

2009 DRAFTING REQUEST

Assembly Amendment (AA-AB647)

Received: **04/05/2010**

Received By: **pkahler**

Wanted: **As time permits**

Companion to LRB:

For: **Dean Kaufert (608) 266-5719**

By/Representing: **Adam Field**

May Contact:

Drafter: **pkahler**

Subject: **Real Estate - condominiums**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Kaufert@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Make current law for amending declaration apply to all condos, regardless of when created

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pkahler 04/06/2010	jdye 04/07/2010		_____			
/P1	pkahler 04/22/2010	jdye 04/22/2010	mduchek 04/07/2010	_____	lparisi 04/07/2010		
/1			rschluet 04/22/2010	_____	cduerst 04/22/2010	cduerst 04/22/2010	

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/?	pkahler 04/06/2010	jdyer 04/07/2010		_____			
/P1		1/4/22 jld	nduchek 04/07/2010	_____	lparisi 04/07/2010		

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<END>

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/?	pkahler	PI 4/7 jld		_____			

FE Sent For:

<END>

4-5-10

Adm from Rep Kaufert's office

previously, it took
75% to amend declaration

change to that applies to condos created
after a certain date

make the change apply



LRBa2012/8/P1
PJK: A: ...
Jed

SOON

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION
ASSEMBLY AMENDMENT ,
TO 2009 ASSEMBLY BILL 647

D-note
(in 4-6)

1 At the locations indicated, amend the bill as follows:

2 1. Page 41, line 21: after that line insert:

3 "SECTION 120k. 703.38 (9) of the statutes is repealed and recreated to read:

4 703.38 (9) Section 703.09 (2) is applicable to all condominiums, whether

5 created before, on, or after the effective date of this subsection [LRB inserts date].

6 However, with respect to a condominium created before April 22, 1986, the

7 declaration may be amended on or after the effective date of this subsection [LRB

8 inserts date], as provided in s. 703.09 (2) with the written consent of either of the

9 following:

10 (a) At least two-thirds of the aggregate of the votes established under s. 703.09

11 (1) (f).

1 (b) A percentage of the aggregate of the votes established under s. 703.09 (1)
 2 (f) that is greater than two-thirds if provided in the declaration and if the declaration
 3 was, on or after the effective date of this paragraph [LRB inserts date], amended
 4 to provide that greater percentage with the written consent of at least two-thirds of
 5 the aggregate of the votes established under s. 703.09 (1) (f)."

6 **2.** Page 42, line 14: after that line insert:

7 **(2A)** AMENDMENT TO DECLARATION. The treatment of section 703.38 (9) of the
 8 statutes first applies to condominium declaration amendments that are submitted
 9 for recording on the effective date of this subsection."

10 (END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

date

LRBa2012/5^{PI}dn
PJK:A:...

Jld

Former law allowed for amendment of the declaration with the written consent of 75 percent of the unit owners or a greater percentage if provided in the declaration. The law was changed to allow for amendment of the declaration with the written consent of at least two-thirds of the aggregate of the votes appurtenant to the units (since a unit may have more than one vote) or a greater percentage if provided in the declaration. The change did not apply to condos created before April 22, 1986, unless 75 percent of the unit owners, or a greater percentage if provided in the declaration, voted to amend the declaration in a different manner. Rather than try to sort out all of the possibilities, I provided that the declaration of a condo created before April 22, 1986, could be amended in the manner provided under current law, and that, if the declaration provided for a percentage greater than two-thirds, that provision would have to have been consented to after the effective date of the act. That way, the declaration of such a condo may be amended by the written consent of at least two-thirds of the aggregate of the votes appurtenant to the units, even if the declaration currently provides that it may be amended only by a greater percentage. Is this what you want? *

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

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

LRBa2012/P1dn
PJK:jld:md

April 7, 2010

Former law allowed for amendment of the declaration with the written consent of 75 percent of the unit owners or a greater percentage if provided in the declaration. The law was changed to allow for amendment of the declaration with the written consent of at least two-thirds of the aggregate of the votes appurtenant to the units (since a unit may have more than one vote) or a greater percentage if provided in the declaration. The change did not apply to condos created before April 22, 1986, unless 75 percent of the unit owners, or a greater percentage if provided in the declaration, voted to amend the declaration in a different manner. Rather than try to sort out all of the possibilities, I provided that the declaration of a condo created before April 22, 1986, could be amended in the manner provided under current law, and that, if the declaration provided for a percentage greater than two-thirds, that provision would have to have been consented to after the effective date of the act. That way, the declaration of such a condo may be amended by the written consent of at least two-thirds of the aggregate of the votes appurtenant to the units, even if the declaration currently provides that it may be amended only by a greater percentage. Is this what you want?

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

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

4-22

Adam - Rep Kaufert

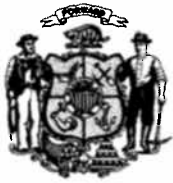
redraft LRBa2012 to place a maximum

limit of 75% in declaration

for amending declaration -

make it applicable to all condors

if possible



v m bot run

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

ASSEMBLY AMENDMENT,
TO 2009 ASSEMBLY BILL 647

today

Insert 1-1 ✓

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 41, line 21: after that line insert:

3 **"SECTION 120k.** 703.38 (9) of the statutes is repealed and recreated to read:

4 703.38 (9) Section 703.09 (2) is applicable to all condominiums, whether
5 created before, on, or after the effective date of this subsection [LRB inserts date].

6 However, with respect to a condominium created before April 22, 1986, the
7 declaration may be amended on or after the effective date of this subsection [LRB
8 inserts date], as provided in s. 703.09 (2) with the written consent of either of the
9 following:

10 (a) At least two-thirds of the aggregate of the votes established under s. 703.09

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g

1 (b) A percentage of the aggregate of the votes established under s. 703.09 (1)
2 (f) that is greater than two-thirds if provided in the declaration and if the declaration
3 was, on or after the effective date of this paragraph [LRB inserts date], amended
4 to provide that greater percentage with the written consent of at least two-thirds of
5 the aggregate of the votes established under s. 703.09 (1) (f)."

6 **2.** Page 42, line 14: after that line insert:

7 "(2c) AMENDMENT TO DECLARATION. The treatment of section 703.38 (9) of the
8 statutes first applies to condominium declaration amendments that are submitted
9 for recording on the effective date of this subsection."

10

(END)

Inset 2-9 ✓

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa2012/P1ins
PJK:.....

INSERT 1-1

1 **1.** Page 11, line 7: after "declaration" insert "except that the declaration may
2 not provide for a greater percentage than 75 percent".

(END OF INSERT 1-1)

INSERT 2-9

3 4 703.38 (9) Section 703.09 (2) is applicable to all condominiums, whether
4 created before, on, or after the effective date of this subsection... [LRB inserts date].
5 If the declaration of a condominium created before the effective date of this
6 subsection ... [LRB inserts date], requires more than 75 percent of the aggregate
7 votes established under s. 703.09 (1) (f) to amend the declaration, the declaration
8 shall be construed to require 75 percent of the aggregate votes established under s.
9 703.09 (1) (f) to amend the declaration."

(end of Insert 2-9)

✓ the written consent of