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.

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

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

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

Section 2. 703.09 (2) (b) of the statutes is created to read:

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

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

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

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

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

703.093 (8) If the association receives the required number of consents and approvals from unit owners and mortgagees and equivalent security interest holders within the required time after the affidavit is recorded under sub. (2) and has not received a written objection under sub. (1) (b), the senior executive officer of the association shall record an amendment in the office of the register of deeds of the county in which the condominium is located, setting forth the facts satisfying the
requirements of this section and providing record notice to all interested persons that
the declaration has been revised, effective upon the recording of the amendment, and
restating the entire declaration, as amended.

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

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

703.10 (5) (b) Notwithstanding par. (a), if a single person or 2 or more persons
acting jointly by formal agreement have the power to unilaterally amend the bylaws
under par. (a), a simple majority of unit owners may object in writing to an
amendment under par. (a) proposed by the person or persons. If a simple majority
of unit owners objects, the proposed amendment is void. For purposes of this
paragraph, a unit owner is entitled to one objection 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 objection 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.

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

703.13 (6) (c) An amendment to a declaration shall identify the units involved
and shall state that the boundaries between those units are being relocated by
agreement of the unit owners thereof. The amendment shall contain words of
conveyance between those unit owners, and when recorded shall also be indexed in
the name of the grantor and grantee. If the adjoining unit owners have specified in
their written application the reallocation between their units of the aggregate
undivided interest in the common elements appertaining to those units, the
amendment to the declaration shall reflect that reallocation. An amendment to a
declaration under this paragraph shall be adopted, at the option of the adjoining unit
owners, either in the manner provided under s. 703.09 (2) (a) or by the written
consent of the owners of the adjoining units involved and the mortgagees of the
adjoining units.

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

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

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

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

(END)