



2021 SENATE BILL 561

September 15, 2021 - Introduced by Senators COWLES, DARLING and RINGHAND, cosponsored by Representatives KITCHENS, KNODL and CALLAHAN. Referred to Committee on Housing, Commerce and Trade.

1 **AN ACT to renumber and amend** 703.15 (2) (a), 703.20 (1) and 703.20 (2); **to**
2 **amend** 703.02 (1m), 703.15 (2) (a) (title), 703.20 (1) (title), 703.20 (3), 703.205
3 (1) (a) and 703.33 (title); **to repeal and recreate** 703.20 (title); and **to create**
4 703.15 (2) (a) 2., 703.15 (2) (a) 3., 703.20 (1) (a), 703.20 (1) (b) 2. to 9., 703.20 (1g),
5 703.20 (1r), 703.20 (4), 703.20 (5) and 703.202 of the statutes; **relating to:** a
6 condominium association's obligation to maintain records and allow a unit
7 owner to inspect and copy those records; financial audits of condominium
8 association records; access by condominium unit owners to records of an entity
9 controlled by an association; and organizing a condominium association as a
10 for-profit corporation.

Analysis by the Legislative Reference Bureau

This bill 1) makes various changes to a condominium association's obligation to maintain records and allow a unit owner to inspect and copy those records; 2) gives condominium unit owners a right to request an audit of the association's financial records; 3) provides that a unit owner may inspect and copy records of an entity controlled by the association to the same extent that the association may inspect and

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copy those records; and 4) provides that, after the effective date of the bill, an association may not organize or reorganize as a for-profit corporation.

Maintenance and inspection of association records

The bill provides that a condominium association must maintain all of the following records (association records):

1. Minutes of meetings of the association and of the board of directors of the association.
2. Records of actions taken without a meeting by the condominium unit owners on behalf of the association or by the board of directors of the association.
3. Certain disclosure documents that the association is required under current law to furnish to a seller of a condominium unit for the seller to provide to a prospective purchaser of the unit.
4. Detailed, accurate records of the receipts and expenditures affecting the common elements of the condominium.
5. Annual budgets prepared by the association.
6. Financial statements.
7. Bank statements and account statements, including statements for reserve accounts.
8. Income and expense statements.
9. Insurance policies.
10. The most recent audit of the association's financial records, if any.
11. Contracts entered into by the association and any bids for those contracts.
12. Invoices and expense records.

The bill also provides that a unit owner may, with certain exceptions, inspect and copy any association records created within the past six years. The association may impose a reasonable charge for copies of any association records, including the costs of labor and materials used to provide the copies, but may not charge an amount that exceeds the estimated cost of production or reproduction of the copies or \$50, whichever is less.

Under the bill, an association for a condominium with 100 or more units (large association) must maintain an Internet site on which the large association posts current copies of association records that are subject to inspection and copying by unit owners. The Internet site must include a protected electronic location that is inaccessible to the general public and accessible only to unit owners and employees of the large association. The bill provides that, upon a unit owner's written request, the large association must provide the unit owner with a username and password and access to the protected sections of the large association's Internet site.

Financial audits of association records

The bill provides that, beginning one year after the expiration of declarant control of a condominium association, a majority of condominium unit owners may request that the association arrange for an independent audit of the association's financial records at the association's expense. Under the bill, if unit owners request an audit within 36 months after the completion of a previous audit, the requesting unit owners must pay the cost of the audit. Current law provides a similar mechanism for unit owners to request an audit of an association's financial records

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during the period of declarant control and for one year thereafter. Under the current law provision, the lesser of three unit owners or the owners of 10 percent of the units may request an audit.

Access to records of entity controlled by association

Finally, the bill provides that, if a condominium association controls an entity, a condominium unit owner may inspect and copy records of the entity to the same extent that the association may inspect and copy those records. Under the bill, “control” means to directly or indirectly 1) own more than 50 percent of the ownership interest of the entity; 2) have a controlling interest in the entity; or 3) have the power to direct or cause the direction of the management or policies of the entity.

Organization of association entity

The bill provides that, after the effective date of the bill, a condominium association may not organize or reorganize as a for-profit corporation. Current law provides that the declarant of a condominium must establish an association to govern the condominium and that the association must be organized as a profit or nonprofit corporation or as an unincorporated association.

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

1 **SECTION 1.** 703.02 (1m) of the statutes is amended to read:

2 703.02 (1m) “Association” means all of a condominium’s unit owners acting as
3 a group, either through ~~a nonstock, nonprofit corporation or an unincorporated~~
4 ~~association~~ an entity that is organized as provided under s. 703.15 (2) (a), in
5 accordance with its the condominium’s bylaws and declaration.

6 **SECTION 2.** 703.15 (2) (a) (title) of the statutes is amended to read:

7 703.15 (2) (a) (title) *Establishment; organization.*

8 **SECTION 3.** 703.15 (2) (a) of the statutes is renumbered 703.15 (2) (a) 1. and
9 amended to read:

10 703.15 (2) (a) 1. Every declarant shall establish an association to govern the
11 condominium not later than the date of the first conveyance of a unit to a purchaser.
12 ~~The association shall be organized~~ Except as provided in subd. 2., the declarant may
13 organize the association only as a profit or for-profit corporation; nonstock, nonprofit

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1 corporation; or as an unincorporated association. After it the association is
2 organized, the membership of the association shall at all times consist exclusively
3 of all of the unit owners.

4 **SECTION 4.** 703.15 (2) (a) 2. of the statutes is created to read:

5 703.15 (2) (a) 2. Beginning on the effective date of this subdivision [LRB
6 inserts date], a declarant may not organize an association as a for-profit corporation.

7 **SECTION 5.** 703.15 (2) (a) 3. of the statutes is created to read:

8 703.15 (2) (a) 3. An association that exists on the effective date of this
9 subdivision [LRB inserts date], may not reorganize as a for-profit corporation.

10 **SECTION 6.** 703.20 (title) of the statutes is repealed and recreated to read:

11 **703.20 (title) Association records; inspection by unit owners; financial**
12 **audits.**

13 **SECTION 7.** 703.20 (1) (title) of the statutes is amended to read:

14 703.20 (1) (title) RECORD KEEPING; ~~AVAILABILITY FOR EXAMINATION.~~

15 **SECTION 8.** 703.20 (1) of the statutes is renumbered 703.20 (1) (b) (intro.) and
16 amended to read:

17 703.20 (1) (b) Financial records. (intro.) An association shall ~~keep detailed,~~
18 maintain appropriate financial records for at least 6 years, including all of the
19 following:

20 1. Detailed, accurate records using standard bookkeeping procedures of the
21 receipts and expenditures affecting the common elements, specifying and itemizing
22 the maintenance and repair expenses of the common elements and any other
23 expenses incurred. ~~The records and the vouchers authorizing the payments shall be~~
24 ~~available for examination by the unit owners at convenient hours.~~

25 **SECTION 9.** 703.20 (1) (a) of the statutes is created to read:

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1 703.20 (1) (a) *Minutes and records of action; condominium documents.* An
2 association shall keep all of the following records:

3 1. Minutes of meetings of the association and of the board of directors of the
4 association, which the association shall keep for at least 6 years.

5 2. Records of actions taken without a meeting by the unit owners on behalf of
6 the association or by the board of directors of the association, which the association
7 shall keep for at least 6 years.

8 3. The documents and information described under s. 703.33 (1) to (2) that are
9 adopted by the association, which the association shall keep as permanent records.

10 **SECTION 10.** 703.20 (1) (b) 2. to 9. of the statutes are created to read:

11 703.20 (1) (b) 2. Annual budgets described under s. 703.161.

12 3. Financial statements.

13 4. Bank statements and account statements, including statements for reserve
14 accounts, created within the past 6 years.

15 5. Income and expense statements.

16 6. Insurance policies issued within the past 6 years.

17 7. The most recent audit of the association's financial records, if any.

18 8. Contracts entered into within the past 6 years and any bids for those
19 contracts received within the past 3 years.

20 9. Invoices and expense records created within the past 6 years.

21 **SECTION 11.** 703.20 (1g) of the statutes is created to read:

22 703.20 (1g) INSPECTION AND COPYING OF RECORDS BY UNIT OWNERS. (a) A unit
23 owner may inspect and copy, at a reasonable time and location specified by the
24 association, any of the records of the association described under sub. (1) created
25 within the past 6 years and any records of the association described under sub. (1)

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1 (a) 3. and (b) 7. regardless of when those records were created. A unit owner may
2 select the date for the inspection and copying by providing the association written
3 notice of the selected date at least 10 business days before the selected date if the
4 selected date is a business day or other day agreed to by the association.

5 (b) Notwithstanding par. (a), an association is not required to allow a unit
6 owner to inspect or copy any of the following records:

7 1. A record protected by the lawyer-client privilege, as described in s. 905.03,
8 or a record that is the work product of the association's attorney.

9 2. Personnel records of the association.

10 3. A record of a violation of the declaration, bylaws, or association rules by a
11 particular unit owner, other than the unit owner inspecting or copying the records.

12 4. A record of assessments levied against a particular unit owner, other than
13 the unit owner inspecting or copying the records, or a record of the account status of
14 a particular unit owner, other than the unit owner inspecting or copying the records.

15 (c) Notwithstanding par. (a), an association may, before allowing a unit owner
16 to inspect or copy records, redact account numbers from the records described under
17 sub. (1) (b) 3. and 4.

18 (d) An association may impose a reasonable charge for copies of any records the
19 association provides to a unit owner under par. (a). The association may charge the
20 unit owner for the costs of labor and materials used to provide the copies but may not
21 charge an amount that exceeds the estimated cost of production or reproduction of
22 the copies or \$50, whichever is less.

23 **SECTION 12.** 703.20 (1r) of the statutes is created to read:

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1 703.20 (1r) LARGE CONDOMINIUMS; INTERNET SITE FOR RECORDS INSPECTION. (a)
2 In this subsection, “large association” means an association for a condominium with
3 100 or more units.

4 (b) Beginning on the first day of the 13th month beginning after the effective
5 date of this paragraph [LRB inserts date], a large association shall maintain an
6 Internet site that satisfies all of the following criteria:

7 1. The site is any of the following:

8 a. Wholly owned and operated by the large association.

9 b. Operated by a 3rd-party provider with whom the large association owns,
10 leases, rents, or otherwise obtains the right to operate a site dedicated to the large
11 association’s activities and on which the large association may post notices, records,
12 and documents.

13 2. The site is accessible through the Internet and includes a protected electronic
14 location that is inaccessible to the general public and accessible only to unit owners
15 and employees of the large association.

16 (c) Beginning on the first day of the 13th month beginning after the effective
17 date of this paragraph [LRB inserts date], a large association shall post on its
18 Internet site described under par. (b) a current copy of all of the records that unit
19 owners are entitled to inspect under sub. (1g) (a).

20 (d) Upon a unit owner’s written request, a large association shall provide the
21 unit owner with a username and password and access to the protected locations of
22 the large association’s Internet site described under par. (b).

23 **SECTION 13.** 703.20 (2) of the statutes is renumbered 703.33 (2m) and amended
24 to read:

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1 703.33 **(2m)** ~~DISCLOSURE~~ ASSOCIATION'S OBLIGATION TO PROVIDE DISCLOSURE
2 INFORMATION. Within 10 days after a written request by a seller other than the
3 declarant, an association shall furnish the information necessary for the seller to
4 comply with ~~s. 703.33~~ this section. The association may charge to the seller, and the
5 seller shall pay to the association, all of the following amounts:

6 (a) Except as provided in s. 703.205, the actual costs of furnishing the
7 information under ~~s. 703.33~~ subs. (1), (1m), and (2) or \$50, whichever is less.

8 (b) The actual costs of furnishing the information under ~~s. 703.33~~ sub. (3m) or
9 \$15, whichever is less.

10 **SECTION 14.** 703.20 (3) of the statutes is amended to read:

11 703.20 **(3)** ~~DECLARANT RESPONSIBILITIES FOR RECORDS; FINANCIAL AUDITS.~~ During
12 the period of declarant control under s. 703.15 (2) (c), the declarant is responsible for
13 creating and maintaining the ~~financial and operational~~ records of the association
14 described under sub. (1) and shall turn the records over to the directors elected under
15 s. 703.15 (2) (f). During the period of declarant control under s. 703.15 (2) (c) and for
16 one year thereafter, upon written request to the association by the lesser of 3 unit
17 owners or the owners of 10 percent of the units, not including units owned by the
18 declarant, the association shall arrange for an independent audit of its the
19 association's financial records at the association's expense. ~~The cost of any~~ If unit
20 owners request an audit requested within 36 months after the completion of a
21 previous audit ~~shall be paid for by~~, the requesting unit owners shall pay the cost of
22 the audit.

23 **SECTION 15.** 703.20 (4) of the statutes is created to read:

24 703.20 **(4)** FINANCIAL AUDITS AFTER EXPIRATION OF DECLARANT CONTROL.
25 Beginning one year after the expiration of any period of declarant control under s.

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1 703.15 (2) (c), upon written request to the association by a majority of unit owners,
2 the association shall arrange for an independent audit of the association's financial
3 records at the association's expense. If unit owners request an audit within 36
4 months after the completion of a previous audit under this subsection or sub. (3), the
5 requesting unit owners shall pay the cost of the audit.

6 **SECTION 16.** 703.20 (5) of the statutes is created to read:

7 703.20 (5) APPLICABILITY. Sections 181.1601 to 181.1603 do not apply to an
8 association that is a corporation, as defined in s. 181.0103 (5).

9 **SECTION 17.** 703.202 of the statutes is created to read:

10 **703.202 Access to records of association-controlled entity. (1)** In this
11 section:

12 (a) "Control" means to directly or indirectly do any of the following:

- 13 1. Own more than 50 percent of the ownership interest of an entity.
- 14 2. Have a controlling interest in an entity.
- 15 3. Have the power to direct or cause the direction of the management or policies
16 of an entity.

17 (b) "Entity" means a person other than an individual.

18 **(2)** If an association controls an entity, a unit owner may inspect and copy
19 records of the entity to the same extent that the association may inspect and copy the
20 records.

21 **SECTION 18.** 703.205 (1) (a) of the statutes is amended to read:

22 703.205 (1) (a) A fee for furnishing the disclosure information under s. 703.33
23 (1), (1m), and (2) that is greater than the amount allowed under s. ~~703.20 (2) (a)~~
24 703.33 (2m) (a).

25 **SECTION 19.** 703.33 (title) of the statutes is amended to read:

