 703.13 (7) (dm), 703.15 (2) (c) 3., 703.15 (6), 703.161 (2) (g),
 7 703.161 (3), 703.25 (3) (b), 703.275 (4m), 703.28 (2m), 703.28 (3), 703.28 (4),
 8 703.33 (9), 703.34 (4), 703.365 (10), 703.365 (11) and 703.365 (12) of the
 9 statutes; **relating 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:

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

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

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

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

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

Insert A

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 (9c) of the statutes is created to read:

7 703.02 (9c) "First mortgage" includes a security interest that is equivalent to
8 a first mortgage.

9 **SECTION 5.** 703.02 (9d) of the statutes is created to read:

10 703.02 (9d) "First mortgagee" includes a holder of a security interest that is
11 equivalent to a first mortgage.

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

and

includes

13 703.02 (12) "Mortgagee" means the holder of any recorded mortgage
14 encumbering one or more units ^{*plain*} ~~on~~ a land contract vendor ~~or~~ ^{*or*} for purposes of receiving
15 notices or giving approvals the party servicing the mortgage or land contract.

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

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

21 **SECTION 8.** 703.02 (15) of the statutes is amended to read:

22 703.02 (15) "Unit" means a part of a condominium intended for any type of
23 independent use, including one or more cubicles of air at one or more levels of space
24 or one or more rooms or enclosed spaces located on one or more floors, or parts thereof,

1 in a building. A unit may be of any size, may be for any use, and may include 2 or
2 more noncontiguous areas.

3 **SECTION 9.** 703.02 (16) of the statutes is amended to read:

4 703.02 (16) "Unit number" means the number identifying designating a unit
5 in a declaration.

6 **SECTION 10.** 703.03 of the statutes is amended to read:

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

11 **SECTION 11.** 703.04 of the statutes is amended to read:

12 **703.04 Status of the units.** A unit, together with its undivided interest in the
13 common elements and its other appurtenant interests, for all purposes constitutes
14 real property.

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

16 **703.05 Ownership of units.** A unit owner is entitled to the exclusive
17 ownership and possession of his or her unit and to the exercise of the rights
18 appurtenant to it.

19 **SECTION 13.** 703.06 of the statutes is amended to read:

20 **703.06 Alterations prohibited.** Except as otherwise provided in this
21 chapter, the declaration, or the bylaws, or any rules promulgated under any of them,
22 no unit owner may make any alteration that would jeopardize the soundness or
23 safety of the property, interfere with the condition or operation of the mechanical
24 systems affecting property that is not a part of the unit, reduce the value thereof of

1 the property, impair any easement or hereditament, or change the exterior
2 appearance of a unit or any other portion of the condominium not part of the unit.

3 **SECTION 14.** 703.07 (2) of the statutes is amended to read:

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

14 **SECTION 15.** 703.08 (1) (intro.) of the statutes is amended to read:

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

23 **SECTION 16.** 703.08 (2) (intro.) of the statutes is amended to read:

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

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

5 703.08 (3) A residential tenant may waive in writing his or her first right of
6 purchase under sub. (1), his or her right to remain on the property under sub. (2), or
7 both.

8 **SECTION 18.** 703.09 (1c) of the statutes is amended to read:

9 703.09 (1c) A condominium declaration shall be signed by the owners of the
10 property and by or on behalf of any first mortgagee of the property ~~or the holder of~~
11 ~~an equivalent security interest in the property~~ in the same manner as required in
12 conveyances of real property.

13 **SECTION 19.** 703.09 (2) of the statutes is amended to read:

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

1 approval of the first mortgagee or ~~equivalent~~ security interest holder under this
2 subsection.

3 SECTION 20. 703.09 (3) (bm) of the statutes is created to read:

4 703.09 (3) (bm) Any action to recover compensation under par. (a) shall be
5 commenced no later than one year after the amendment is recorded or be barred.

6 SECTION 21. 703.10 (1) of the statutes is amended to read:

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

16 SECTION 22. 703.10 (2) (d) of the statutes is amended to read:

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

24 SECTION 23. 703.10 (2) (f) of the statutes is amended to read:

Insert 7-20

Insert 8-2

1 703.10 (2) (f) The manner of borrowing money and acquiring and conveying
2 property, if the association is to have these powers.

3 **SECTION 24.** 703.10 (6) of the statutes is amended to read:

4 703.10 (6) TITLE TO CONDOMINIUM UNITS UNAFFECTED BY CONDOMINIUM
5 INSTRUMENTS OR BYLAWS. Title to a condominium unit is not rendered unmarketable
6 or otherwise affected by any provision of the bylaws because the unit is subject to the
7 terms of a declaration, a condominium plat, bylaws, or rules, or by reason of any
8 failure of the bylaws to comply with the provisions of this chapter.

9 **SECTION 25.** 703.105 (1m) of the statutes is amended to read:

10 703.105 (1m) No bylaw or rule may be adopted or provision included in a
11 declaration or deed that prohibits a unit owner from displaying in his or her
12 condominium unit a sign that supports or opposes a candidate for public office or a
13 referendum question.

14 **SECTION 26.** 703.105 (2) of the statutes is amended to read:

15 703.105 (2) Notwithstanding subs. (1) and (1m), bylaws or rules may be
16 adopted that regulate the size and location of signs, flags, and flagpoles, including
17 limiting their display to those parts of the condominium that the unit owner has the
18 exclusive right to use.

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

20 703.115 (1) (a) Requires the review to be completed within 10 working days
21 after submission of the condominium instrument and provides that, if the review is
22 not completed within this period, the condominium instrument is approved for
23 recording without certification of review or approval or the signature of the reviewer.

24 **SECTION 28.** 703.115 (1) (b) of the statutes is amended to read:

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

5 **SECTION 29.** 703.12 of the statutes is amended to read:

6 **703.12 Description of units.** A description in any deed or other instrument
7 affecting title to any unit which that makes reference to the ~~letter or number or other~~
8 ~~appropriate~~ unit designation on the condominium plat together with a reference to
9 the condominium instruments shall be a good and sufficient description for all
10 purposes. Whenever a parcel identification number is required for any purpose, the
11 designation of all units in the condominium may be shown by the parcel number or
12 numbers of the property submitted to ^{the provisions of} this chapter to create the condominium.

13 **SECTION 30.** 703.13 (2) of the statutes is amended to read:

14 703.13 (2) RIGHTS TO COMMON SURPLUSES. Common surpluses shall be ~~disbursed~~
15 used or allocated as provided under s. 703.16 (1).

16 **SECTION 31.** 703.13 (4) of the statutes is renumbered 703.13 (4) (a) and
17 amended to read:

18 703.13 (4) (a) ~~The~~ Except as provided in this chapter, the undivided percentage
19 ~~interests shall have a permanent character and, except as specifically provided by~~
20 ~~this chapter, in the common elements established in the declaration may not be~~
21 ~~changed without the written consent of all of the unit owners of every unit in the~~
22 ~~condominium and their mortgagees. Any change shall be evidenced by an~~
23 ~~amendment to the declaration and recorded among the appropriate land records the~~
24 approval of the first mortgagee of each unit subject to a mortgage. The percentage
25 interests may not be separated from the unit to which they appertain. Any

1 instrument, matter, circumstance, ~~action~~, occurrence, or proceeding ~~in any manner~~
2 affecting a unit ~~also~~ shall affect, in like manner, the undivided percentage interests
3 appurtenant to the unit.

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

5 703.13 (4) (b) Except for the total destruction of the condominium, in the event
6 that one or more units of a condominium are destroyed and not rebuilt, or in the event
7 that one or more units are removed from the condominium, the percentage interests
8 in the common elements shall be adjusted to maintain the same ratio of those
9 interests among the remaining units.

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

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

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

21 703.13 (4) (d) Any change to the undivided percentage interests in the common
22 elements must be evidenced by amending the declaration in the manner provided in
23 s. 703.09 (2).

24 **SECTION 35.** 703.13 (4) (e) of the statutes is created to read:

1 703.13 (4) (e) Section 703.09 (3) does not apply to any amendment made to a
2 declaration under this subsection.

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

4 703.13 (5) (a) A unit owner may make any improvements or alterations within
5 his or her unit that do not impair the structural integrity or lessen the support of any
6 portion of the condominium or interfere with the condition or operation of the
7 mechanical systems affecting property that is not a part of the unit and that do not
8 create a nuisance substantially affecting the use and enjoyment of other units or the
9 common elements. A unit owner may not change the exterior appearance of a unit
10 or of any other portion of the condominium without permission of the board of
11 directors of the association. A unit owner making alterations within his or her unit
12 that involve changing the configuration of rooms within the unit shall file plans with
13 the association showing the reconfiguration.

14 **SECTION 37.** 703.13 (5) (b) of the statutes is amended to read:

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

24 **SECTION 38.** 703.13 (5m) (a) 3. of the statutes is amended to read:

1 703.13 (5m) (a) 3. The improvement will not impair the structural integrity of
2 the condominium or interfere with the condition or operation of the mechanical
3 systems affecting property that is not a part of the unit.

4 **SECTION 39.** 703.13 (5m) (b) of the statutes is amended to read:

5 703.13 (5m) (b) All costs and expenses of an improvement under this
6 subsection and any increased costs of maintenance and repair of the limited common
7 elements resulting from the improvement, as determined by the association, are the
8 obligation of the unit owner. The unit owner shall protect the association and other
9 unit owners from liens on property of the association or of other unit owners that
10 otherwise might result from the improvement.

11 **SECTION 40.** 703.13 (6) (b) of the statutes is amended to read:

12 703.13 (6) (b) If any unit owners of adjoining units whose mutual boundaries
13 may be relocated desire to relocate those boundaries, the ~~principal officer of the unit~~
14 ~~owners~~ association, upon written application from those unit owners, and after
15 determining that the relocation does not violate the condominium instruments and
16 providing 30 days' written notice to all other unit owners, shall prepare and execute
17 appropriate instruments.

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

19 703.13 (6) (c) An amendment to a declaration shall identify the units involved
20 and shall state that the boundaries between those units are being relocated by
21 agreement of the ~~unit~~ owners ~~thereof~~ of those units. The amendment shall contain
22 words of conveyance between those unit owners, and when recorded shall also be
23 indexed in the name of the grantor and grantee. If the adjoining unit owners have
24 specified in their written application the reallocation between their units of the
25 aggregate undivided interest in the common elements appertaining to those units,

1 the amendment to the declaration shall reflect that reallocation. An amendment to
2 a declaration under this paragraph shall be adopted, at the option of the adjoining
3 unit owners, either under s. 703.09 (2) or by the written consent of the owners of the
4 adjoining units involved and the written consent by or on behalf of the first
5 mortgagees of the adjoining units, which amendment shall constitute a conveyance
6 between the unit owners of the affected part or parts of the unit or units.

7 **SECTION 42.** 703.13 (6) (e) of the statutes is amended to read:

8 703.13 (6) (e) Plats and plans showing the altered boundaries and the
9 dimensions thereof between adjoining units, and their ~~identifying numbers or letters~~
10 designations, shall be prepared. The plats and plans shall be certified as to their
11 accuracy in compliance with this subsection by a civil engineer, architect, or licensed
12 land surveyor authorized to practice his or her profession in the state.

13 **SECTION 43.** 703.13 (7) (b) of the statutes is renumbered 703.13 (7) (b) 2. and
14 amended to read:

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

1 appertaining to the separated unit: The amendment shall reflect a proportionate
2 allocation to the new units of the liability for common expenses and rights to common
3 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?

4 SECTION 44. 703.13 (7) (b) 1. of the statutes is created to read:

5 703.13 (7) (b) 1. This paragraph applies when the effect of the separation is to
6 create 2 or more units of the existing condominium and the resulting interests will
7 not be subject to organizational or operating documents other those of the existing
8 condominium.

9 SECTION 45. 703.13 (7) (c) of the statutes is renumbered 703.13 (7) (b) 3. and
10 amended to read:

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

18 SECTION 46. 703.13 (7) (cm) of the statutes is created to read:

19 703.13 (7) (cm) 1. This paragraph applies when the effect of the separation
20 involves the creation of 2 or more ownership interests in the unit that are subject to
21 organizational or operating documents in addition to those of the existing
22 condominium.

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

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

5 a. The unit subjected to the condominium form of ownership shall be considered
6 to be property.

7 b. The unit subjected to the condominium form of ownership shall remain a unit
8 in the original condominium and shall continue to be subject to the condominium
9 instruments for the the original condominium.

10 c. The association of the new condominium shall have all rights and obligations
11 of the unit owner of the unit in the original condominium from which the new
12 condominium is created.

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

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

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

20 4. If ~~the interests arise in any other way~~, the organizational and operating
21 documents ~~must be~~ ^{are} legally sufficient to create the proposed interests and any entity
22 involved.

23 **SECTION 47.** 703.13 (7) (d) of the statutes is renumbered 703.13 (7) (b) 4. and
24 amended to read:

1 703.13 (7) (b) 4. After appropriate instruments have been prepared and
2 executed, they shall be delivered promptly to the separator upon payment by him or
3 her of all reasonable cost for their preparation. Those instruments are effective when
4 the separator has executed them and they are recorded. The recording of the
5 instruments is conclusive evidence that the separation did not violate any
6 restrictions or limitation specified by the condominium instruments and that any
7 reallocations made under this ~~subsection~~ paragraph were reasonable.

8 **SECTION 48.** 703.13 (7) (dm) of the statutes is created to read:

9 703.13 (7) (dm) All interests created in connection with the separation of a unit
10 remain subject to the condominium instruments and association documents.

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

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

1 by or on behalf of the first mortgagees of those units, if any, and the written consent
2 of the board of directors of the association.

3 **SECTION 50.** 703.13 (8) (c) of the statutes is amended to read:

4 703.13 (8) (c) Plats and plans showing the boundaries and dimensions of the
5 new unit, together with the new ~~identifying number or letter~~ designation, shall be
6 prepared. The plats and plans shall be certified as to their accuracy and compliance
7 with this subsection by a civil engineer, architect, or licensed land surveyor
8 authorized to practice in this state.

9 **SECTION 51.** 703.14 (1) of the statutes is amended to read:

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

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

18 703.15 (2) (a) *Establishment.* ~~Every~~ Unless the declarant ~~shall establish~~
19 earlier establishes an association to govern the condominium ~~not later than, as of the~~
20 date of the first conveyance of a unit to a purchaser, an association shall immediately
21 exist to govern the affairs of the condominium. The association shall ~~be organized~~
22 ~~as a profit or nonprofit corporation or~~ exist as an unincorporated association, ~~unless~~
23 the declarant has organized it as a nonprofit corporation before the first conveyance.
24 ~~After it is organized, the~~ the first conveyance, the association may be organized as
25 a nonprofit corporation only with the consent of all of the unit owners. The declarant

1 shall operate the association until the declarant transfers control of the association
2 to the unit owners. The membership of the association shall at all times consist
3 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?

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

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

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

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

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

17 703.15 (2) (c) 1. a. ~~Ten~~ Except as provided in subd. 1. c., 10 years in the case of
18 an expandable condominium.

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

20 703.15 (2) (c) 1. b. ~~Three~~ Except as provided in subd. 1. c., 3 years in the case
21 of any other condominium.

22 **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 assessments under s. 703.165.

23 **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 on the unit, the grantee shall
17 be jointly and severally liable with the grantor for all unpaid assessments against
18 the grantor for his or her share of the common expenses up to the time of the
19 ~~voluntary~~ grant for which a statement of condominium lien is ~~recorded~~ without
20 prejudice to the rights of the grantee to recover from the grantor the amounts paid
21 by the grantee for such assessments. Liability for assessments may not be avoided
22 by waiver of the use or enjoyment of any common element or by abandonment of the
23 unit for which the assessments are made.

24 **SECTION 79.** 703.165 (3) of the statutes is amended to read:

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↑ ↑

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.

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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 DECLARATION MAY RESERVE INCLUDE~~ RIGHT TO EXPAND. A
18 declarant may reserve the include in the original declaration of a condominium a
19 right to expand ~~a~~ plain the condominium by ~~subjecting additional property to the~~
20 ~~condominium declaration adding land, one or more units, or both,~~ in such a manner
21 that ~~as each additional property~~ any added land or unit is subjected to the
22 condominium declaration and, if any unit or units are added, the percentage of
23 undivided interests in the common elements ~~of the preceding and new property shall~~
24 be ~~are~~ reallocated ~~between the unit owners on the basis of the aggregate undivided~~
25 ~~interest in the common elements 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~~ ^{that} 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.

including

13 3. Removal of less than all of the property is permitted only if, following
14 removal, the condominium and the property removed are in compliance with the
15 laws and 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.

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

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

SECTION 104. 703.29 of the statutes is repealed.

SECTION 105. 703.33 (1) (intro.) of the statutes is amended to read:

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

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

703.33 (9) ELECTRONIC DISCLOSURE. The information required under subs. (1) and (2) may be disclosed electronically if the purchaser agrees to that method of transmission and the seller verifies that the purchaser received the information transmitted electronically.

in the manner prescribed by law

> ******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; mortgagee approvals.**

4 **SECTION 108.** 703.34 (intro.) (except 703.34 (title)) of the statutes is
5 renumbered 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 must be met:

8 **SECTION 109.** 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;.

13 **SECTION 110.** 703.34 (2) of the statutes is renumbered 703.34 (1m) (b) and
14 amended to read:

15 703.34 (1m) (b) ~~A~~ The 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~~.

18 **SECTION 111.** 703.34 (2m) of the statutes is created to read:

19 703.34 (2m) If a mortgagee whose consent or approval is required for an action
20 under this chapter cannot be contacted with the use of reasonable diligence, the
21 association may seek the right to proceed with the proposed action under ch. 841,
22 notwithstanding the missing consent or approval. In determining whether to permit
23 the action for which mortgagee consent or approval has not been obtained, the court

1 shall consider whether the action is needed to permit the effective management and
2 operation of the condominium and any impact the action would have on the value of
3 the units in the condominium as security for mortgages on the units.

4 SECTION 112. 703.34 (3) of the statutes is renumbered 703.34 (1m) (c) and
5 amended to read:

6 703.34 (1m) (c) A mortgage or other lien shall provide for or be amended to
7 provide for a release of the unit and the undivided interest in the common areas and
8 facilities appurtenant ~~thereto~~ to the unit from the lien of a mortgage or other lien
9 upon the payment of a sum certain.

Amend 34-9

10 SECTION 113. 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
12 and designation of each unit in the building and the limited common elements
13 appurtenant to each unit of a small condominium. These plans may be
14 supplemented by an agreement among all unit owners and their first mortgagees,
15 if any, regarding the allocation of use and enjoyment of common elements, which
16 agreement, in both its original and any amended form, shall be recorded.

17 SECTION 114. 703.365 (6) of the statutes is repealed and recreated to read:

18 703.365 (6) ASSOCIATION OPERATIONS; ARBITRATION. (a) With respect to
19 operational decisions in a small condominium, including decisions concerning
20 repairs, maintenance, the exterior appearance, and expenditures, the association
21 may submit a proposed action to arbitration under ch. 788 if any of the following
22 applies:

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

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. Insert 35-14 If, after arbitration under par. (b), the challenge is
15 wholly denied, costs of the arbitration shall be borne by the unit owner submitting
16 the issue to arbitration. 91 b0 If the challenge is wholly upheld, costs shall be borne by the
17 association. 91 c0 In all other cases, the costs shall be shared equally by the unit owner
18 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)?

19 (d) The association may adopt rules establishing arbitration procedures.
20 Acceptance of a deed to a unit in a small condominium constitutes agreement to the
21 resolution of disputes over operational decisions by arbitration.

22 **SECTION 115.** 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 116.** 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 117.** 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 118.** 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) (b) and (c).

22 **SECTION 119.** 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

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LPS - Please
check spelling.

INSERT A

188 5

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

1. 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.

2. 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, consistent with current practice, 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, the term "mortgagee" includes 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.

3. 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 Ltd. Partnership v. DNR*, 2002 WI 106, 255 Wis. 2d 486, 648 N.W. 2d 854, the bill clarifies that a unit may be of any size and for any use.

4. 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 properly consents to that method.

5. 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.

6. 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

Mortgage



Ins A 200 5

into two or more ownership interests by subjecting the unit itself to the condominium form of ownership.

7. 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.

8. 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.

9. Current law provides that a bylaw or rule may not prohibit a unit owner from displaying the American flag or from displaying in his or her condominium a sign related to a political candidate or a referendum question, 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 of such a sign or a flag may be limited to those parts of the condominium over which the unit owner has the exclusive right to use.

10. 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 another unit owner's interest in the common element, the 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.

11. 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.

12. 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 ten ~~10~~ days or the instrument is approved for recording. The bill clarifies that the instrument is approved for recording, after the time has passed, without any signature of the reviewer or any certification that it has been reviewed or approved.

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.



for A 3065

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 a term of an elected director 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, such as requiring the unit owners to obtain the insurance coverage. 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 of a unit, the grantee is jointly and severally liable with the grantor for all unpaid assessments with respect to the unit for which a statement of lien is recorded. The bill provides that this



foreclosure

- 4 -

Ins A 4075

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 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. Certain provisions of the condominium statutes apply specifically and exclusively to those small condominiums that elect to be subject to them (electing small condominiums), as well as the general condominium provisions that are not in conflict with the specific provisions. All general condominium provisions apply to small condominiums that do not elect to be subject to the specific small condominium provisions, except that current law provides that the general provisions related to expanding a condominium do not apply to any small condominium. The bill prohibits a declaration for a small condominium from providing that the general provisions related to expanding a condominium do apply.



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PJK:.....

INSERT 8-2

1 **SECTION 1.** 703.10 (4) of the statutes is amended to read:
2 703.10 (4) PROHIBITING VOTING BY CERTAIN UNIT OWNERS. The bylaws may contain
3 a provision prohibiting any unit owner from voting at a meeting of the association
4 if the association has ~~recorded~~ filed a statement of condominium lien on the person's
5 unit and the amount necessary to release the lien has not been paid at the time of
6 the meeting.

History: 1977 c. 407; 1987 a. 262; 1991 a. 295; 1995 a. 27; 1999 a. 82.

(END OF INSERT 8-2)

Ins A 505

Current law sets out arbitration procedures if the board of an association of an electing small condominium 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 this arbitration process. Under the bill, any operational decision in an electing 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 an electing 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 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 any 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 any 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)

INSERT 7-20

① ^{wof} but that a director may be reelected for successive terms ^g

(END OF INSERT 7-20)

* (Insert 8-2 is last page) *

INSERT 15-20

2 ^{wof} permitted in the declaration, a condominium unit may be the property upon

③ which another ownership entity is based if ^g

(END OF INSERT 15-20)

INSERT 34-9

102

4 SECTION 1. 703.365 (1) (b) of the statutes is amended to read:



37-5 303

1 (a) The treatment of section 703.165 (2) of the statutes first applies to
2 foreclosures commenced on the effective date of this paragraph.

3 (b) The treatment of section 703.165 (3) of the statutes first applies to
4 assessments for which the last installment becomes due on the effective date of this
5 paragraph.

6 (11) BLANKET LIENS. The renumbering and amendment of section 703.25 (3) of
7 the statutes first applies to blanket liens for which lien statements are filed on the
8 effective date of this subsection.

9 (12) ACTIONS FOR MONEY JUDGMENT. The creation of section 703.25 (3) (b) of the
10 statutes first applies to actions commenced on the effective date of this subsection.

11 (13) RESULTANT CONDOMINIUM PLATS. The treatment of section 703.275 (4m) of
12 the statutes first applies to plats of resultant condominiums that are recorded on the
13 effective date of this subsection.

14 (14) REMOVALS FROM CONDOMINIUM PROVISIONS. The treatment of sections 703.28
15 (1), (1m), (2), (2m), (3), and (4) and 703.29 of the statutes first applies to removals
16 with respect to which removal instruments are recorded on the effective date of this
17 subsection.

18 (15) SMALL CONDOMINIUMS.

19 (a) The treatment of section 703.365 (6) and (12) (b) of the statutes first applies
20 to actions or expenditures that are proposed on the effective date of this paragraph.

21 (b) The treatment of section 703.365 (7), (10), and (12) (a) of the statutes first
22 applies to small condominiums for which condominium instruments are recorded on
23 the effective date of this paragraph.

Ins 34-9 202

1 703.365 (1) (b) If a declaration under par. (a) provides that any or all of subs.
2 (2) to (8) or any parts of those subsections apply, then, except as provided in those
3 subsections or parts of those subsections, and except as provided in sub. (9), this
4 chapter applies to the small condominium in the same manner and to the same
5 extent as to other condominiums.

History: 1985 a. 188, 332; 1995 a. 201; 2003 a. 283.

(END OF INSERT 34-9)

INSERT 35-14

6 ~~4~~ (d) 1. Costs of the arbitration under par. (a) shall be the responsibility of the
7 association.

8 ~~4~~ 2. Costs of the arbitration under par. (b) shall be paid as follows:

9 ~~4~~ a.

(END OF INSERT 35-14)

INSERT 37-5

103

10 **SECTION 2. Initial applicability.**

11 (1) GENERAL APPLICATION. The treatment of sections 703.02 (15), 703.03, 703.15
12 (2) (a), (b), and (d), and 703.26 (1), (2) (a), and (3) (a) of the statutes first applies to
13 condominiums for which condominium instruments are recorded on the effective
14 date of this subsection.

15 (2) CONVERSION TO CONDOMINIUM. The treatment of section 703.08 (1) (intro.),
16 (2) (intro.), and (3) of the statutes first applies to conversions of residential real
17 properties to condominiums for which notices are delivered on the effective date of
18 this subsection.

↓

ins 37-5 283

1 (3) COMPENSATION RECOVERY. The treatment of section 703.09 (3) (bm) of the
2 statutes first applies to actions to recover compensation with respect to declaration
3 amendments that are recorded on the effective date of this subsection.

4 (4) DIRECTOR TERMS. The treatment of section 703.10 (2) (d) of the statutes first
5 applies to bylaws adopted or amended on the effective date of this subsection.

6 (5) USE OF COMMON SURPLUSES. The treatment of sections 703.13 (2) and 703.16
7 (1) of the statutes first applies to common surpluses arising on the effective date of
8 this subsection.

9 (6) UNIT BOUNDARY RELOCATIONS, SEPARATIONS, AND MERGERS.

10 (a) The treatment of section 703.13 (6) (b) and (c) of the statutes first applies
11 to unit boundary relocations for which application is made on the effective date of this
12 subsection

13 (b) The treatment of section 703.13 (7) (cm) and (dm) of the statutes, the
14 renumbering and amendment of section 703.13 (7) (b), (c), and (d) of the statutes, and
15 the creation of section 703.13 (7) (b) 1. of the statutes first apply to unit separations
16 for which application is made on the effective date of this subsection

17 (c) The treatment of section 703.13 (8) (b) of the statutes first applies to unit
18 mergers for which application is made on the effective date of this subsection

19 (7) TOLLING STATUTE OF LIMITATIONS. The treatment of section 703.15 (6) of the
20 statutes first applies to actions arising on the effective date of this subsection.

21 (8) DECLARANT OBLIGATIONS. The treatment of section 703.16 (2) (b) of the
22 statutes first applies to obligations arising on the effective date of this subsection.

23 (9) BUDGETS. The treatment of section 703.161 (2) (intro.) and (g) of the statutes
24 first applies to budgets adopted on the effective date of this subsection.

25 (10) ASSESSMENT LIENS.

Paragraph 6



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

3 SECTION 120. 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)

expensed by AO 7030365

Insert 375

-1733/1dn
PJK:bjk:

J-note
Date

In addition to AO 7030165(2) which is recorded
discussed with Attorney Horton I have changed reference
to "filed" in AO 703010(4) and 7030165(7) in reference
to a statement of lien. Let me know if this is
not okay.

PJK

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

LRB-1733/1dn
PJK:bjk:md

October 6, 2009

In addition to s. 703.165 (2), which I discussed with Attorney Horton, I have changed "recorded" to "filed" in ss. 703.10 (4) and 703.165 (7) in reference to a statement of lien. Let me know if this is not okay.

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

Kahler, Pam

From: Battiato, Kate
Sent: Monday, December 14, 2009 1:22 PM
To: Kahler, Pam
Subject: FW: 09-condo review.pdf - Adobe Reader
Attachments: 09-condo review.pdf

Hi Pam,
Please see the attached.
Kate

From: Beil, Mickey [mailto:Beil.mickey@co.dane.wi.us]
Sent: Monday, December 14, 2009 11:27 AM
To: Battiato, Kate
Cc: Zellmer, Cheryl
Subject: 09-condo review.pdf - Adobe Reader

Kate---Here is the memo mentioned this morning---Mickey

<<09-condo review.pdf>>

*would like to be able to
review correction & removal
instruments, too*



OFFICE OF THE CORPORATION COUNSEL

December 2, 2009

Ms. Kristi Chlebowski
Dane County Register of Deeds
Room 110, City-County Building
Madison, WI 53703

RE: Review of Condominium Instruments

Dear Ms. Chlebowski:

You have requested an opinion as to what type of documents related to condominiums may be reviewed under the County's Condominium Plat Review Ordinance. It is my opinion that only those documents falling within the definition of "condominium instruments" in WIS. STATS. §703.02(5) may be reviewed under the county ordinance.

In 2007 Dane County adopted a Condominium Plat Review Ordinance that is codified as Subchapter II of Chapter 75 of the Dane County Code of Ordinances. That Subchapter was adopted under the authority granted by WIS. STATS. §703.115. That statute provides that "a county may adopt an ordinance to require the review of condominium instruments before recording by persons employed by the county of recording..."

Wisconsin counties "are creatures of the Legislature," and have only such powers as are specifically granted by statute or necessarily implied. State ex rel. Teunas v. County of Kenosha, 142 Wis.2d 498, 504 (1977). In this situation the Legislature has authorized counties to adopt an ordinance regarding the review of "condominium instruments." The Legislature has specifically defined that term in WIS. STATS. §703.02(5) as "the declaration, plats and plans of a condominium together with any attached exhibits and schedules." Therefore, the county's review is limited to documents falling within the definition of "condominium instrument."

The county's ordinance defines a "condominium ordinance" in DCO §75.54(2) as "the declaration, plats and plans of a condominium together with any attached exhibits or schedules, and any amendments or addendums that modify a recorded condominium declaration or plat, as defined in chapter 703, Wis. Stats." The inclusion of "amendments" or "addendums" is consistent with the statute, because both are defined as "condominium instruments" in WIS STATS. §§ 703.02(1b) & (1h).

There are, however, other instruments related to condominiums that the Legislature apparently chose not to define as "condominium instruments." The Legislature specifically defined "correction instrument" in §703.02(6m) and "removal instrument" in §703.02(14g) without referring to them as "condominium instruments." It is a rule of statutory construction that "where the legislature uses similar but different terms in a statute, particularly within the

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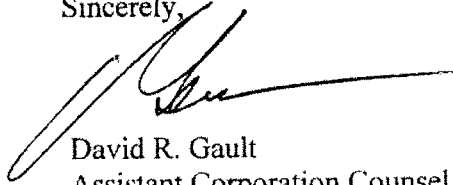
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same section, it is presumed that the legislature intended such terms to have different meanings.” Nelson v. McLaughlin, 211 Wis.2d 487, 496 (1997). Therefore, it is my conclusion that “correction instruments” and “removal instruments” are not “condominium instruments” as defined by §703.02(5). Therefore, those documents are not reviewable under the county ordinance pursuant to the grant of authority under WIS. STAT. §703.115.

Please contact me if I can provide further assistance on this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Gault', with a long horizontal flourish extending to the right.

David R. Gault
Assistant Corporation Counsel