

2009 DRAFTING REQUEST

Bill

Received: 10/17/2008

Received By: mglass

Wanted: As time permits

Identical to LRB:

For: Robert Jauch (608) 266-3510

By/Representing: Carrie Kahn

This file may be shown to any legislator: NO

Drafter: mglass

May Contact:

Addl. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Submit via email: YES

Requester's email: Sen.Jauch@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Marina condominiums

Instructions:

Correct to the bracket language in two instances in ss. 30.133 and 30.1335 and make it a majority of owners instead of all owners in s. 30.1335 (6)

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>
/?							
/1	mglass 10/29/2008	nmatzke 11/18/2008	mduchek 11/21/2008	_____	mbarman 11/21/2008		
	mglass 11/20/2008	nmatzke 11/21/2008		_____			
/2	mglass 05/28/2009	nmatzke 06/03/2009	jfrantze 06/03/2009	_____	cduerst 06/03/2009	cduerst 09/24/2009	

FE Sent For:

None

<END>

2009 DRAFTING REQUEST

Bill

Received: 10/17/2008

Received By: mglass

Wanted: As time permits

Identical to LRB:

For: Robert Jauch (608) 266-3510

By/Representing: Carrie Kahn

This file may be shown to any legislator: NO

Drafter: mglass

May Contact:

Addl. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Submit via email: YES

Requester's email: Sen.Jauch@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Marina condominiums

Instructions:

Correct to the bracket language in two instances in ss. 30.133 and 30.1335 and make it a majority of owners instead of all owners in s. 30.1335 (6)

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>
/?							
/1	mglass 10/29/2008	nnatzke 11/18/2008	mduchek 11/21/2008	_____	mbarman 11/21/2008		
	mglass 11/20/2008	nnatzke 11/21/2008		_____			
/2	mglass 05/28/2009	nnatzke 06/03/2009	jfrantze 06/03/2009	_____	cduerst 06/03/2009		

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: 10/17/2008

Received By: mglass

Wanted: As time permits

Identical to LRB:

For: Robert Jauch (608) 266-3510

By/Representing: Carrie Kahn

This file may be shown to any legislator: NO

Drafter: mglass

May Contact:

Addl. Drafters:

Subject: Nat. Res. - nav. waters

Extra Copies:

Submit via email: YES

Requester's email: Sen.Jauch@legis.wisconsin.gov

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given


Topic:

Marina condominiums

Instructions:

Correct to the bracket language in two instances in ss. 30.133 and 30.1335 and make it a majority of owners instead of all owners in s. 30.1335 (6)

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>
/?							
/1	mglass 10/29/2008	nnatzke 11/18/2008	mduchek 11/21/2008	_____	mbarman 11/21/2008		
	mglass 11/20/2008	nnatzke 11/21/2008		_____			
		1/2 nwn 6/2		6/3			

FE Sent For:

<END>

2009 DRAFTING REQUEST

Bill

Received: 10/17/2008

Received By: **mglass**

Wanted: **As time permits**

Identical to LRB:

For: **Robert Jauch (608) 266-3510**

By/Representing: **Carrie Kahn**

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

Drafter: **mglass**

May Contact:

Addl. Drafters:

Subject: **Nat. Res. - nav. waters**

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Jauch@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Marina condominiums

Instructions:

Correct to the bracket language in two instances in ss. 30.133 and 30.1335 and make it a majority of owners instead of all owners in s. 30.1335 (6)

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>
/?	mglass	1/1 ^{nwn} 10/31	ND 11/21	ND/PH 11/21			

FE Sent For:

<END>



State of Wisconsin
2009 - 2010 LEGISLATURE

W
10/29

RMR
LRB-0567/3 1
MGG: p: ...
nwnt gjs

~~PRELIMINARY DRAFT NOT READY FOR INTRODUCTION~~

SA ✓✓
X-ref ✓

Gen.

- 1 AN ACT ...; relating to: declarations creating marina condominiums and
- 2 technical corrections to the laws governing marina condominiums.

Analysis by the Legislative Reference Bureau

Currently, in this state, there are numerous condominium projects, known as marina condominiums or dockominiums. An owner of a condominium unit in one of these projects does not own a residential unit but owns a unit of space such as a lock box. Ownership of the unit then conveys the right to use a pier, wharf, or boat slip located in the project. Under the laws regulating all types of condominiums, a condominium is legally established by the recording a written document, called a declaration, with the register of deeds.

Under current statutory law, no person may build or establish a marina condominium after June 1, 2007. A marina condominium established before June 1, 2007, is exempt from this prohibition. Such a condominium continues to enjoy this exemption regardless of any subsequent amendment or modification to the condominium declaration that is established in a court or administrative order or that is included in an agreement entered into by all of the owners of the condominium units in the project. Under current law, an agreement by the owners to a declaration must be unanimous; under this bill only an agreement entered into by a majority of the owners is required.

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

INSERT ANL

1 SECTION 1. 30.133 (1) (a) of the statutes is amended to read:

2 30.133 (1) (a) Beginning on April 9, 1994, and except as provided in s. 30.1355
3 30.1335, no owner of riparian land that abuts a navigable water may grant by an
4 easement or by a similar conveyance any riparian right in the land to another person,
5 except for the right to cross the land in order to have access to the navigable water.
6 This right to cross the land may not include the right to place any structure or
7 material, including a boat docking facility, as defined in s. 30.1335 (1) (a), in the
8 navigable water.

NOTE: NOTE: The correct cross-reference is shown in brackets. Corrective legislation is pending. NOTE:

History: 1993 a. 167; 2007 a. 20

9 SECTION 2. 30.1335 (3) (b) of the statutes is amended to read:

10 30.1335 (3) (b) If a marina condominium as described in par. (a) contains more
11 than 300 boat slips, the declarant shall make at least 40 percent of the total number
12 of boat slips in the marina condominium available for rent or for transient use by the
13 public. When the declarant conveys title to, or another interest in, a condominium
14 unit that is affected by this restriction on use, the declarant shall include a statement
15 of the restriction in the instrument of conveyance.

NOTE: NOTE: A missing word is shown in brackets. Corrective legislation pending. NOTE:

History: 2007 a. 20

16 SECTION 3. 30.1335 (6) (a) of the statutes is amended to read:

17 30.1335 (6) (a) Any amendment, modification, or restatement of the
18 declaration by court or administrative order or by ~~agreement~~ ^{consent} of all the ~~majority~~
19 the owners of the condominium units.

History: 2007 a. 20

(END)

09A (2)
(3)

09B

as permitted under ch. 703.09 or

703.093

INS
2-19

as defined
in s. 703.02(11),

Ins 2-19 →

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0567/lins
MGG:.....

Insert
ANL

Currently, in this state, there are numerous condominium projects known as marina condominiums or dockominiums. An owner of a condominium unit in one of these projects does not own a residential unit but owns a unit of space such as a lock box. Ownership of the unit then conveys the right to use a pier, wharf, or boat slip located in the project. Under the laws regulating all types of condominiums, a condominium is legally established by the recording a written document, called a declaration, with the register of deeds.

Under current law, no person may legally establish a marina condominium after June 1, 2007. A declaration for marina condominium established before that date (existing declaration) remains effective regardless of any "subsequent activity" that may occur that may affect the validity of the existing declaration. Under current law, "subsequent activity" may be any determination by court or administrative order that the existing declaration is voidable or otherwise invalid or may be any amendment to the declaration by court or administrative order or any amendment to the existing declaration that is made by agreement of the owners of the marina condominium units. Under current law, the agreement by the owners must be unanimous.

Under current law that covers other types of condominiums, a declaration may be amended with the written consent of at least two-thirds of the unit owners that have voting rights as established by the declaration. This bill eliminates the unanimity requirement described above resulting in the application of the general voting requirements for amending condominium declarations to existing declarations.

existing

STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

Ins ANL-2

Written consent of unit owners who
~~are~~ hold at least two-thirds of the
votes assigned to units under the declaration

Section #. 30.1335 (6) (a) of the statutes is amended to read:

30.1335 (6) (a) Any amendment, modification² or restatement of^{the} declaration by court or administrative order or by ~~agreement of all~~ of the owners of the condominium units.

History: 2007 a. 20.

consent

as authorized
under ch. 703^v

Gibson-Glass, Mary

From: Kahn, Carrie
Sent: Tuesday, May 26, 2009 4:29 PM
To: Gibson-Glass, Mary
Subject: FW: Dockominium - 30.1335(4) amendment

Hi Mary,

Several months ago, you drafted for me some technical fixes to the Marina Condo Law. In addition, we've continued discussions with the DNR on some suggested additional language that I was hoping you could also add to the bill draft. You'll see those instructions below. The LRB was 0567/1.

Please let me know if you have any questions.

Carrie Kahn
Legislative Assistant
State Senator Bob Jauch
P.O. Box 7882
Madison, WI 53707-7882

608-266-3510
1-800-469-6562

From: Lutz, Michael - DNR [mailto:Michael1.Lutz@Wisconsin.gov]
Sent: Wednesday, May 20, 2009 5:11 PM
To: Kahn, Carrie
Cc: Williams, Quinn L - DNR; Lehmann Kerler, Liesa K - DNR
Subject: Dockominium - 30.1335(4) amendment

Thanks for your patience. My day didn't go according to plan.

The new provisions are underlined. The Department of Natural Resources has requested this change to counter the argument that by virtue of having a permit under Subchapter II (two) of Chapter 30 which under the terms of 30.1335(4)(a) and (b) is "deemed to satisfy the requirements of this subchapter", one has also satisfied the requirements of 30.1335 and therefore can create a new marina condominium. The original intent of 30.1335(4) was to maintain the validity of Subchapter II permits and not to provide an escape from the limits on new marina condominiums. This change clarifies that intent.

30.1335(4) Validity of permits.

(a) For a marina that is converted into a marina condominium, if the owner of the marina is issued a permit or other authorization under this subchapter to place, maintain, or use a boat docking facility before the date that a declaration was recorded converting the marina into a marina condominium, the permit or authorization shall be deemed to satisfy the requirements of the other provisions of this subchapter and may not be rescinded or modified by the department or a municipality or by court or administrative order if the grounds for the rescission or modification are based on the fact that the marina has been converted to a marina condominium. The permit or authorization shall remain in effect regardless of any subsequent activity affecting the declaration. This paragraph does not apply to any permit or authorization that is issued after the date that the declaration was recorded converting the marina into a marina condominium.

5/28/2009

30.1335(4)(b)

(b) For a marina condominium that was not previously a marina, if the owner of a marina condominium is issued a permit or other authorization under this subchapter to place, maintain, or use a boat docking facility, the permit or authorization shall be deemed to satisfy the requirements of the other provisions of this subchapter and may not be rescinded or modified by the department or a municipality or by court or administrative order if the grounds for the rescission or modification are based on the fact that the boat docking facility is part of a marina condominium as opposed to a marina. The permit or authorization shall remain in effect regardless of any subsequent activity affecting the declaration.



State of Wisconsin
2009 - 2010 LEGISLATURE

2 RMR

LRB-0567/A

MGG:nwn&cjs:md

soon

in edit

§ 5/28

2009 BILL

SA ✓

Regen.

1 AN ACT to amend 30.133 (1) (a), 30.1335 (3) (b) and 30.1335 (6) (a) of the statutes;
2 relating to: declarations creating marina condominiums and technical
3 corrections to the laws governing marina condominiums. ✓

Analysis by the Legislative Reference Bureau

Currently, in this state, there are numerous condominium projects known as marina condominiums or dockominiums. An owner of a condominium unit in one of these projects does not own a residential unit but owns a unit of space such as a lock box. Ownership of the unit then conveys the right to use a pier, wharf, or boat slip located in the project. Under the laws regulating all types of condominiums, a condominium is legally established by the recording of a written document, called a declaration, with the register of deeds.

Under current law, no person may legally establish a marina condominium on or after June 1, 2007. A declaration for a marina condominium established before that date (existing declaration) remains effective regardless of any "subsequent activity" that may affect the validity of the existing declaration. Under current law, "subsequent activity" may be any determination by court or administrative order that the existing declaration is voidable or otherwise invalid or may be any amendment to the existing declaration by court or administrative order or any amendment to the existing declaration that is made by agreement of the owners of the marina condominium units. Under current law, the agreement by the owners must be unanimous.

Under current law that covers other types of condominiums, a declaration may be amended with the written consent of unit owners who hold at least two-thirds of

BILL

the votes assigned to units under the declaration. This bill eliminates the unanimity requirement described above resulting in the application of the general voting requirements for amending condominium declarations to existing declarations.

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

1 **SECTION 1.** [√] 30.133 (1) (a) of the statutes is amended to read:

2 30.133 (1) (a) Beginning on April 9, 1994, and except as provided in s. ~~30.1355~~
3 30.1335, no owner of riparian land that abuts a navigable water may grant by an
4 easement or by a similar conveyance any riparian right in the land to another person,
5 except for the right to cross the land in order to have access to the navigable water.
6 This right to cross the land may not include the right to place any structure or
7 material, including a boat docking facility, as defined in s. 30.1335 (1) (a), in the
8 navigable water.

9 **SECTION 2.** [√] 30.1335 (3) (b) of the statutes is amended to read:

10 30.1335 (3) (b) If a marina condominium as described in par. (a) contains more
11 than 300 boat slips, the declarant shall make at least 40 percent of the total number
12 of boat slips in the marina condominium available for rent or for transient use by the
13 public. When the declarant conveys title to, or another interest in, a condominium
14 unit that is affected by this restriction on use, the declarant shall include a statement
15 of the restriction in the instrument of conveyance.

16 **SECTION 3.** [√] 30.1335 (6) (a) of the statutes is amended to read:

17 30.1335 (6) (a) Any amendment, modification, or restatement of the
18 declaration by court or administrative order or by ~~agreement of all~~ consent of the
19 owners of the condominium units as authorized under ch. 703.

20

(END)

INS 215

2009-2010 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0567/2ins
MGG:nwn&cjs:md

Insert 2-15

SECTION 1. [✓] 30.1335 (4) (a) of the statutes is amended to read:

Sections
30.1335 (4) (a) For a marina that is converted into a marina condominium, if the owner of the marina is issued a permit or other authorization under this subchapter to place, maintain, or use a boat docking facility before the date that a declaration was recorded converting the marina into a marina condominium, the permit or authorization shall be deemed to satisfy the requirements of the other ~~provisions~~ of this subchapter and may not be rescinded or modified by the department or a municipality or by court or administrative order if the grounds for the rescission or modification are based on the fact that the marina has been converted to a marina condominium. The permit or authorization shall remain in effect regardless of any subsequent activity affecting the declaration. This paragraph does not apply to any permit or authorization that is issued after the date that the declaration was recorded converting the marina into a marina condominium.

History: 2007 a. 20.

SECTION 2. [✓] 30.1335 (4) (b) of the statutes is amended to read:

Sections
30.1335 (4) (b) For a marina condominium that was not previously a marina, if the owner of a marina condominium is issued a permit or other authorization under this subchapter to place, maintain, or use a boat docking facility, the permit or authorization shall be deemed to satisfy the requirements of the other ~~provisions~~ of this subchapter and may not be rescinded or modified by the department or a municipality or by court or administrative order if the grounds for the rescission or modification are based on the fact that the boat docking facility is part of a marina

1 condominium as opposed to a marina. The permit or authorization shall remain in
2 effect regardless of any subsequent activity affecting the declaration.

History: 2007 a. 20.

Basford, Sarah

From: Kahn, Carrie
Sent: Thursday, September 24, 2009 10:22 AM
To: LRB.Legal
Subject: Draft Review: LRB 09-0567/2 Topic: Marina condominiums

Please Jacket LRB 09-0567/2 for the SENATE.