



2017 ASSEMBLY BILL 470

August 14, 2017 - Introduced by Representatives BARCA, ZAMARRIPA, BERCEAU, BROSTOFF, CROWLEY, MILROY and SPIROS, cosponsored by Senator WIRCH. Referred to Committee on Housing and Real Estate.

1 **AN ACT** *to renumber* 703.093 (1) and 703.10 (5); *to renumber and amend*
2 703.09 (2); *to amend* 703.093 (8), 703.13 (6) (c) and 703.13 (8) (b); and *to create*
3 703.09 (2) (b), 703.093 (1) (b), 703.10 (5) (b) and 703.38 (11) of the statutes;
4 **relating to:** creating a right for minority unit owners to object to the
5 amendment of certain condominium documents.

Analysis by the Legislative Reference Bureau

This bill provides that, if a single person or two or more persons acting jointly by formal agreement have the power to unilaterally amend certain condominium documents, a simple majority of unit owners may object in writing to an amendment proposed by the person or persons. If a simple majority of unit owners objects, the proposed amendment is void.

For purposes of an objection vote, a unit owner is entitled to one vote, regardless of the number of units owned by the unit owner or the number of votes appurtenant to the units owned by the unit owner, and the person or persons that proposed the amendment are entitled to one vote, regardless of the number of persons, the number of units owned by the persons, or the number of votes appurtenant to the units owned by the persons.

Under current law, the following condominium documents may be amended as follows:

1. A condominium declaration or plat may be amended by two-thirds of the aggregate votes established in the declaration, unless the declaration provides for a greater percentage.

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2. Bylaws may be amended by 67 percent of the votes.

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

1 **SECTION 1.** 703.09 (2) of the statutes is renumbered 703.09 (2) (a) and amended
2 to read:

3 703.09 (2) (a) Except as provided in sub. (4) and ss. 703.093, 703.13 (6) (c) and
4 (d) and (8) (b), and 703.26, a condominium declaration may be amended with the
5 written consent of at least two-thirds of the aggregate of the votes established under
6 sub. (1) (f) or a greater percentage if provided in the declaration. An amendment
7 becomes effective when it is recorded in the same manner as the declaration. The
8 document submitting the amendment for recording shall state that the required
9 consents and approvals for the amendment were received. A unit owner's written
10 consent is not effective unless it is approved in writing by the first mortgagee of the
11 unit, or the holder of an equivalent security interest, if any. Approval from the first
12 mortgage lender or equivalent security interest holder, or the person servicing the
13 first mortgage loan or its equivalent on a unit, constitutes approval of the first
14 mortgagee or equivalent security interest holder under this subsection paragraph.

15 **SECTION 2.** 703.09 (2) (b) of the statutes is created to read:

16 703.09 (2) (b) Notwithstanding par. (a), if a single person or 2 or more persons
17 acting jointly by formal agreement have the power to unilaterally amend the
18 declaration under par. (a), a simple majority of unit owners may object in writing to
19 an amendment under par. (a) proposed by the person or persons. If a simple majority
20 of unit owners objects, the proposed amendment is void. For purposes of this
21 paragraph, a unit owner is entitled to one objection vote, regardless of the number

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1 of units owned by the unit owner or the number of votes appurtenant to the units
2 owned by the unit owner, and the person or persons that proposed the amendment
3 are entitled to one objection vote, regardless of the number of persons, the number
4 of units owned by the persons, or the number of votes appurtenant to the units owned
5 by the persons.

6 **SECTION 3.** 703.093 (1) of the statutes is renumbered 703.093 (1) (a).

7 **SECTION 4.** 703.093 (1) (b) of the statutes is created to read:

8 703.093 (1) (b) Notwithstanding par. (a), if a single person or 2 or more persons
9 acting jointly by formal agreement have the power to unilaterally amend the
10 declaration under par. (a), a simple majority of unit owners may object in writing to
11 an amendment under par. (a) proposed by the person or persons. If a simple majority
12 of unit owners objects, the proposed amendment is void. For purposes of this
13 paragraph, a unit owner is entitled to one objection vote, regardless of the number
14 of units owned by the unit owner or the number of votes appurtenant to the units
15 owned by the unit owner, and the person or persons that proposed the amendment
16 are entitled to one objection vote, regardless of the number of persons, the number
17 of units owned by the persons, or the number of votes appurtenant to the units owned
18 by the persons.

19 **SECTION 5.** 703.093 (8) of the statutes is amended to read:

20 703.093 (8) If the association receives the required number of consents and
21 approvals from unit owners and mortgagees and equivalent security interest holders
22 within the required time after the affidavit is recorded under sub. (2) and has not
23 received a written objection under sub. (1) (b), the senior executive officer of the
24 association shall record an amendment in the office of the register of deeds of the
25 county in which the condominium is located, setting forth the facts satisfying the

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1 requirements of this section and providing record notice to all interested persons that
2 the declaration has been revised, effective upon the recording of the amendment, and
3 restating the entire declaration, as amended.

4 **SECTION 6.** 703.10 (5) of the statutes is renumbered 703.10 (5) (a).

5 **SECTION 7.** 703.10 (5) (b) of the statutes is created to read:

6 703.10 (5) (b) Notwithstanding par. (a), if a single person or 2 or more persons
7 acting jointly by formal agreement have the power to unilaterally amend the bylaws
8 under par. (a), a simple majority of unit owners may object in writing to an
9 amendment under par. (a) proposed by the person or persons. If a simple majority
10 of unit owners objects, the proposed amendment is void. For purposes of this
11 paragraph, a unit owner is entitled to one objection vote, regardless of the number
12 of units owned by the unit owner or the number of votes appurtenant to the units
13 owned by the unit owner, and the person or persons that proposed the amendment
14 are entitled to one objection vote, regardless of the number of persons, the number
15 of units owned by the persons, or the number of votes appurtenant to the units owned
16 by the persons.

17 **SECTION 8.** 703.13 (6) (c) of the statutes is amended to read:

18 703.13 (6) (c) An amendment to a declaration shall identify the units involved
19 and shall state that the boundaries between those units are being relocated by
20 agreement of the unit owners thereof. The amendment shall contain words of
21 conveyance between those unit owners, and when recorded shall also be indexed in
22 the name of the grantor and grantee. If the adjoining unit owners have specified in
23 their written application the reallocation between their units of the aggregate
24 undivided interest in the common elements appertaining to those units, the
25 amendment to the declaration shall reflect that reallocation. An amendment to a

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1 declaration under this paragraph shall be adopted, at the option of the adjoining unit
2 owners, either in the manner provided under s. 703.09 (2) (a) or by the written
3 consent of the owners of the adjoining units involved and the mortgagees of the
4 adjoining units.

5 **SECTION 9.** 703.13 (8) (b) of the statutes is amended to read:

6 703.13 (8) (b) If the unit owners of adjoining units that may be merged desire
7 to merge the units, the unit owners, after 30 days' written notice to all other unit
8 owners, shall prepare and execute appropriate instruments under this subsection.
9 An amendment to the condominium instruments shall assign a new identifying
10 number to the new unit created by the merger of the units and shall allocate to the
11 new unit all of the undivided interest in the common elements and rights to use the
12 limited common elements and the votes in the association formerly appertaining to
13 the separate units. The amendment shall reflect an allocation to the new unit of the
14 liability for common expenses and rights to common surpluses formerly
15 appertaining to the separate units. An amendment to a declaration under this
16 paragraph shall be adopted either in the manner provided under s. 703.09 (2) (a) or
17 by the written consent of the owners of the units to be merged, the mortgagees of
18 those units, if any, and the board of directors of the association.

19 **SECTION 10.** 703.38 (11) of the statutes is created to read:

20 703.38 (11) Sections 703.09 (2) (b), 703.093 (1) (b), and 703.10 (5) (b) are not
21 applicable to a condominium existing on the effective date of this subsection [LRB
22 inserts date], if the existing declaration or bylaws provide otherwise.

23

(END)