

2009 DRAFTING REQUEST

Bill

Received: **02/25/2010**

Received By: **pkahler**

Wanted: **As time permits**

Identical to LRB:

For: **Gary Hebl (608) 266-7678**

By/Representing: **Kate Battiato**

This file may be shown to any legislator: **NO**

Drafter: **pkahler**

May Contact:

Addl. Drafters:

Subject: **Real Estate - condominiums**

Extra Copies:

Submit via email: **YES**

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

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Electronic disclosure of condo information

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 02/26/2010	bkraft 02/26/2010		_____			
/1			rschluet 03/01/2010	_____	cduerst 03/01/2010	sbasford 03/01/2010	

FE Sent For: **NONE**

<END>

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/?	pkahler	1 bjk 2/26		_____			

FE Sent For:

<END>

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

2-25

Kate Battisto

Rep Hebl

Make Section 107 of AB 647

as a separate bill

(electronic disclosure)

do include a xref to 15 USC 7001 et seq

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

Additional proposals for drafting

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

Aug 28-12 created 303

1 the removal. The part that is removed must result in a legal parcel for its intended
2 use.

(END OF INSERT 28-12)

INSERT 28-17

3 SECTION 24. 703.33 (9) of the statutes is created to read:

4 703.33 (9) ELECTRONIC DISCLOSURE. Notwithstanding sub. (6), the information
5 required under subs. (1) and (2) may be disclosed electronically if the purchaser
6 agrees to that method of transmission and the seller verifies that the purchaser
7 received the information transmitted electronically.

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

(END OF INSERT 28-17)

INSERT 30-3

183

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

16 SECTION 25. 703.365 (4) (b) of the statutes is amended to read:

17 703.365 (4) (b) The floor plans under s. 703.11 (2) (c) need only show the location
18 and designation of each unit in the building and the limited common elements



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WM. PHARIS HORTON
ATTORNEY AT LAW

October 1, 2009

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


BY FAX

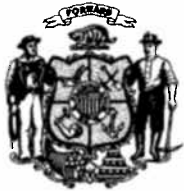
Dear Ms. Kahler:

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

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

Once again, thanks,





State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-4428/

PJK:.....

①
Lbjk

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

→ D-note
(in 2-26)

SA
x-ref

Insert

gen cont

1 AN ACT ^x; relating to: allowing required condominium disclosures to be made
2 electronically.

Analysis by the Legislative Reference Bureau

Insert A →

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

3 SECTION 1. 703.33 (9) of the statutes is created to read:
4 703.33 (9) ELECTRONIC DISCLOSURE. The information required under subs. (1)
5 and (2) may be disclosed electronically in accordance with 15 USC 7001 (c) and any
6 other requirements that are prescribed by law.

7 (END)

D-note

ASSEMBLY BILL 647

This

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. DNB*, 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.~~ *done in accordance with any requirements under*

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 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

Insert A

Law including the Federal Electronic Signatures in Global and National Commerce Act

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

LRB-4428/Adn

PJK:.....

①
Lbjk

Date

15 USC 7001 (c) requires more than agreement by the purchaser, such as the provision of certain information to the purchaser before the purchaser consents, so I modified the language to require the electronic disclosure to be in accordance with the federal law. Let me know if you need any changes.

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**

LRB-4428/1dn

PJK:bjk:md

February 26, 2010

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Phone: (608) 266-2682
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Basford, Sarah

From: Battiato, Kate
Sent: Monday, March 01, 2010 1:32 PM
To: LRB.Legal
Subject: Draft Review: LRB 09-4428/1 Topic: Electronic disclosure of condo information

Please Jacket LRB 09-4428/1 for the ASSEMBLY.