January 26, 2018 - Introduced by Senator Olsen, cosponsored by Representatives Ballweg, Born, Kremer, Kuglitsch and Tusler. Referred to Committee on Insurance, Financial Services, Constitution and Federalism.

AN ACT to renumber 703.28 (1); to renumber and amend 703.165 (2) and
703.28 (2); to amend 703.09 (1) (c), 703.09 (2), 703.095, 703.115 (1) (b), 703.12,
703.13 (6) (e), 703.13 (7) (c), 703.13 (8) (c), 703.15 (4) (d) 1., 703.165 (5) (intro.),
703.165 (5) (c), 703.18 (2) (a) and (b) and 703.22 (title), (2) and (3); and to create
703.09 (2m), 703.15 (4) (dm), 703.165 (2) (b), 703.167, 703.18 (2) (c), 703.28 (1m)
(intro.), 703.28 (3) (intro.) and 703.28 (4) of the statutes; relating to: various
changes to condominium law and rights related to first mortgage security
interests in condominium units.

Analysis by the Legislative Reference Bureau
This bill makes various changes to condominium law and rights related to first mortgage security interests in condominium units.

Association procedure for raising funds and requiring first mortgagees to release liens or accept title to units
The bill creates a procedure that a condominium association may use to raise funds that it intends to use for the repair or replacement of common elements of a condominium building that are affected by a defect. The association may use the procedure only if, among other things, 1) the defect is related to the initial construction of the building or work performed by or for a declarant during the period
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of declarant control of the association; and 2) the cost to repair or replace the defective common elements is 20 percent or more of the value of the affected building.

Under the procedure, the association must estimate the total cost required to repair or replace the defective common elements and must levy assessments against the unit owners to raise those funds. Under the procedure, the association must notify the unit owners that the association is using the procedure and inform the unit owners of the approximate cost that may be assessed against each unit owner and the date or dates that the association anticipates that it may levy those assessments. The association is not required to levy assessments against all unit owners at the same time or to levy the entire amount a particular unit owner may be assessed all at once. Rather, the association may choose to levy the assessments in one or more increments and on one or more dates determined by the association.

After the association levies an assessment against a unit owner, if the unit owner fails or refuses to pay the assessment, the association may foreclose the assessment lien on the unit owner’s unit or accept a deed in lieu of foreclosure with respect to the unit. If the association acquires title to a unit using the procedure and the unit is subject to a first mortgage lien that was executed after the effective date of the bill, the association may require the first mortgagee to do one of the following within 60 days after the association notifies the first mortgagee of its options: 1) release the first mortgagee’s security interest in the unit; or 2) accept a quit claim deed from the association with respect to the unit.

Liability of first mortgagee for condominium assessments

The bill provides that, if a mortgagee becomes the owner of a unit following foreclosure of a first mortgage, the mortgagee is jointly and severally liable with the former unit owner for any unpaid assessments coming due during the 12 months immediately preceding the date on which the foreclosure sale is confirmed.

Approval of first mortgagee to amendment of condominium declaration

Under current law, a condominium declaration may be amended with the written consent of at least two-thirds of the total number of votes that may be voted at meetings of the association of unit owners, or a greater percentage if provided in the declaration. Also under current law, a unit owner’s written consent is not effective unless it is approved in writing by the first mortgagee of the unit, if any.

The bill creates a procedure under which a unit owner, or the condominium association on behalf of the unit owner (requester), may obtain that first mortgagee approval. Under the bill, the requester may deliver written notice of the amendment by certified or registered mail or first class mail to the last-known address of the first mortgagee. If the first mortgagee fails to disapprove the amendment in writing within 60 days after the requester mails the notice, the first mortgagee is considered to have given its approval.

Certification of plats and plans showing altered unit boundaries

Under current law, if a condominium’s documents allow it, unit owners in the condominium may make any of the following changes to the boundaries of their units:

1. Unit owners of adjoining units may relocate the mutual boundaries between those units.
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2. A unit owner may separate a unit into two or more units.

3. Unit owners of adjoining units may merge two or more adjoining units into one unit.

Currently, if unit owners make any of those changes, the condominium documents must be amended to reflect the altered boundaries, and plats and plans showing the altered boundaries and unit dimensions must be prepared and certified as to their accuracy by a civil engineer, architect, or professional land surveyor.

The bill provides that only a professional land surveyor, and not a civil engineer or architect, may certify the accuracy of those plats and plans.

Right of unit owners to vote at association meetings

Under current law, a unit owner generally is entitled to vote at all meetings of the condominium association unless 1) the unit owner has failed to furnish the association with the unit owner’s name and current mailing address; or 2) the association has filed a statement of condominium lien against the unit owner’s unit with respect to unpaid condominium assessments. The bill provides that, for a condominium created after the effective date of the bill, after the period of declarant control of the association has expired, no unit owner may vote at a meeting of the association if, at the time of the meeting, the unit is partially or fully exempt from any condominium assessments.

Percentage of votes required for removal

The bill provides that, for a condominium created after the effective date of the bill, if the unit owners of units to which at least 80 percent of the votes are allocated consent in writing, the condominium property may be removed from the provisions of the condominium law. In other words, ownership of the property would change from the condominium form of ownership to ownership in common. The bill also provides that, if all of the units in a condominium are nonresidential, the declaration for the condominium may specify a smaller percentage of votes that are required for removal, except that the percentage may not be less than the percentage of votes required to amend the condominium’s declaration. Under current law, unanimous consent of all unit owners is required to change the property from the condominium form of ownership.

Determining ownership interests after removal

Under current law, after condominium property is removed from the provisions of the condominium law, the unit owners own the property in common with each former unit owner owning an undivided interest in the property that is equal to the percentage of undivided interest previously owned by the unit owner in the common elements of the condominium.

The bill provides that, for a condominium created after the effective date of the bill, the declaration of the condominium may provide for the use of an alternative procedure for determining former unit owners’ respective ownership interests in the property after removal. If the declaration provides for use of the alternative procedure, upon removal of the condominium property, an appraiser must determine the fair market value of each unit, and each unit owner’s undivided ownership interest in the property after removal will be a percentage calculated by dividing the
fair market value of the unit owner’s unit by the fair market value of all units in the condominium.

Division of proceeds after partition

Under current law, if the common elements of a condominium are damaged to an extent more than available insurance proceeds, the unit owners may choose to partition the condominium property, rather than repair or reconstruct the damaged common elements. Currently, if the condominium property is partitioned, the proceeds of sale and available insurance proceeds are divided among the unit owners in proportion to their percentage interest in the common elements.

The bill provides that, for a condominium created after the effective date of the bill, the declaration of the condominium may provide for the use of an alternative procedure for determining the unit owners’ respective shares of the proceeds after partition. If the declaration provides for use of the alternative procedure, upon partition of the condominium property, an appraiser must determine the fair market value of each unit as the unit existed immediately prior to the damage, and each unit owner’s share of the proceeds after partition will be a percentage calculated by dividing the fair market value of the unit owner’s unit by the fair market value of all units in the condominium as they existed immediately prior to the damage.

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

SECTION 1. 703.09 (1) (c) of the statutes is amended to read:

703.09 (1) (c) A general description of each unit, including its perimeters, location, and any other data sufficient to identify it with reasonable certainty.

SECTION 2. 703.09 (2) of the statutes is amended to read:

703.09 (2) 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.

Section 3. 703.09 (2m) of the statutes is created to read:

703.09 (2m) (a) In this subsection, “first mortgagee” means the first mortgagee
of a unit or the holder of an equivalent security interest, the first mortgage lender
on a unit or the equivalent security interest holder, or the person servicing the first
mortgage loan or its equivalent on a unit.

(b) A unit owner, or the association on behalf of a unit owner, may obtain the
approval required under sub. (2) by providing written notice of the amendment to the
first mortgagee that includes all of the following:

1. A copy of the amendment.
2. A request for approval or disapproval of the amendment.
3. A form upon which the first mortgagee may indicate its approval or
disapproval of the amendment.
4. A statement that, if the first mortgagee fails to complete and return the form
described under subd. 3. or otherwise disapprove the amendment in writing within
60 days from the date of mailing of the notice, the first mortgagee is considered to
have given its approval of the amendment.

(c) The unit owner or association shall deliver the notice under par. (b) by
certified or registered mail or by 1st class mail to the last-known address of the first
mortgagee. If no other address is known to the unit owner or association, the unit
owner or association may deliver the notice to the address of the first mortgagee as
the address appears on the mortgage or equivalent security instrument and to the
address to which the unit owner sends any periodic payments on the first mortgage
loan or its equivalent.

(d) If the first mortgagee fails to complete and return the form described under
par. (b) 3. or otherwise disapprove the amendment in writing within 60 days after
the unit owner or association mails the notice under par. (c), the first mortgagee is
considered to have given its approval of the amendment as required under sub. (2).

SECTION 4. 703.095 of the statutes is amended to read:

703.095 Modification and correction of recorded condominium
instruments, amendments, and addenda. A recorded condominium instrument,
amendment, or addendum may only be modified by recording an amendment,
addendum, or correction instrument, or by removal from the provisions of this
chapter under s. 703.28 (1). The register of deeds may not record an amendment,
addendum, or correction instrument if it does not refer to the condominium
instrument, amendment, or addendum being modified or corrected, including the
document number, and may not record amendments and addenda an amendment or
addendum unless they are numbered consecutively and bear or states that it is
an amendment and restatement of the condominium instrument being modified or
corrected, bears the name of the condominium as it appears in the declaration, and
identifies all units in the condominium.

SECTION 5. 703.115 (1) (b) of the statutes is amended to read:

703.115 (1) (b) Provides that a condominium instrument may be rejected only
if it fails to comply with the applicable requirements of ss. 703.095, 703.11 (2) (a), (c),
and (d) and (3), 703.275 (5), and 703.28 (1m) or if the professional land surveyor’s certificate under s. 703.11 (4) is not attached to or included in the condominium plat.

SECTION 6. 703.12 of the statutes is amended to read:

703.12 Description of units. A description in any deed or other instrument affecting title to any unit which, including a conveyance, as defined in s. 706.01 (4), that makes reference to the letter or number or other appropriate designation of the unit on the condominium plat together with a reference to the condominium instruments and the name of the condominium as it appears in the declaration shall be a good and sufficient description for all purposes.

SECTION 7. 703.13 (6) (e) of the statutes is amended to read:

703.13 (6) (e) Plats and plans showing the altered boundaries and the dimensions thereof between adjoining units, and their identifying numbers or letters, shall be prepared. The plats and plans shall be certified as to their accuracy in compliance with this subsection by a civil engineer, architect, or professional land surveyor.

SECTION 8. 703.13 (7) (c) of the statutes is amended to read:

703.13 (7) (c) Plats and plans showing the boundaries and dimensions separating the new units together with their other boundaries and their new identifying numbers or letters shall be prepared. The plats and plans shall be certified as to their accuracy and compliance with this subsection by a civil engineer, architect, or professional land surveyor.

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

703.13 (8) (c) Plats and plans showing the boundaries and dimensions of the new unit together with the new identifying number or letter shall be prepared. The
plats and plans shall be certified as to their accuracy and compliance with this subsection by a civil engineer, architect, or professional land surveyor.

**SECTION 10.** 703.15 (4) (d) 1. of the statutes is amended to read:

703.15 (4) (d) 1. At Except as provided in par. (dm), at meetings of the association, every unit owner is entitled to cast the number of votes appurtenant to his or her the unit owner’s unit, as established in the declaration under s. 703.09 (1) (f). Unit owners may vote by proxy, but, the proxy is effective only for a maximum period of 180 days following its issuance, unless granted to a mortgagee or lessee. If only one of multiple owners of a unit is present at a meeting of the association, the owner that is present is entitled to cast the votes allocated to that unit.

**SECTION 11.** 703.15 (4) (dm) of the statutes is created to read:

703.15 (4) (dm) For a condominium created on or after the effective date of this paragraph .... [LRB inserts date], after the expiration of any period of declarant control of the association under sub. (2) (c), no unit owner may vote any votes appurtenant to a unit at a meeting of the association if, at the time of the meeting, the unit is partially or fully exempt from any assessments.

**SECTION 12.** 703.165 (2) of the statutes is renumbered 703.165 (2) (intro.) and amended to read:

703.165 (2) LIABILITY FOR ASSESSMENTS. (intro.) A unit owner shall be liable for all assessments, or installments thereof of assessments, coming due while owning a unit, including any assessments coming due during the pendency of any claim by the unit owner against the association or during any period in which the unit is not occupied by the unit owner or is leased or rented to any other person. Liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made. Except
as provided in sub. (4), a grantee of a unit is liable for assessments against a grantor
under any of the following circumstances:

(a) In a voluntary grant, the grantee shall be jointly and severally liable with
the grantor for all unpaid assessments against the grantor for his or her share of the common expenses up to the time of the voluntary grant for which a statement of condominium lien is recorded, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee for such assessments. Liability for assessments may not be avoided by waiver of the use or enjoyment of any common element or by abandonment of the unit for which the assessments are made.

SECTION 13. 703.165 (2) (b) of the statutes is created to read:

703.165 (2) (b) If a first mortgage on a unit was executed on or after the effective date of this paragraph .... [LRB inserts date], a mortgagee that becomes the owner of the unit following foreclosure of the first mortgage is jointly and severally liable with the mortgagor for unpaid assessments against the mortgagor for the mortgagor’s share of common expenses coming due during the 12 months immediately preceding the date on which the foreclosure sale is confirmed under s. 846.165. Liability of the mortgagee under this paragraph shall not prejudice the rights of the mortgagee to recover from the mortgagor any amounts paid by the mortgagee for the assessments.

SECTION 14. 703.165 (5) (intro.) of the statutes is amended to read:

703.165 (5) PRIORITY OF LIEN. (intro.) A lien under this section is prior to all other liens except the following:

SECTION 15. 703.165 (5) (c) of the statutes is amended to read:
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703.165 (5) (c) Mechanic’s Construction liens filed prior to the making of the assessment.

SECTION 16. 703.167 of the statutes is created to read:

703.167 Repair or replacement of defective common elements; assessments, foreclosures, deeds in lieu, and options of first mortgagees to release lien or take title. (1) Definitions. In this section:

(a) “Defective common elements” means common elements of a building in a condominium that are affected by a defect described under sub. (2) (a).

(b) “First mortgage” means a first mortgage described under s. 703.165 (5) (b).

(c) “First mortgagee” means the mortgagee under a first mortgage on a unit, or the holder of an equivalent security interest.

(2) Applicability. (a) Subject to par. (b), if a defect is discovered in the common elements of a building in a condominium that is related to the initial construction of the building or work performed by or for a declarant during any period of declarant control of the association under s. 703.15 (2) (c), the association may use the procedure under this section to raise the funds necessary to undertake the repair or replacement of the defective common elements.

(b) The association may use the procedure under this section only if all of the following apply:

1. Any period of declarant control of the association under s. 703.15 (2) (c) has expired.

2. The association has attempted in good faith to determine the persons that may liable for the repair or replacement of the defective common elements, including insurers, and for each person the association determines may be liable, either the person has refused or is financially unable to undertake or pay for the repair or
replacement, or the association is unable to locate that person. The association is not
required to bring any action in circuit court against any person that may be liable
in order to use the procedure under this section.

3. The association has determined that property insurance obtained by the
association under s. 703.17 does not cover the repair or replacement of the defective
common elements, or the association’s insurer has denied the association’s claim for
coverage under the property insurance policy.

4. The cost to repair or replace the defective common elements is 20 percent or
more of the value of the building that is affected by the defect described under par.
(a).

5. Any reserves maintained by the association for repair and replacement of
common elements beyond routine maintenance are insufficient to cover the cost to
repair or replace the defective common elements.

6. The association intends to repair or replace the defective common elements,
and the cost for that repair or replacement is a common expense.

(3) LEVYING OF ASSESSMENTS; FORECLOSURE FOR UNPAID ASSESSMENTS. (a) Levying
of assessments; notice to unit owners. The association shall estimate the total cost
required to repair or replace the defective common elements and shall levy
assessments against the unit owners as provided under s. 703.16 (2) (a) to raise the
funds required to undertake the repair or replacement. The association shall give
written notice to the unit owners that the association is raising funds under this
section to repair or replace the defective common elements. The association shall
include all of the following information in the notice:
1. A description of the defect described under sub. (2) (a), an explanation of how
the defect affects the common elements of the building, and a summary of the work
necessary to repair or replace the defective common elements.

2. A statement of the estimated total cost required to repair or replace the
defective common elements.

3. A breakdown of the approximate cost under subd. 2. that may be assessed
against each unit owner in one or more increments.

4. The date or dates on which the association anticipates levying the
assessments under subd. 3.

(b) Refusal by unit owners to pay assessments; foreclosure of condominium
liens. If a unit owner does not pay an assessment levied under par. (a) or if the unit
owner notifies the association that the unit owner does not intend to pay the
assessment, the association may file a statement of condominium lien under s.
703.165 (3) with respect to the unit owner’s unit. The association may foreclose that
condominium lien as provided under s. 703.165 (7) or accept a deed in lieu of
foreclosure from the unit owner.

(4) Options of first mortgagees. (a) Notwithstanding s. 703.165 (5) and
subject to pars. (b) and (h), if the association acquires title to a unit at foreclosure sale
or by deed in lieu of foreclosure under sub. (3) (b), the association may use the
procedure under this subsection to require a first mortgagee of the unit to either
release its first mortgage on the unit or take title to the unit.

(b) The association may use the procedure under this subsection only if all of
the following apply:

1. There are no liens on the unit other than liens described under s. 703.165
(5) (a) to (e).
2. The first mortgage on the unit was executed on or after the effective date of this subdivision .... [LRB inserts date].

(c) No later than 2 years after the date of delivery of the notice to unit owners under sub. (3) (a), the association may give written notice by certified mail and 1st class mail to a first mortgagee of a unit described under par. (a), along with a copy of the notice to unit owners, that includes all of the following information:

1. A statement that the association is raising funds under this section to repair or replace the defective common elements.

2. A statement that the association is the owner of the unit and that the first mortgagee has a first mortgage on the unit.

3. An explanation of the options available to the first mortgagee under par. (d) and a deadline that is at least 60 days from the date on which the notice is sent by which the first mortgagee must select one of those options.

(d) No later than the deadline specified in the notice under par. (c), a first mortgagee shall do one of the following:

1. Notify the association that the first mortgagee will accept a quit claim deed for the unit from the association.

2. Record a release of the first mortgage in the office of the register of deeds and notify the association that the lien of the first mortgage has been released.

(e) If a first mortgagee takes the action described under par. (d) 1., all of the following apply:

1. The association shall promptly deliver a quit claim deed for the unit to the first mortgagee.

2. The first mortgagee shall credit the fair value of the unit toward the first mortgage debt, interest, and costs. If any deficiency remains, the first mortgagee
may apply to the circuit court for a judgment of deficiency. If there is any surplus, the first mortgagee shall pay the surplus into the circuit court, and the circuit court shall dispose of the surplus as provided under s. 846.162.

(f) If a first mortgagee takes the action described under par. (d) 2., the first mortgagee may petition the circuit court for a judgment related to the debt previously secured by the first mortgage.

(g) If a first mortgagee fails to take any of the actions described under par. (d) by the deadline specified in the notice under par. (c), the first mortgage is considered released, and the association may commence an action to quiet title to the unit.

(h) If the association acquires title to a unit at foreclosure sale or by deed in lieu of foreclosure under sub. (3) (b) and the unit is encumbered by a construction lien described under s. 703.165 (5) (c) that is prior to a first mortgage on the unit, the association may use the procedure under pars. (c) to (g) to require the holder of the construction lien to either release the construction lien on the unit or take title to the unit. The association may not use the procedure under this subsection to require a first mortgagee of the unit to either release its first mortgage lien on the unit or take title to the unit unless the construction lien holder releases the construction lien.

SECTION 17. 703.18 (2) (a) and (b) of the statutes are amended to read:

703.18 (2) (a) Unless otherwise provided in the declaration and except as provided in par. (b), in the event of damage to or destruction of common elements of a condominium, the association shall promptly undertake to repair or reconstruct the common elements to a condition compatible with the remainder of the condominium. All cost of the repair or reconstruction in excess of available insurance proceeds shall be a common expense.
(b) However, if a condominium is damaged to an extent more than the available insurance proceeds, the condominium shall be subject to an action for partition upon obtaining the written consent of the unit owners having 75 percent or more of the votes. In Except as provided in par. (c), in the case of partition, the net proceeds of sale together with any net proceeds of insurance shall be considered as one fund and shall be divided among all unit owners in proportion to their percentage interests in the common elements, and shall be distributed in accordance with the priority of interests in each unit.

SECTION 18. 703.18 (2) (c) of the statutes is created to read:

703.18 (2) (c) If the condominium was created on or after the effective date of this paragraph ..., [LRB inserts date], a declaration may provide that the net proceeds under par. (b) shall be divided according to the unit owners’ percentage of total fair market value as determined by following the procedure set forth in s. 703.28 (4) (d), except that the appraiser shall determine the fair market value of each unit, including the unit’s percentage interest in the common elements, as the unit and common elements existed immediately prior to the damage described under par. (b).

SECTION 19. 703.22 (title), (2) and (3) of the statutes are amended to read:

703.22 (title) Mechanics’ Construction and suppliers’ liens.

(2) Any mechanics’ construction lien or suppliers’ lien under subch. I of ch. 779 arising as a result of repairs to or improvements of a unit by a unit owner shall be a lien only against the unit.

(3) Any mechanics’ construction lien or suppliers’ lien under subch. I of ch. 779 arising as a result of repairs to or improvements of the common elements, if authorized in writing by the association, shall be paid by the association as a common expense and until paid shall be a lien against each unit in proportion to its unit’s
percentage interest in the common elements. On payment of the proportionate
amount by any unit owner to the lienor or on the filing of a written undertaking in
the manner specified by s. 779.08, the unit owner shall be entitled to a release of his
or her the unit owner’s unit from the lien, and the association shall not be entitled
to assess his or her the unit owner’s unit for payment of the remaining amount due
for the repairs or improvements.

SECTION 20. 703.28 (1) of the statutes is renumbered 703.28 (3) (a).

SECTION 21. 703.28 (1m) (intro.) of the statutes is created to read:

703.28 (1m) ALL CONDOMINIUMS. (intro.) The following provisions apply to all
condominiums:

SECTION 22. 703.28 (2) of the statutes is renumbered 703.28 (3) (b) and
amended to read:

703.28 (3) (b) Upon removal under this subsection of any condominium
property from the provisions of this chapter, the property shall be deemed to be is
owned in common by the unit owners. The undivided interest in the property owned
in common which that appertains to each unit owner shall be is the percentage of
undivided interest previously owned by the unit owner in the common elements.

SECTION 23. 703.28 (3) (intro.) of the statutes is created to read:

703.28 (3) EXISTING CONDOMINIUMS. (intro.) The following provisions apply to
a condominium created before the effective date of this subsection (intro.) .... [LRB
inserts date]:

SECTION 24. 703.28 (4) of the statutes is created to read:

703.28 (4) NEW CONDOMINIUMS. The following provisions apply to a
condominium created on or after the effective date of this subsection (intro.) .... [LRB
inserts date]:
(a) All or any part of condominium property may be removed from the provisions of this chapter if the unit owners of units to which at least 80 percent of the votes are allocated, or a greater percentage if required by the declaration, consent to removal in writing, the holders of all liens affecting any of the units consent to removal in writing, and a removal instrument is duly recorded. If all of the units in a condominium are restricted exclusively to nonresidential uses, the declaration for the condominium may specify a smaller percentage of the votes that are required for removal, except that the percentage may not be less than the percentage required to amend the condominium declaration under s. 703.09 (2).

(b) The removal instrument under par. (a) shall be signed by the required number of consenting unit owners in the same manner as required in conveyances of real property. The removal instrument is effective when recorded in the office of the register of deeds of the county where the property is located and shall be recorded in every county in which any portion of the condominium is located. The removal instrument shall specify a date after which the removal instrument is void unless recorded on or before that date.

(c) Upon removal under this subsection of condominium property from the provisions of this chapter, the property is owned in common by the unit owners. Unless the declaration provides for the use of the procedure under par. (d), upon removal, the undivided interest in the property owned in common that appertains to each unit owner is the percentage of undivided interest previously owned by the unit owner in the common elements. Upon removal, a lien against a unit is considered a lien against the percentage of the undivided interest in the property of the unit owner.
(d) A declaration may provide that, upon removal under this subsection of condominium property from this chapter, each unit owner’s undivided interest in the property after removal shall be determined under this paragraph, rather than under par. (c). The association shall select an appraiser who shall determine the fair market value of each unit in the condominium, including the unit’s percentage interest in the common elements. The association shall deliver a copy of the appraiser’s determination to each unit owner along with a notice that the unit owner may object to the determination within 30 days after the date of the notice. Unless the unit owners of units to which at least 30 percent of the votes are allocated timely object to the determination, the determination shall be final, and each unit owner’s undivided interest in the property after removal shall be a percentage calculated by dividing the appraised fair market value of the unit, including the unit’s percentage interest in the common elements, by the sum of the appraised fair market values of all units, including their percentage interests in the common elements.

SECTION 25. Initial applicability.

(1) APPROVAL OF FIRST MORTGAGEE FOR AMENDING DECLARATION. The treatment of section 703.09 (2) and (2m) of the statutes first applies to an amendment to which the required number of unit owners consented on the effective date of this subsection.

(2) MODIFICATION AND CORRECTION OF RECORDED CONDOMINIUM INSTRUMENTS, AMENDMENTS, AND ADDENDA. The treatment of section 703.095 of the statutes first applies to an amendment, addendum, or correction instrument recorded on the effective date of this subsection.

(3) DESCRIPTION OF UNITS. The treatment of section 703.12 of the statutes first applies to a deed or other instrument affecting title to a unit executed on the effective date of this subsection.
(4) **Relocation of boundaries between adjoining units; separation of units; merger of units.** The treatment of section 703.13 (6) (e), (7) (c), and (8) (c) of the statutes first applies to plats and plans certified as to their accuracy and compliance with section 703.13 of the statutes on the effective date of this subsection.

**SECTION 26. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) **Relocation of boundaries between adjoining units; separation of units; merger of units.** The treatment of section 703.13 (6) (e), (7) (c), and (8) (c) of the statutes and Section 25 (4) of this act take effect on the first day of the 6th month beginning after publication.

(END)