



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1733/2

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2009 ASSEMBLY BILL 647

January 6, 2010 - Introduced by Representatives HEBL, TURNER, POCAN and BIES,
cosponsored by Senator RISSER. Referred to Committee on Housing.

1 **AN ACT** *to repeal* 703.28 (1m), 703.28 (2) and 703.29; *to renumber and amend*
2 703.115 (1), 703.13 (4), 703.13 (7) (b), 703.13 (7) (c), 703.13 (7) (d), 703.25 (3),
3 703.34 (intro.) (except 703.34 (title)), 703.34 (1), 703.34 (2), 703.34 (3) and
4 703.365 (7); *to amend* 703.02 (5), 703.02 (6), 703.02 (6m), 703.02 (12), 703.02
5 (14g), 703.02 (15), 703.02 (16), 703.03, 703.04, 703.05, 703.06, 703.07 (2), 703.08
6 (1) (intro.), 703.08 (2) (intro.), 703.08 (3), 703.09 (1c), 703.09 (2), 703.10 (1),
7 703.10 (2) (d), 703.10 (2) (f), 703.10 (4), 703.10 (6), 703.105 (1m), 703.105 (2),
8 703.12, 703.13 (2), 703.13 (5) (a), 703.13 (5) (b), 703.13 (5m) (a) 3., 703.13 (5m)
9 (b), 703.13 (6) (b), 703.13 (6) (c), 703.13 (6) (e), 703.13 (8) (b), 703.13 (8) (c),
10 703.14 (1), 703.15 (2) (a), 703.15 (2) (b), 703.15 (2) (c) 1. (intro.), 703.15 (2) (c)
11 1. a., 703.15 (2) (c) 1. b., 703.15 (2) (c) 1. c., 703.15 (2) (c) 2., 703.15 (2) (d), 703.15
12 (2) (e), 703.15 (2) (f), 703.15 (3) (a) (intro.), 703.15 (3) (a) 1., 703.15 (3) (a) 2.,
13 703.15 (3) (a) 3., 703.15 (3) (b) (intro.), 703.15 (4) (d) 1., 703.15 (4) (e), 703.155
14 (1), 703.155 (2), 703.16 (1), 703.16 (2) (b), 703.161 (2) (intro.), 703.165 (2),

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1 703.165 (3), 703.165 (5) (c), 703.165 (7), 703.17 (1), 703.18 (2) (b), 703.19 (3)
2 (intro.), 703.19 (3) (b), 703.19 (3) (c), 703.20 (1), 703.22 (title), 703.22 (2), 703.22
3 (3), 703.24 (2), 703.26 (1), 703.26 (2) (a), 703.26 (3) (a), 703.28 (1), 703.33 (1)
4 (intro.), 703.34 (title), 703.365 (1) (b), 703.365 (4) (b), 709.02 (2) (intro.) and
5 709.02 (2) (d); **to repeal and recreate** 703.365 (6); and **to create** 703.02 (9c),
6 703.02 (9d), 703.09 (3) (bm), 703.115 (1c), 703.13 (4) (b), 703.13 (4) (c), 703.13
7 (4) (d), 703.13 (4) (e), 703.13 (7) (b) 1., 703.13 (7) (cm), 703.13 (7) (dm), 703.15
8 (2) (c) 3., 703.15 (6), 703.161 (2) (g), 703.161 (3), 703.25 (3) (b), 703.275 (4m),
9 703.28 (2m), 703.28 (3), 703.28 (4), 703.33 (9), 703.34 (2m), 703.365 (10),
10 703.365 (11) and 703.365 (12) of the statutes; **relating to:** miscellaneous
11 modifications to the condominium laws.

Analysis by the Legislative Reference Bureau

This bill makes a number of miscellaneous changes to the condominium provisions in current law, including the following:

1. Under current law, residential real property may not be converted to a condominium unless the owner gives notice of the conversion to each tenant. Then, for 60 days after the notice, a tenant has the first right to purchase the unit if offered for sale and generally may not be required to vacate the property for 120 days after the notice. The bill clarifies that these provisions apply only to residential tenants.

2. Current law provides that a property may be subjected to the condominium form of ownership if the sole or all owners join in the execution and recording of a condominium declaration in accordance with the condominium provisions. The bill provides that any first mortgagee must also join in, consistent with current practice, and that a plat of the condominium must also be recorded. The bill provides that, for purposes of receiving notices or giving approvals under the condominium provisions, the term “mortgagee” includes the party servicing the mortgage or land contract. The bill also provides that if a mortgagee’s consent or approval is required for any action related to the condominium and the mortgagee cannot be contacted with reasonable diligence, the condominium association (association) may seek approval from a court to proceed with the action. In deciding the matter, the court must consider whether the action is needed to permit the effective management and operation of the condominium and the action’s impact on the value of the units as security for mortgages on the units.

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3. Under current law, a unit is defined as a part of a condominium intended for any type of independent use. In response to the holding in *ABKA Ltd. Partnership v. DNR*, 2002 WI 106, 255 Wis. 2d 486, 648 N.W. 2d 854, the bill clarifies that a unit may be of any size and for any use.

4. Current law requires that a seller of a condominium unit make certain disclosures to the purchaser before the sale closing by furnishing copies of certain documents. The bill specifically limits these disclosures to sales of residential units and authorizes them to be made electronically if the purchaser properly consents to that method.

5. The bill provides that if one or more units of a condominium are removed from the condominium or destroyed and not rebuilt, the percentage interests in the common elements must be adjusted to maintain the same ratio of those interests in the remaining units. Likewise, the bill provides that if a condominium plat shows a building with a specified number of units but the building is constructed in such a way that precludes it from containing all of the units, the percentage interests appertaining to the units not constructed must be added on a pro rata basis to the remaining units. Any change to the percentage interests in the common elements must be done by an amendment to the declaration.

6. The bill makes some modifications to the procedures for relocating mutual boundaries of adjoining units, merging adjoining units, and separating a unit into two or more units of the existing condominium, and provides for separating a unit into two or more ownership interests by subjecting the unit itself to the condominium form of ownership.

7. Current law provides that a unit owner may not make any alteration that would jeopardize the soundness or safety of the property or reduce its value or change the exterior appearance of a unit or any other portion of the condominium that is not a part of the unit. The bill additionally prohibits a unit owner from making any alteration that would interfere with the condition or operation of the mechanical systems affecting property that is not a part of the unit. The bill also clarifies that each occupant of a unit, as well as the unit owner, must comply with the bylaws and rules adopted under the bylaws.

8. Current law provides that a unit owner may not change the exterior appearance of his or her unit without the permission of the board of directors of the association. The bill provides that if a unit owner makes alterations within his or her unit that involve changing the configuration of the rooms, the unit owner must file plans with the association showing the reconfiguration.

9. Current law provides that a bylaw or rule may not prohibit a unit owner from displaying the American flag or from displaying in his or her condominium a sign related to a political candidate or a referendum question, but that the size and location may be regulated. The bill clarifies that a political sign may not be prohibited in a unit owner's unit, and provides that the display of such a sign or a flag may be limited to those parts of the condominium over which the unit owner has the exclusive right to use.

10. Current law provides that, if an amendment to a condominium declaration has the effect of reducing the value of a unit owner's interest in any common element

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and increasing the value of another unit owner's interest in the common element, the other unit owner must compensate the unit owner whose interest was decreased in value. The bill provides that any action to recover this compensation must be commenced no later than one year after the amendment is recorded, or be barred.

11. Current law provides that title to a condominium unit is not rendered unmarketable by any provision of the bylaws. The bill provides that title is not rendered unmarketable because the unit is subject to the terms of a declaration, plat, bylaws, or rules.

12. Current law provides that a county may adopt an ordinance requiring local municipal review of condominium instruments before recording and that the review must be completed within ten days or the instrument is approved for recording. The bill clarifies that the instrument is approved for recording, after the time has passed, without any signature of the reviewer or any certification that it has been reviewed or approved. The bill also provides that a condominium instrument includes a correction instrument and a removal instrument for purposes of local municipal review of condominium instruments before recording.

13. While under current law a declarant may reserve the right to expand a condominium by subjecting additional property to the declaration, the bill provides that a declarant may include in the original declaration a right to expand the condominium by adding land or more units or both, and that if more units are added the percentage of undivided interests in the common elements must be reallocated among all the units.

14. Under current law, a declarant must establish an association to govern the condominium no later than the date of the first conveyance of a unit to a purchaser, and the association must be organized as a profit or nonprofit corporation or as an unincorporated association. The bill provides that an association shall immediately exist as an unincorporated association as of the date of the first conveyance of a unit to a purchaser, unless the declarant has organized an association as a nonprofit corporation before the first conveyance; that after the first conveyance the association may be organized as a nonprofit corporation only with the consent of all the unit owners; and that the declarant shall operate the association until the declarant transfers control of it to the unit owners.

15. The bill clarifies that the period of declarant control of the association may not exceed ten years for an expandable condominium, three years for any other condominium, or thirty days after the conveyance to purchasers of 75 percent of the common element interest, if that is earlier, and that the declarant may transfer control of the association before the mandatory expiration of that period. The bill provides that the declarant must turn over all association records and accounts to the association directors when declarant control of the association ends. Under current law, the unit owners must elect at least 25 percent of the directors of the executive board of the association before the conveyance to purchasers of 25 percent of the common element interest and elect at least 33 1/3 percent of the directors before the conveyance of 50 percent of the common element interest. The bill changes this election requirement to at least 25 percent of the directors within 30 days after the conveyance of 25 percent of the common element interest and at least 33 1/3

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percent of the directors within 30 days after the conveyance of 50 percent of the common element interest. The bill provides that any statute of limitations affecting the association's right of action against the declarant is tolled until declarant control ends.

16. Currently, condominium bylaws must provide that the terms of at least one-third of the elected directors must expire annually. The bill changes this so that the bylaws must provide that a term of an elected director may not exceed three years.

17. Current law requires an association to adopt and distribute to all unit owners an annual budget that includes specified information, such as all anticipated common expenses. The bill requires that each budget distributed to a unit owner include the amount assessed to the owner's unit for common expenses.

18. Current law provides that an association must obtain insurance for the property against loss or damage and that the premiums are common expenses. Under the bill, an association must obtain insurance unless the declaration provides otherwise, such as requiring the unit owners to obtain the insurance coverage. The insurance may include reasonable deductibles, and the association must determine whether the deductible will be paid as a common expense or how it will be allocated if not.

19. Current law provides that in a voluntary grant of a unit, the grantee is jointly and severally liable with the grantor for all unpaid assessments with respect to the unit for which a statement of lien is recorded. The bill provides that this applies to all grants other than one resulting from foreclosure of a first mortgage on the unit, and changes the reference to "recorded" to "filed," since statements of lien are filed. Under current law, an unpaid assessment constitutes a lien on the unit on which it is assessed if a statement of lien is filed within two years after the date the assessment becomes due. The bill changes the time within which a statement of lien must be filed to three years after the last installment of the assessment becomes due. Current law provides that such a lien may be enforced in the same manner and subject to the same requirements as a foreclosure of mortgages on real property in this state. The bill clarifies that this includes the reductions in the time for redeeming the property if the party foreclosing waives a deficiency judgment.

20. Current law provides for condominiums to merge. The bill specifies requirements for the plat of the resultant condominium when two or more condominiums merge, such as identifying the plat of every condominium that is included in the merger by name and recording data and identifying units both by their designations in the merged condominiums and in the resultant condominium.

21. Current law provides that all of the unit owners may remove a part or all of the condominium property from the condominium provisions of the statutes by recording a removal instrument; that if a merger of two or more condominiums would result in a new plat for the resultant condominium, the merged condominiums must first be removed from the condominium provisions of the statutes by recording a removal instrument; and that condominium property removed from the condominium provisions of the statutes is deemed to be owned in common by the unit owners. The bill modifies these provisions.

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Under the bill, all or any part of the condominium property may be removed from the condominium provisions of the statutes by recording a removal instrument as an amendment to the declaration and an addendum to the plat. If all of the property is being removed, all unit owners must approve, and, upon removal from the provisions, the property is owned in common by the unit owners. If less than all of the property is being removed, the removal instrument must be signed by unit owners holding at least 80 percent of the aggregate votes, including all the owners of the units being removed, and must specify the part of the property being removed, who will own the property being removed after its removal, and the consideration, if any, being given to the association for the removal. If the property will be owned differently from the manner in which it was owned before removal, the removal instrument must contain language conveying the property.

22. Under current law, a small condominium is one with 12 or fewer units. Certain provisions of the condominium statutes apply specifically and exclusively to those small condominiums that elect to be subject to them (electing small condominiums), as well as the general condominium provisions that are not in conflict with the specific provisions. All general condominium provisions apply to small condominiums that do not elect to be subject to the specific small condominium provisions, except that current law provides that the general provisions related to expanding a condominium do not apply to any small condominium. The bill prohibits a declaration for a small condominium from providing that the general provisions related to expanding a condominium do apply.

Current law sets out arbitration procedures if the board of an association of an electing small condominium does not approve an expenditure or action proposed by a unit owner or if a unit owner objects to an expenditure or action proposed by the board. The bill modifies this arbitration process. Under the bill, any operational decision in an electing small condominium may be submitted to arbitration if the required majority for the action cannot be achieved or if the proposed action would involve unbudgeted expenditures in excess of \$2,500 per unit in any one year or in excess of \$5,000 overall. In addition, if a unit owner in an electing small condominium proposes an action or expenditure by the association and the association does not adopt the unit owner's proposal, cannot achieve the majority necessary to take an action, or levies assessments for unbudgeted expenditures in excess of \$2,500 per unit in any one year or in excess of \$5,000 overall, the unit owner may request reconsideration and, if not satisfied with the result, submit the matter to arbitration. The results of the arbitration are final, and the association must pay the costs if the unit owner's challenge is upheld, and the unit owner must pay the costs if the challenge is denied.

The bill requires the declaration for any small condominium to designate one of the unit owners as the resident agent and to specify how real estate taxes for the year the small condominium is created will be divided if different from the percentage interests in the common elements. The bill provides that any improvement, decoration, or repair to the exterior of any two-unit small condominium must be agreed to by the owners of both of the units and that, if they

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do not agree, the matter may be submitted to the board of directors and that the decision of the board of directors may be challenged in an arbitration proceeding.

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

1 **SECTION 1.** 703.02 (5) of the statutes is amended to read:

2 703.02 (5) “Condominium instruments” mean the declaration, plats, and plans
3 of a condominium, as amended from time to time, together with any attached
4 exhibits or schedules.

5 **SECTION 2.** 703.02 (6) of the statutes is amended to read:

6 703.02 (6) “Conversion condominium” means property that includes a
7 structure ~~which~~ that, before the recording of a condominium declaration, was wholly
8 or partially occupied by persons other than those who have contracted for the
9 purchase of condominium units and those who occupy with the consent of the
10 purchasers.

11 **SECTION 3.** 703.02 (6m) of the statutes is amended to read:

12 703.02 (6m) “Correction instrument” means an instrument drafted by a
13 licensed land surveyor that complies with the requirements of s. 59.43 (2m) and that,
14 upon recording, corrects an error in a condominium plat or updates a condominium
15 plat for changes that do not require an addendum. “Correction instrument” does not
16 include an instrument of conveyance.

17 **SECTION 4.** 703.02 (9c) of the statutes is created to read:

18 703.02 (9c) “First mortgage” includes a security interest that is equivalent to
19 a first mortgage.

20 **SECTION 5.** 703.02 (9d) of the statutes is created to read:

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1 703.02 (9d) “First mortgagee” includes a holder of a security interest that is
2 equivalent to a first mortgage.

3 **SECTION 6.** 703.02 (12) of the statutes is amended to read:

4 703.02 (12) “Mortgagee” means the holder of any recorded mortgage
5 encumbering one or more units or a land contract vendor and, for purposes of
6 receiving notices or giving approvals, includes the party servicing the mortgage or
7 land contract.

8 **SECTION 7.** 703.02 (14g) of the statutes is amended to read:

9 703.02 (14g) “Removal instrument” means an instrument that complies with
10 the requirements of s. 59.43 (2m) and that removes property, either all or a portion
11 of a condominium, from the provisions of this chapter upon recording. “Removal
12 instrument” does not include an instrument of conveyance.

13 **SECTION 8.** 703.02 (15) of the statutes is amended to read:

14 703.02 (15) “Unit” means a part of a condominium intended for any type of
15 independent use, including one or more cubicles of air at one or more levels of space
16 or one or more rooms or enclosed spaces located on one or more floors, or parts thereof,
17 in a building. A unit may be of any size, may be for any use, and may include 2 or
18 more noncontiguous areas.

19 **SECTION 9.** 703.02 (16) of the statutes is amended to read:

20 703.02 (16) “Unit number” means the number ~~identifying~~ designating a unit
21 in a declaration.

22 **SECTION 10.** 703.03 of the statutes is amended to read:

23 **703.03 Application of chapter.** This chapter applies only to property, a sole
24 owner or all of the owners, and any first mortgagee, of which submit the property to

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1 the provisions of this chapter by duly executing and recording a declaration and plat
2 as provided in this chapter.

3 **SECTION 11.** 703.04 of the statutes is amended to read:

4 **703.04 Status of the units.** A unit, together with its undivided interest in the
5 common elements and its other appurtenant interests, for all purposes constitutes
6 real property.

7 **SECTION 12.** 703.05 of the statutes is amended to read:

8 **703.05 Ownership of units.** A unit owner is entitled to the exclusive
9 ownership and possession of his or her unit and to the exercise of the rights
10 appurtenant to it.

11 **SECTION 13.** 703.06 of the statutes is amended to read:

12 **703.06 Alterations prohibited.** Except as otherwise provided in this
13 chapter, the declaration, or the bylaws, or any rules promulgated under any of them,
14 no unit owner may make any alteration that would jeopardize the soundness or
15 safety of the property, interfere with the condition or operation of the mechanical
16 systems affecting property that is not a part of the unit, reduce the value thereof of
17 the property, impair any easement or hereditament, or change the exterior
18 appearance of a unit or any other portion of the condominium not part of the unit.

19 **SECTION 14.** 703.07 (2) of the statutes is amended to read:

20 703.07 (2) A condominium instrument, ~~and all amendments, addenda and~~
21 ~~certifications of~~ any amendment or addendum to a condominium instrument, and
22 any certification or statement relating to the condominium that must be recorded
23 shall be recorded in every county in which any portion of the condominium is located,
24 and shall be indexed in the name of the declarant and the name of the condominium.
25 Subsequent instruments affecting the title to a unit ~~which~~ that is physically located

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1 entirely within a single county shall be recorded only in that county, notwithstanding
2 the fact that the common elements are not physically located entirely within that
3 county. Subsequent amendments and addenda shall be indexed under the name of
4 the condominium.

5 **SECTION 15.** 703.08 (1) (intro.) of the statutes is amended to read:

6 703.08 (1) (intro.) Residential real property may not be converted to a
7 condominium unless the owner of the residential real property gives prior written
8 notice of the conversion to each of the residential tenants of the ~~building or buildings~~
9 ~~scheduled for conversion~~ structure or structures that are part of the property being
10 converted. During the 60-day period immediately following the date of delivery of
11 the notice a residential tenant has the first right to purchase the unit in which the
12 tenant resides, if the unit is offered for sale at any time during that period, for any
13 of the following:

14 **SECTION 16.** 703.08 (2) (intro.) of the statutes is amended to read:

15 703.08 (2) (intro.) A residential tenant may not be required to vacate the
16 property during the 120-day period immediately following the date of delivery of the
17 notice required under sub. (1) except for:

18 **SECTION 17.** 703.08 (3) of the statutes is amended to read:

19 703.08 (3) A residential tenant may waive in writing his or her first right of
20 purchase under sub. (1), his or her right to remain on the property under sub. (2), or
21 both.

22 **SECTION 18.** 703.09 (1c) of the statutes is amended to read:

23 703.09 (1c) A condominium declaration shall be signed by the owners of the
24 property and by or on behalf of any first mortgagee of the property ~~or the holder of~~

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1 an equivalent security interest in the property in the same manner as required in
2 conveyances of real property.

3 **SECTION 19.** 703.09 (2) of the statutes is amended to read:

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

17 **SECTION 20.** 703.09 (3) (bm) of the statutes is created to read:

18 703.09 (3) (bm) Any action to recover compensation under par. (a) shall be
19 commenced no later than one year after the amendment is recorded or be barred.

20 **SECTION 21.** 703.10 (1) of the statutes is amended to read:

21 703.10 (1) **BYLAWS TO GOVERN ADMINISTRATION.** The administration of every
22 condominium shall be governed by bylaws. Every unit owner and occupant shall
23 comply strictly with the bylaws and with the rules adopted under the bylaws, as the
24 bylaws or rules are amended from time to time, and with the covenants, conditions,
25 and restrictions set forth in the declaration or in the deed to the unit. Failure to

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1 comply with any of the bylaws, rules, covenants, conditions, or restrictions is grounds
2 for action to recover sums due, for damages or injunctive relief or both, maintainable
3 by the association or, in a proper case, by an aggrieved unit owner, or for enforcement
4 under s. 703.24.

5 **SECTION 22.** 703.10 (2) (d) of the statutes is amended to read:

6 703.10 (2) (d) The election by the unit owners of a board of directors of whom,
7 except during the period of declarant control, not more than one is a nonunit owner;;
8 the number of persons constituting the ~~same and~~ board of directors; that the terms
9 of ~~at least one-third of the~~ elected directors ~~shall expire annually,~~ may not exceed 3
10 years but that a director may be reelected for successive terms; the powers and duties
11 of the board;; the compensation, if any, of the directors;; the method of removal from
12 office of directors; and whether or not the board may engage the services of a manager
13 or managing agent.

14 **SECTION 23.** 703.10 (2) (f) of the statutes is amended to read:

15 703.10 (2) (f) The manner of borrowing money and acquiring and conveying
16 property, if the association is to have these powers.

17 **SECTION 24.** 703.10 (4) of the statutes is amended to read:

18 703.10 (4) PROHIBITING VOTING BY CERTAIN UNIT OWNERS. The bylaws may contain
19 a provision prohibiting any unit owner from voting at a meeting of the association
20 if the association has ~~recorded~~ filed a statement of condominium lien on the person's
21 unit and the amount necessary to release the lien has not been paid at the time of
22 the meeting.

23 **SECTION 25.** 703.10 (6) of the statutes is amended to read:

24 703.10 (6) TITLE TO CONDOMINIUM UNITS UNAFFECTED BY CONDOMINIUM
25 INSTRUMENTS OR BYLAWS. Title to a condominium unit is not rendered unmarketable

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1 or otherwise affected by any provision of the bylaws because the unit is subject to the
2 terms of a declaration, a condominium plat, bylaws, or rules, or by reason of any
3 failure of the bylaws to comply with the provisions of this chapter.

4 **SECTION 26.** 703.105 (1m) of the statutes is amended to read:

5 703.105 (1m) No bylaw or rule may be adopted or provision included in a
6 declaration or deed that prohibits a unit owner from displaying in his or her
7 condominium unit a sign that supports or opposes a candidate for public office or a
8 referendum question.

9 **SECTION 27.** 703.105 (2) of the statutes is amended to read:

10 703.105 (2) Notwithstanding subs. (1) and (1m), bylaws or rules may be
11 adopted that regulate the size and location of signs, flags, and flagpoles, including
12 limiting their display to those parts of the condominium that the unit owner has the
13 exclusive right to use.

14 **SECTION 28.** 703.115 (1) of the statutes is renumbered 703.115 (1m), and
15 703.115 (1m) (a) and (b), as renumbered, are amended to read:

16 703.115 (1m) (a) Requires the review to be completed within 10 working days
17 after submission of the condominium instrument and provides that, if the review is
18 not completed within this period, the condominium instrument is approved for
19 recording without certification of review or approval or the signature of the reviewer.

20 (b) Provides that a condominium instrument may be rejected only if it fails to
21 comply with the applicable requirements of ss. 703.095, 703.11 (2) (a), (c), and (d) and
22 (3), 703.275 (5), and 703.28 (1m) or if the surveyor's certificate under s. 703.11 (4) is
23 not attached to or included in the condominium plat.

24 **SECTION 29.** 703.115 (1c) of the statutes is created to read:

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1 703.115 (1c) (a) In this section, “condominium instrument” includes a
2 correction instrument and a removal instrument.

3 **SECTION 30.** 703.12 of the statutes is amended to read:

4 **703.12 Description of units.** A description in any deed or other instrument
5 affecting title to any unit which ~~that~~ makes reference to the letter or number or other
6 appropriate unit designation on the condominium plat together with a reference to
7 the condominium instruments shall be a good and sufficient description for all
8 purposes. Whenever a parcel identification number is required for any purpose, the
9 designation of all units in the condominium may be shown by the parcel number or
10 numbers of the property submitted to the provisions of this chapter to create the
11 condominium.

12 **SECTION 31.** 703.13 (2) of the statutes is amended to read:

13 703.13 (2) RIGHTS TO COMMON SURPLUSES. Common surpluses shall be ~~disbursed~~
14 used or allocated as provided under s. 703.16 (1).

15 **SECTION 32.** 703.13 (4) of the statutes is renumbered 703.13 (4) (a) and
16 amended to read:

17 703.13 (4) (a) ~~The~~ Except as provided in this chapter, the undivided percentage
18 interests shall have a permanent character and, except as specifically provided by
19 this chapter, in the common elements established in the declaration may not be
20 changed without the written consent of all of the unit owners of every unit in the
21 condominium and their mortgagees. Any change shall be evidenced by an
22 amendment to the declaration and recorded among the appropriate land records the
23 approval of the first mortgagee of each unit subject to a mortgage. The percentage
24 interests may not be separated from the unit to which they appertain. Any
25 instrument, matter, circumstance, ~~action,~~ occurrence, or proceeding ~~in any manner~~

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1 affecting a unit also shall affect, in like manner, the undivided percentage interests
2 appurtenant to the unit.

3 **SECTION 33.** 703.13 (4) (b) of the statutes is created to read:

4 703.13 (4) (b) Except for the total destruction of the condominium, in the event
5 that one or more units of a condominium are destroyed and not rebuilt, or in the event
6 that one or more units are removed from the condominium, the percentage interests
7 in the common elements shall be adjusted to maintain the same ratio of those
8 interests among the remaining units.

9 **SECTION 34.** 703.13 (4) (c) of the statutes is created to read:

10 703.13 (4) (c) If a condominium plat depicts a building as containing a specified
11 number of units but the building is constructed in such a manner as to physically
12 preclude the building from containing the full number of units shown on the plat, the
13 declaration may be amended as provided in s. 703.09 (2) to remove the excess units
14 from the condominium. The percentage interests appertaining to the excess units
15 shall be added on a pro rata basis to the percentage interests appertaining to the
16 remaining units. Amendments enacted under this paragraph shall specify the new
17 percentage interests for all of the remaining units, which percentage interests
18 collectively shall total 100 percent.

19 **SECTION 35.** 703.13 (4) (d) of the statutes is created to read:

20 703.13 (4) (d) Any change to the undivided percentage interests in the common
21 elements must be evidenced by amending the declaration in the manner provided in
22 s. 703.09 (2).

23 **SECTION 36.** 703.13 (4) (e) of the statutes is created to read:

24 703.13 (4) (e) Section 703.09 (3) does not apply to any amendment made to a
25 declaration under this subsection.

ASSEMBLY BILL 647**SECTION 37**

1 **SECTION 37.** 703.13 (5) (a) of the statutes is amended to read:

2 703.13 **(5)** (a) A unit owner may make any improvements or alterations within
3 his or her unit that do not impair the structural integrity or lessen the support of any
4 portion of the condominium or interfere with the condition or operation of the
5 mechanical systems affecting property that is not a part of the unit and that do not
6 create a nuisance substantially affecting the use and enjoyment of other units or the
7 common elements. A unit owner may not change the exterior appearance of a unit
8 or of any other portion of the condominium without permission of the board of
9 directors of the association. A unit owner making alterations within his or her unit
10 that involve changing the configuration of rooms within the unit shall file plans with
11 the association showing the reconfiguration.

12 **SECTION 38.** 703.13 (5) (b) of the statutes is amended to read:

13 703.13 **(5)** (b) Except to the extent prohibited by the condominium instruments,
14 and subject to any restrictions and limitation specified therein, a unit owner
15 acquiring an adjoining or adjoining part of an adjoining unit, may remove all or any
16 part of any intervening partition or create doorways or other apertures therein, even
17 if the partition may in whole or in part be a common element, if those acts do not
18 impair the structural integrity or lessen the support of any portion of the
19 condominium or interfere with the condition or operation of the mechanical systems
20 affecting property that is not a part of the unit. The creation of doorways or other
21 apertures is not deemed an alteration of boundaries.

22 **SECTION 39.** 703.13 (5m) (a) 3. of the statutes is amended to read:

23 703.13 **(5m)** (a) 3. The improvement will not impair the structural integrity of
24 the condominium or interfere with the condition or operation of the mechanical
25 systems affecting property that is not a part of the unit.

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1 **SECTION 40.** 703.13 (5m) (b) of the statutes is amended to read:

2 703.13 **(5m)** (b) All costs and expenses of an improvement under this
3 subsection and any increased costs of maintenance and repair of the limited common
4 elements resulting from the improvement, as determined by the association, are the
5 obligation of the unit owner. The unit owner shall protect the association and other
6 unit owners from liens on property of the association or of other unit owners that
7 otherwise might result from the improvement.

8 **SECTION 41.** 703.13 (6) (b) of the statutes is amended to read:

9 703.13 **(6)** (b) If any unit owners of adjoining units whose mutual boundaries
10 may be relocated desire to relocate those boundaries, the ~~principal officer of the unit~~
11 ~~owners~~ association, upon written application from those unit owners, and after
12 determining that the relocation does not violate the condominium instruments and
13 providing 30 days' written notice to all other unit owners, shall prepare and execute
14 appropriate instruments.

15 **SECTION 42.** 703.13 (6) (c) of the statutes is amended to read:

16 703.13 **(6)** (c) An amendment to a declaration shall identify the units involved
17 and shall state that the boundaries between those units are being relocated by
18 agreement of the unit owners thereof of those units. The amendment shall contain
19 words of conveyance between those unit owners, and when recorded shall also be
20 indexed in the name of the grantor and grantee. If the adjoining unit owners have
21 specified in their written application the reallocation between their units of the
22 aggregate undivided interest in the common elements appertaining to those units,
23 the amendment to the declaration shall reflect that reallocation. An amendment to
24 a declaration under this paragraph shall be adopted, at the option of the adjoining
25 unit owners, either under s. 703.09 (2) or by the written consent of the owners of the

ASSEMBLY BILL 647**SECTION 42**

1 adjoining units involved and the written consent by or on behalf of the first
2 mortgagees of the adjoining units, which amendment shall constitute a conveyance
3 between the unit owners of the affected part or parts of the unit or units.

4 **SECTION 43.** 703.13 (6) (e) of the statutes is amended to read:

5 703.13 (6) (e) Plats and plans showing the altered boundaries and the
6 dimensions thereof between adjoining units, and their ~~identifying numbers or letters~~
7 designations, shall be prepared. The plats and plans shall be certified as to their
8 accuracy in compliance with this subsection by a civil engineer, architect, or licensed
9 land surveyor authorized to practice his or her profession in the state.

10 **SECTION 44.** 703.13 (7) (b) of the statutes is renumbered 703.13 (7) (b) 2. and
11 amended to read:

12 703.13 (7) (b) 2. The ~~principal officer of the~~ association, upon written
13 application of a person proposing the separation of a unit (separator), and after
14 determining that the separation does not violate the condominium instruments and
15 providing 30 days' written notice to all other unit owners, shall promptly prepare and
16 execute appropriate instruments under this subsection paragraph. An amendment
17 to the condominium instruments shall assign a new ~~identifying number~~ designation
18 to each new unit created by the separation of a unit, except that one of the new units
19 may retain the original designation of the separated unit. The amendment shall
20 allocate to those new units, on a reasonable basis acceptable to the separator and the
21 executive board, all of the undivided interest in the common element elements and
22 rights to use the limited common elements and the votes in the association formerly
23 appertaining to the separated unit. The amendment shall reflect a proportionate
24 allocation to the new units of the liability for common expenses and rights to common
25 surpluses formerly appertaining to the subdivided unit.

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1 **SECTION 45.** 703.13 (7) (b) 1. of the statutes is created to read:

2 703.13 (7) (b) 1. This paragraph applies when the effect of the separation is to
3 create 2 or more units of the existing condominium and the resulting interests will
4 not be subject to organizational or operating documents other those of the existing
5 condominium.

6 **SECTION 46.** 703.13 (7) (c) of the statutes is renumbered 703.13 (7) (b) 3. and
7 amended to read:

8 703.13 (7) (b) 3. Plats and plans showing the boundaries and dimensions
9 separating of the new units together with their other boundaries and their new
10 identifying numbers or letters, including the boundary separating them, together
11 with their new designations, shall be prepared. The plats and plans shall be certified
12 as to their accuracy and compliance with this subsection paragraph by a civil
13 engineer, architect, or licensed land surveyor authorized to practice his or her
14 profession in the state.

15 **SECTION 47.** 703.13 (7) (cm) of the statutes is created to read:

16 703.13 (7) (cm) 1. This paragraph applies when the effect of the separation
17 involves the creation of 2 or more ownership interests in the unit that are subject to
18 organizational or operating documents in addition to those of the existing
19 condominium.

20 2. If the interests are based on time intervals, ch. 707 applies.

21 3. If permitted in the declaration, a condominium unit itself may be subjected
22 to the condominium form of ownership in accordance with this paragraph and any
23 restrictions and limitations that the condominium instruments may specify. In that
24 case, all of the following apply:

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1 a. The unit subjected to the condominium form of ownership shall be considered
2 to be property.

3 b. The unit subjected to the condominium form of ownership shall remain a unit
4 in the original condominium and shall continue to be subject to the condominium
5 instruments for the the original condominium.

6 c. The association of the new condominium shall have all rights and obligations
7 of the unit owner of the unit in the original condominium from which the new
8 condominium is created.

9 d. All assessments and other expenses chargeable to the unit from which the
10 new condominium is created shall be common expenses of the new condominium.

11 e. Upon the creation of separate tax parcels under s. 703.21 for the units in the
12 newly created condominium, the unit subjected to the condominium form of
13 ownership shall cease to be a separate tax parcel under s. 703.21.

14 f. Creation of the new condominium shall not require the unit from which the
15 new condominium is created to be removed from the provisions of this chapter.

16 4. If permitted in the declaration, a condominium unit may be the property
17 upon which another ownership entity is based if the organizational and operating
18 documents are legally sufficient to create the proposed interests and any entity
19 involved.

20 **SECTION 48.** 703.13 (7) (d) of the statutes is renumbered 703.13 (7) (b) 4. and
21 amended to read:

22 703.13 (7) (b) 4. After appropriate instruments have been prepared and
23 executed, they shall be delivered promptly to the separator upon payment by him or
24 her of all reasonable cost for their preparation. Those instruments are effective when
25 the separator has executed them and they are recorded. The recording of the

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1 instruments is conclusive evidence that the separation did not violate any
2 restrictions or limitation specified by the condominium instruments and that any
3 reallocations made under this subsection paragraph were reasonable.

4 **SECTION 49.** 703.13 (7) (dm) of the statutes is created to read:

5 703.13 (7) (dm) All interests created in connection with the separation of a unit
6 remain subject to the condominium instruments and association documents.

7 **SECTION 50.** 703.13 (8) (b) of the statutes is amended to read:

8 703.13 (8) (b) If the unit owners of adjoining units that may be merged desire
9 to merge the units and the association determines that the merger does not violate
10 the condominium instruments, the unit owners, after providing 30 days' written
11 notice to all other unit owners, shall prepare and execute appropriate instruments
12 under this subsection. An amendment to the condominium instruments shall assign
13 a new identifying number designation to the new unit created by the merger of the
14 units, which designation may be the original designation of one of the merged units,
15 and shall allocate to the new unit all of the undivided interest in the common
16 elements and rights to use the limited common elements and the votes in the
17 association formerly appertaining to the separate units. The amendment shall
18 reflect an allocation to the new unit of the liability for common expenses and rights
19 to common surpluses formerly appertaining to the separate units. An amendment
20 to a declaration under this paragraph shall be adopted either under s. 703.09 (2) or
21 by the written consent of the owners of the units to be merged, the written consent
22 by or on behalf of the first mortgagees of those units, if any, and the written consent
23 of the board of directors of the association.

24 **SECTION 51.** 703.13 (8) (c) of the statutes is amended to read:

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1 703.13 (8) (c) Plats and plans showing the boundaries and dimensions of the
2 new unit, together with the new identifying number or letter designation, shall be
3 prepared. The plats and plans shall be certified as to their accuracy and compliance
4 with this subsection by a civil engineer, architect, or licensed land surveyor
5 authorized to practice in this state.

6 **SECTION 52.** 703.14 (1) of the statutes is amended to read:

7 703.14 (1) The common elements may be used only for the purposes for which
8 they were intended and, except as provided in the condominium instruments or
9 association bylaws or rules, the common elements are subject to mutual rights of
10 support, access, use, and enjoyment by all unit owners. However, any portion of the
11 common elements designated as limited common elements may be used only by the
12 unit owner of the unit to which their use is limited in the condominium instruments
13 and association bylaws and rules.

14 **SECTION 53.** 703.15 (2) (a) of the statutes is amended to read:

15 703.15 (2) (a) *Establishment.* ~~Every~~ Unless the declarant shall ~~establish~~
16 earlier establishes an association to govern the condominium ~~not later than~~, as of the
17 date of the first conveyance of a unit to a purchaser, an association shall immediately
18 exist to govern the affairs of the condominium. The association shall be ~~organized~~
19 ~~as a profit or nonprofit corporation or~~ exist as an unincorporated association, unless
20 the declarant has organized it as a nonprofit corporation before the first conveyance.
21 ~~After it is organized, the~~ the first conveyance, the association may be organized as
22 a nonprofit corporation only with the consent of all of the unit owners. The declarant
23 shall operate the association until the declarant transfers control of the association
24 to the unit owners. The membership of the association shall at all times consist
25 exclusively of all of the unit owners.

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1 **SECTION 54.** 703.15 (2) (b) of the statutes is amended to read:

2 703.15 (2) (b) *Power and responsibility prior to establishment existence*. Until
3 an association is established exists under par. (a), a declarant has the power and
4 responsibility to act in all instances where this chapter, any other provision of the
5 law, or the declaration require action by the association or its officers.

6 **SECTION 55.** 703.15 (2) (c) 1. (intro.) of the statutes is amended to read:

7 703.15 (2) (c) 1. (intro.) Except as provided in par. (d), a declarant may
8 authorize the declarant or persons designated by him or her to appoint and remove
9 the officers of the association or to exercise the powers and responsibilities otherwise
10 assigned by the declaration or this chapter to the association or its officers. A
11 declaration may not authorize any declarant control of the association for a period
12 exceeding ~~the earlier of~~ any of the following:

13 **SECTION 56.** 703.15 (2) (c) 1. a. of the statutes is amended to read:

14 703.15 (2) (c) 1. a. ~~Ten~~ Except as provided in subd. 1. c., 10 years in the case of
15 an expandable condominium.

16 **SECTION 57.** 703.15 (2) (c) 1. b. of the statutes is amended to read:

17 703.15 (2) (c) 1. b. ~~Three~~ Except as provided in subd. 1. c., 3 years in the case
18 of any other condominium.

19 **SECTION 58.** 703.15 (2) (c) 1. c. of the statutes is amended to read:

20 703.15 (2) (c) 1. c. Thirty days after the conveyance of ~~75%~~ 75 percent of the
21 common element interest to purchasers if the conveyance of 75 percent of the
22 common element interest occurs before the time specified in subd. 1. a. or b.,
23 whichever is applicable.

24 **SECTION 59.** 703.15 (2) (c) 2. of the statutes is amended to read:

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1 703.15 (2) (c) 2. The period of declarant control begins on the date that the first
2 condominium unit is conveyed by a declarant to any person other than the declarant.
3 If there is any other unit owner other than a declarant, a declaration may not be
4 amended to increase the scope or the period of the declarant control. The declarant
5 may transfer control of the association before the mandatory expiration of the period
6 of declarant control.

7 **SECTION 60.** 703.15 (2) (c) 3. of the statutes is created to read:

8 703.15 (2) (c) 3. Upon the termination of declarant control, the declarant shall
9 turn over all association records and accounts to the directors elected under par. (f).

10 **SECTION 61.** 703.15 (2) (d) of the statutes is amended to read:

11 703.15 (2) (d) *Meeting to elect directors.* ~~Prior to~~ Within 30 days after the
12 conveyance of ~~25%~~ 25 percent of the common element interest to purchasers, an
13 association shall hold a meeting and the unit owners other than the declarant shall
14 elect at least ~~25%~~ 25 percent of the directors of the executive board. ~~Prior to~~ Within
15 30 days after the conveyance of ~~50%~~ 50 percent of the common element interest to
16 purchasers, an association shall hold a meeting and the unit owners other than the
17 declarant shall elect at least ~~33 1/3%~~ 33 1/3 percent of the directors of the executive
18 board.

19 **SECTION 62.** 703.15 (2) (e) of the statutes is amended to read:

20 703.15 (2) (e) *Calculation of percentage.* The calculation of the percentage of
21 common element interest conveyed to purchasers under pars. (c) and (d) shall be
22 based on the percentage of undivided interest appertaining to each unit ~~which~~ that
23 has been conveyed assuming that all the units to be completed are included in the
24 condominium, including, in the case of an expanding condominium, the maximum
25 number of units that may be added.

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1 **SECTION 63.** 703.15 (2) (f) of the statutes is amended to read:

2 703.15 (2) (f) *Elections after expiration of declarant control.* Not later than 45
3 days after the expiration of any period of declarant control ends, an association shall
4 hold a meeting and the unit owners shall elect an executive board of at least 3
5 directors and officers of the association. The directors and officers shall take office
6 upon election.

7 **SECTION 64.** 703.15 (3) (a) (intro.) of the statutes is amended to read:

8 703.15 (3) (a) *Powers.* (intro.) An In addition to any other powers vested in it
9 by law, an association has the power to do all of the following:

10 **SECTION 65.** 703.15 (3) (a) 1. of the statutes is amended to read:

11 703.15 (3) (a) 1. Adopt and amend budgets for revenues, expenditures, and
12 reserves and levy and collect assessments for common expenses from unit owners;.

13 **SECTION 66.** 703.15 (3) (a) 2. of the statutes is amended to read:

14 703.15 (3) (a) 2. Employ and dismiss employees and agents;.

15 **SECTION 67.** 703.15 (3) (a) 3. of the statutes is amended to read:

16 703.15 (3) (a) 3. Sue on behalf of all unit owners; and.

17 **SECTION 68.** 703.15 (3) (b) (intro.) of the statutes is amended to read:

18 703.15 (3) (b) *Conditional powers.* (intro.) Subject to any restrictions and
19 limitations specified by the declaration, an association may do any of the following:

20 **SECTION 69.** 703.15 (4) (d) 1. of the statutes is amended to read:

21 703.15 (4) (d) 1. At meetings of the association every unit owner is entitled to
22 cast the number of votes appurtenant to his or her unit, as established in the
23 declaration under s. 703.09 (1) (f). Unit owners may vote by proxy, but, the proxy is
24 effective only for a maximum period of 180 days following its issuance, unless
25 granted to a mortgagee or lessee. If only one of multiple owners of a unit is present

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1 at a meeting of the association, the owner who is present is entitled to cast the votes
2 allocated to that unit. Voting records, including official rosters and ballots cast, shall
3 be open to review by any unit owner.

4 **SECTION 70.** 703.15 (4) (e) of the statutes is amended to read:

5 703.15 (4) (e) Unless otherwise provided in this chapter, and subject to
6 provisions in the bylaws requiring a different majority or manner of voting, decisions
7 of an association shall be made on a majority of votes of the unit owners present and
8 voting at a meeting at which a quorum is present.

9 **SECTION 71.** 703.15 (6) of the statutes is created to read:

10 703.15 (6) RIGHT OF ACTION AGAINST DECLARANT TOLLED. Except with respect to
11 any warranties included in a contract of purchase for a specific unit, any applicable
12 statute of limitations affecting the association's right of action against the declarant
13 is tolled until declarant control terminates under sub. (2) (c).

14 **SECTION 72.** 703.155 (1) of the statutes is amended to read:

15 703.155 (1) DEFINITION. In this section, "master association" means a ~~profit or~~
16 nonprofit corporation or unincorporated association ~~which~~ that exercises the powers
17 under s. 703.15 (3) on behalf of one or more condominiums or for the benefit of the
18 unit owners of one or more condominiums.

19 **SECTION 73.** 703.155 (2) of the statutes is amended to read:

20 703.155 (2) DELEGATION. If a declaration provides that any of the powers
21 ~~described in s. 703.15 (3) of an association~~ are to be exercised by or may be delegated
22 to a master association, all provisions of this chapter applicable to an association
23 apply to the master association, except as modified by this section or the declaration.

24 **SECTION 74.** 703.16 (1) of the statutes is amended to read:

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1 703.16 (1) DISPOSITION OF COMMON SURPLUSES. All common surpluses of the
2 association shall be credited to the unit owners' assessments for common expenses
3 may be used by the association in the manner determined by the association. If
4 surpluses are credited or distributed to the unit owners, they shall be allocated
5 among the unit owners as provided in the declaration or, if there is no applicable
6 provision in the declaration, in proportion to their percentage interests in the
7 common elements or as otherwise provided in the declaration or shall be used for any
8 other purpose as the association decides.

9 **SECTION 75.** 703.16 (2) (b) of the statutes is amended to read:

10 703.16 (2) (b) During the period of declarant control of the association under
11 s. 703.15 (2) (c), if any period in which any unit owned by the declarant is exempt from
12 assessments for common expenses until the unit is sold, the total amount assessed
13 against units that are not exempt from assessments may not exceed the amount that
14 equals nonexempt units' budgeted share of common expenses, based on the
15 anticipated common expenses set forth in the annual budget under s. 703.161 (2) (a).
16 The declarant is liable for the balance of the actual common expenses. Declarant
17 obligations under this paragraph shall be considered assessments under s. 703.165.

18 **SECTION 76.** 703.161 (2) (intro.) of the statutes is amended to read:

19 703.161 (2) REQUIREMENT. (intro.) An association annually shall adopt and
20 distribute to all unit owners each unit owner an annual budget setting forth all of the
21 following:

22 **SECTION 77.** 703.161 (2) (g) of the statutes is created to read:

23 703.161 (2) (g) The amount assessed to the owner's unit.

24 **SECTION 78.** 703.161 (3) of the statutes is created to read:

ASSEMBLY BILL 647**SECTION 78**

1 703.161 (3) AMENDMENT. An association may adopt amendments to its budget
2 during the course of its fiscal year, and shall use the same procedures and actions as
3 are required for adoption of the original budget.

4 **SECTION 79.** 703.165 (2) of the statutes is amended to read:

5 703.165 (2) LIABILITY FOR ASSESSMENTS. A unit owner shall be liable for all
6 assessments, or installments thereof, coming due while owning a unit, including any
7 assessments coming due during the pendency of any claim by the unit owner against
8 the association or during any period in which the unit is not occupied by the unit
9 owner or is leased or rented to any other person. In ~~a voluntary~~ any grant, other than
10 one resulting from the foreclosure of a first mortgage on the unit, the grantee shall
11 be jointly and severally liable with the grantor for all unpaid assessments against
12 the grantor for his or her share of the common expenses up to the time of the
13 ~~voluntary~~ grant for which a statement of condominium lien is ~~recorded~~ filed, without
14 prejudice to the rights of the grantee to recover from the grantor the amounts paid
15 by the grantee for such assessments. Liability for assessments may not be avoided
16 by waiver of the use or enjoyment of any common element or by abandonment of the
17 unit for which the assessments are made.

18 **SECTION 80.** 703.165 (3) of the statutes is amended to read:

19 703.165 (3) ASSESSMENTS CONSTITUTE LIEN. All assessments, until paid,
20 together with interest on them and actual costs of collection, constitute a lien on the
21 units on which they are assessed, if a statement of lien is filed within ~~2~~ 3 years after
22 the date the last installment of the assessment becomes due. The lien is effective
23 against a unit at the time the last installment of the assessment became due
24 regardless of when within the ~~2-year~~ 3-year period it is filed. A statement of
25 condominium lien is filed in the land records of the clerk of circuit court of the county

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1 where the unit is located, stating the description of the unit, the name of the record
2 owner, the amount due, and the period for which the assessment was due. The clerk
3 of circuit court shall index the statement of condominium lien under the name of the
4 record owner in the judgment and lien docket. The statement of condominium lien
5 shall be signed and verified by an officer or agent of the association as specified in
6 the bylaws and then may be filed. On full payment of the amount of the assessment
7 for which the lien is claimed, the unit owner shall be entitled to a satisfaction of the
8 lien that may be filed with the clerk of circuit court.

9 **SECTION 81.** 703.165 (5) (c) of the statutes is amended to read:

10 703.165 (5) (c) ~~Mechanic's~~ Construction liens filed prior to the making of the
11 assessment.

12 **SECTION 82.** 703.165 (7) of the statutes is amended to read:

13 703.165 (7) ENFORCEMENT OF LIEN. A lien may be enforced and foreclosed by an
14 association or any other person specified in the bylaws, in the same manner, and
15 subject to the same requirements, as a foreclosure of mortgages on real property in
16 this state, including the redemption time reductions under s. 846.101 for waiving a
17 deficiency judgment. An association may recover costs and actual attorney fees. An
18 association may, unless prohibited by the declaration, bid on the unit at foreclosure
19 sale and acquire, hold, lease, mortgage, and convey the unit. Suit to recover a money
20 judgment for unpaid common expenses shall be maintainable without foreclosing or
21 waiving the lien securing the same. Suit for any deficiency following foreclosure may
22 be maintained in the same proceeding. No action may be brought to foreclose the lien
23 unless brought within 3 years following the ~~recording~~ filing of the statement of
24 condominium lien. No action may be brought to foreclose the lien except after 10

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1 days' prior written notice to the unit owner given by registered mail, return receipt
2 requested, to the address of the unit owner shown on the books of the association.

3 **SECTION 83.** 703.17 (1) of the statutes is amended to read:

4 703.17 (1) An Unless otherwise provided in the declaration, an association
5 shall obtain insurance for the property against loss or damage by fire and such other
6 hazards for not less than full replacement value of the property insured and a
7 liability policy covering all claims commonly insured against. Insurance coverage
8 shall be written on the property in the name of the association as trustee for each of
9 the unit owners in the percentages established in the declaration. The declaration
10 may establish an allocation of insurance proceeds that differs from the percentage
11 interest in the common elements established under s. 703.13 (1). Premiums shall be
12 common expenses. The insurance may include reasonable deductibles, and, if it
13 does, the association shall determine by bylaw or rule whether a deductible shall be
14 paid as a common expense or, if not, how it will be allocated. Provisions for such
15 insurance shall be without prejudice to the right of each unit owner to insure his or
16 her own unit for personal benefit.

17 **SECTION 84.** 703.18 (2) (b) of the statutes is amended to read:

18 703.18 (2) (b) However, if a condominium is damaged to an extent more than
19 the available insurance proceeds, the condominium shall be subject to an action for
20 partition upon obtaining the written consent of the unit owners having ~~75%~~ 75
21 percent or more of the votes. In the case of partition, the net proceeds of sale together
22 with any net proceeds of insurance shall be considered as one fund and shall be
23 divided among all unit owners in proportion to their percentage interests in the
24 common elements as established under s. 703.13 (1) or, if the declaration so provides,

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1 in an allocation that differs from the percentage interests in the common elements,
2 and shall be distributed in accordance with the priority of interests in each unit.

3 **SECTION 85.** 703.19 (3) (intro.) of the statutes is amended to read:

4 703.19 (3) ALLOCATION OF AWARD; IN ABSENCE OF PROVISIONS IN DECLARATION OR
5 BYLAWS. (intro.) Unless otherwise provided for in a declaration or bylaws, any
6 damages for a taking of all or part of a condominium shall, subject to sub. (6), be
7 awarded as follows:

8 **SECTION 86.** 703.19 (3) (b) of the statutes is amended to read:

9 703.19 (3) (b) Any award for the taking of limited common elements shall be
10 allocated to the unit owners of the units to which the use of those limited common
11 elements is restricted in proportion to their respective percentage interests in the
12 common elements as established under s. 703.13 (1) or, if the declaration so provides,
13 in an allocation that differs from the percentage interests in the common elements.

14 **SECTION 87.** 703.19 (3) (c) of the statutes is amended to read:

15 703.19 (3) (c) In the event no reconstruction is undertaken, any award for the
16 taking of common elements shall be allocated to all unit owners in proportion to their
17 respective percentage interests in the common elements as established under s.
18 703.13 (1) or, if the declaration so provides, in an allocation that differs from the
19 percentage interests in the common elements.

20 **SECTION 88.** 703.20 (1) of the statutes is amended to read:

21 703.20 (1) RECORD KEEPING; AVAILABILITY FOR EXAMINATION. An association shall
22 keep detailed, accurate records using standard bookkeeping procedures of the
23 receipts and expenditures affecting the common elements, specifying and itemizing
24 the maintenance and repair expenses of the common elements and any other
25 expenses incurred. The records, wherever maintained, are the property of the

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1 association. The records and the vouchers authorizing the payments shall be
2 available for examination by the unit owners at convenient hours.

3 **SECTION 89.** 703.22 (title) of the statutes is amended to read:

4 **703.22** (title) **Meehanies' Construction and suppliers' liens.**

5 **SECTION 90.** 703.22 (2) of the statutes is amended to read:

6 703.22 (2) Any meehanies' construction lien or suppliers' lien under subch. I
7 of ch. 779 arising as a result of repairs to or improvements of a unit by a unit owner
8 shall be a lien only against the unit.

9 **SECTION 91.** 703.22 (3) of the statutes is amended to read:

10 703.22 (3) Any meehanies' construction or suppliers' lien under subch. I of ch.
11 779 arising as a result of repairs to or improvements of the common elements, if
12 authorized in writing by the association, shall be paid by the association as a common
13 expense and until paid shall be a lien against each unit in proportion to its percentage
14 interest in the common elements. On payment of the proportionate amount by any
15 unit owner to the lienor or on the filing of a written undertaking in the manner
16 specified by s. 779.08, the unit owner shall be entitled to a release of his or her unit
17 from the lien and the association shall not be entitled to assess his or her unit for
18 payment of the remaining amount due for the repairs or improvements.

19 **SECTION 92.** 703.24 (2) of the statutes is amended to read:

20 703.24 (2) LIABILITY FOR UNIT OWNER VIOLATION. A unit owner who commits a
21 violation is liable for any charges, fines, or assessments imposed by the association
22 pursuant to the declaration or the association's bylaws or ~~association~~ rules as a result
23 of the violation and may be subject to a temporary or permanent injunction.

24 **SECTION 93.** 703.25 (3) of the statutes is renumbered 703.25 (3) (a) and
25 amended to read:

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1 703.25 (3) (a) A judgment for money or a blanket lien under s. 703.22 against
2 an association shall be a lien against any property owned by the association, and
3 against each of the condominium units in proportion to the liability of each unit
4 owner for common expenses as established under the declaration in an amount not
5 exceeding the market value of the unit, but not against any other property of any unit
6 owner.

7 **SECTION 94.** 703.25 (3) (b) of the statutes is created to read:

8 703.25 (3) (b) An action for a money judgment against an association shall not
9 be the basis for filing a lis pendens against the units of the condominium.

10 **SECTION 95.** 703.26 (1) of the statutes is amended to read:

11 703.26 (1) ~~DECLARANT~~ DECLARATION ~~MAY RESERVE~~ INCLUDE RIGHT TO EXPAND. A
12 declarant may reserve in the original declaration of a condominium a right to expand
13 ~~a the~~ condominium by subjecting additional property to the condominium
14 ~~declaration~~ adding land, one or more units, or both, in such a manner that as each
15 ~~additional property~~ any added land or unit is subjected to the condominium
16 declaration and, if any unit or units are added, the percentage of undivided interests
17 in the common elements ~~of the preceding and new property shall be~~ are reallocated
18 ~~between the unit owners on the basis of the aggregate undivided interest in the~~
19 ~~common elements appertaining to the property~~ among all units.

20 **SECTION 96.** 703.26 (2) (a) of the statutes is amended to read:

21 703.26 (2) (a) A declaration establishing a condominium shall describe each
22 parcel of property ~~which,~~ along with its square footage, that may be added to the
23 condominium.

24 **SECTION 97.** 703.26 (3) (a) of the statutes is amended to read:

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1 703.26 (3) (a) If the conditions of sub. (2) are complied with, property may be
2 added to a condominium if the declarant records an amendment to the declaration,
3 showing the designation of the units being added, the new percentage interests of the
4 unit owners, and the votes ~~which~~ that each unit owner may cast in the condominium
5 as expanded, and records an addendum to the condominium plat that includes the
6 detail and information concerning the new property as required in the original
7 condominium plat.

8 **SECTION 98.** 703.275 (4m) of the statutes is created to read:

9 703.275 (4m) PLAT. The plat of the resultant condominium shall be titled as
10 an addendum to the plat of that condominium, shall identify the plat of every
11 condominium that is merged into the resultant condominium by name and recording
12 data, and shall identify units both by their designations in the resultant
13 condominium and by their designations in the merged condominiums. Any changes
14 in the common elements, including the reservation of parts of them as limited
15 common elements, shall be identified on the plat of the resultant condominium.

16 **SECTION 99.** 703.28 (1) of the statutes is amended to read:

17 703.28 (1) ~~All of the unit owners may remove all or any part of the property~~ may
18 be removed from the provisions of this chapter by a removal instrument, duly
19 recorded, ~~provided that the holders of all liens affecting any of the units consent~~
20 ~~thereto or agree, in either case by instruments duly recorded, that their liens be~~
21 ~~transferred to the percentage of the undivided interest of the unit owner in the~~
22 property as an amendment to the declaration, as provided in this section, and as an
23 addendum to the plat.

24 **SECTION 100.** 703.28 (1m) of the statutes is repealed.

25 **SECTION 101.** 703.28 (2) of the statutes is repealed.

ASSEMBLY BILL 647**SECTION 102**

1 **SECTION 102.** 703.28 (2m) of the statutes is created to read:

2 703.28 **(2m)** If all of the property is being removed, the removal instrument
3 must be approved by all of the unit owners and consented to by the holders of all liens
4 affecting the condominium or any unit. The removal instrument shall provide that
5 any lien against a unit is transferred to the percentage interest of the owner of the
6 unit that is encumbered by the lien and that any lien against the condominium as
7 a whole is allocated among the units in accordance with s. 703.25 (3). Upon removal
8 of the property from the provisions of this chapter, the property shall be owned in
9 common by the unit owners. The percentage interest of each unit owner shall be
10 determined as specified in the declaration.

11 **SECTION 103.** 703.28 (3) of the statutes is created to read:

12 703.28 **(3)** If less than all of the property is being removed, all of the following
13 apply:

14 (a) If the removal results from the exercise of the power of eminent domain, s.
15 703.195 applies.

16 (b) 1. Except as provided in par. (c), the removal instrument must specify all
17 of the following:

18 a. The part of the property that is being removed.

19 b. Who will own the part of the property that is being removed after its removal.

20 If the property is to be owned differently from the manner in which it was owned
21 immediately before removal, the removal instrument shall contain language of
22 conveyance to the party or parties that will own the property after removal. The
23 conveyance language shall be effective to vest ownership in the party or parties even
24 if fewer than all of the unit owners of the condominium have joined in the removal
25 instrument.

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1 c. The consideration, if any, that is being given to the association for the
2 removal.

3 2. A removal instrument under this paragraph must be signed by the unit
4 owners holding at least 80 percent of the aggregate of the votes established under s.
5 703.09 (1) (f), or a greater percentage if so provided in the declaration, including all
6 of the owners of units that are being removed, and consented to by the holders of all
7 liens affecting the condominium or any unit.

8 3. Removal of less than all of the property is permitted only if, following
9 removal, the condominium and the property removed are in compliance with the
10 laws and ordinances regulating zoning and land division.

11 4. At the time a removal instrument under this paragraph is recorded, the
12 party recording the instrument shall also record an addendum to the condominium
13 plat containing the same details and information concerning the remaining
14 condominium property as was required in the original condominium plat.

15 (c) If the part being removed does not include all of a unit, all of a limited
16 common element, or a part of the common elements that is essential to the use and
17 enjoyment of or access to any unit, the removal instrument must specify all of the
18 following:

19 1. The part of the property that is being removed.

20 2. Who will own the part of the property that is being removed after its removal.

21 3. The consideration received for the property being removed and how the
22 consideration will be used.

23 (d) If the property that is being removed is owned by the association and is not
24 any part of a unit or the common elements, its transfer shall be as provided in the

ASSEMBLY BILL 647**SECTION 103**

1 declaration or association bylaws and shall not affect the percentage interests in the
2 common elements.

3 **SECTION 104.** 703.28 (4) of the statutes is created to read:

4 703.28 (4) A removal instrument under sub. (3) (b) or (c) must meet the
5 requirements for an amendment to the declaration. An amendment to the
6 declaration and an addendum to the condominium plat must be recorded to reflect
7 the removal. The part that is removed must result in a legal parcel for its intended
8 use.

9 **SECTION 105.** 703.29 of the statutes is repealed.

10 **SECTION 106.** 703.33 (1) (intro.) of the statutes is amended to read:

11 703.33 (1) MATERIAL TO BE FURNISHED BY SELLER TO PURCHASER BEFORE CLOSING.
12 (intro.) Not later than 15 days prior to the closing of the sale of a residential unit to
13 a member of the public, the seller shall furnish to the purchaser the following:

14 **SECTION 107.** 703.33 (9) of the statutes is created to read:

15 703.33 (9) ELECTRONIC DISCLOSURE. The information required under subs. (1)
16 and (2) may be disclosed electronically if the purchaser, in the manner prescribed by
17 law, agrees to that method of transmission.

18 **SECTION 108.** 703.34 (title) of the statutes is amended to read:

19 **703.34 (title) Blanket mortgages and other blanket liens affecting a**
20 **unit at time of first conveyance; mortgagee approvals.**

21 **SECTION 109.** 703.34 (intro.) (except 703.34 (title)) of the statutes is
22 renumbered 703.34 (1m) (intro.) and amended to read:

23 703.34 (1m) (intro.) As a condition to the first transfer of title to each unit, one
24 of the following must be met:

ASSEMBLY BILL 647**SECTION 110**

1 **SECTION 110.** 703.34 (1) of the statutes is renumbered 703.34 (1m) (a) and
2 amended to read:

3 703.34 **(1m)** (a) Every mortgage and other lien affecting such the unit,
4 including the undivided interest in the common areas and facilities appurtenant to
5 such the unit, shall be paid and satisfied of record;

6 **SECTION 111.** 703.34 (2) of the statutes is renumbered 703.34 (1m) (b) and
7 amended to read:

8 703.34 **(1m)** (b) ~~A The unit being transferred~~ and an undivided interest in the
9 common areas and facilities appurtenant ~~thereto~~ to the unit shall be released by
10 partial release duly recorded; ~~or.~~

11 **SECTION 112.** 703.34 (2m) of the statutes is created to read:

12 703.34 **(2m)** If a mortgagee whose consent or approval is required for an action
13 under this chapter cannot be contacted with the use of reasonable diligence, the
14 association may seek the right to proceed with the proposed action under ch. 841,
15 notwithstanding the missing consent or approval. In determining whether to permit
16 the action for which mortgagee consent or approval has not been obtained, the court
17 shall consider whether the action is needed to permit the effective management and
18 operation of the condominium and any impact the action would have on the value of
19 the units in the condominium as security for mortgages on the units.

20 **SECTION 113.** 703.34 (3) of the statutes is renumbered 703.34 (1m) (c) and
21 amended to read:

22 703.34 **(1m)** (c) A mortgage or other lien shall provide for or be amended to
23 provide for a release of the unit and the undivided interest in the common areas and
24 facilities appurtenant ~~thereto~~ to the unit from the lien of a mortgage or other lien
25 upon the payment of a sum certain.

ASSEMBLY BILL 647**SECTION 114**

1 **SECTION 114.** 703.365 (1) (b) of the statutes is amended to read:

2 703.365 (1) (b) If a declaration under par. (a) provides that any or all of subs.
3 (2) to (8) or any parts of those subsections apply, then, except as provided in those
4 subsections or parts of those subsections, and except as provided in sub. (9), this
5 chapter applies to the small condominium in the same manner and to the same
6 extent as to other condominiums.

7 **SECTION 115.** 703.365 (4) (b) of the statutes is amended to read:

8 703.365 (4) (b) The floor plans under s. 703.11 (2) (c) need only show the location
9 and designation of each unit in the building and the limited common elements
10 appurtenant to each unit of a small condominium. These plans may be
11 supplemented by an agreement among all unit owners and their first mortgagees,
12 if any, regarding the allocation of use and enjoyment of common elements, which
13 agreement, in both its original and any amended form, shall be recorded.

14 **SECTION 116.** 703.365 (6) of the statutes is repealed and recreated to read:

15 703.365 (6) ASSOCIATION OPERATIONS; ARBITRATION. (a) With respect to
16 operational decisions in a small condominium, including decisions concerning
17 repairs, maintenance, the exterior appearance, and expenditures, the association
18 may submit a proposed action to arbitration under ch. 788 if any of the following
19 applies:

20 1. The required majority under the declaration or bylaws for the proposed
21 action cannot be achieved.

22 2. The proposed action would involve unbudgeted expenditures per unit in
23 excess of \$2,500 in any one year or \$5,000 overall.

24 (b) 1. A unit owner in a small condominium may propose in writing an action
25 or expenditure by the association that the unit owner believes is necessary for the

ASSEMBLY BILL 647**SECTION 116**

1 proper operation of the condominium. The association shall act on any unit owner
2 proposal in a timely manner.

3 2. If the association does not adopt the unit owner's proposal, cannot achieve
4 the majority required to take an action, or levies assessments for unbudgeted
5 expenditures in excess of the amounts specified in par. (a) 2., a unit owner may
6 request reconsideration of the decision and, if unsatisfied with the result, submit the
7 issue to arbitration under ch. 788.

8 (c) Notice of arbitration under par. (a) or (b) shall be given to the first mortgagee
9 of any unit subject to a mortgage. The results of the arbitration shall be final as to
10 the matter under consideration.

11 (d) 1. Costs of the arbitration under par. (a) shall be the responsibility of the
12 association.

13 2. Costs of the arbitration under par. (b) shall be paid as follows:

14 a. If the challenge is wholly denied, costs of the arbitration shall be borne by
15 the unit owner submitting the issue to arbitration.

16 b. If the challenge is wholly upheld, costs shall be borne by the association.

17 c. In all other cases, the costs shall be shared equally by the unit owner and the
18 association.

19 (d) The association may adopt rules establishing arbitration procedures.
20 Acceptance of a deed to a unit in a small condominium constitutes agreement to the
21 resolution of disputes over operational decisions by arbitration.

22 **SECTION 117.** 703.365 (7) of the statutes is renumbered 703.365 (9) and
23 amended to read:

ASSEMBLY BILL 647**SECTION 117**

1 703.365 (9) EXPANDING CONDOMINIUMS. Section 703.26 does not apply to a small
2 condominium, and the declaration for a small condominium may not provide that s.
3 703.26 applies to the small condominium.

4 **SECTION 118.** 703.365 (10) of the statutes is created to read:

5 703.365 (10) RESIDENT AGENT; TAXES. In the declaration for a small
6 condominium, the declarant shall designate one of the unit owners as the resident
7 agent of the condominium and shall specify how real estate taxes for the year the
8 condominium is created will be divided among the units if different from the
9 percentage interests in the common elements.

10 **SECTION 119.** 703.365 (11) of the statutes is created to read:

11 703.365 (11) UTILITY EASEMENTS. The units and common elements of a small
12 condominium are subject to cross easements for any utility services to other units in
13 the condominium.

14 **SECTION 120.** 703.365 (12) of the statutes is created to read:

15 703.365 (12) TWO-UNIT CONDOMINIUMS. (a) Unless the declaration provides
16 otherwise, units in a 2-unit small condominium shall be insured by the same insurer.

17 (b) Any improvement, decoration, or repair to the exterior of either unit of a
18 2-unit small condominium must be agreed to by the owners of both units. In the
19 event of a dispute, the matter may be submitted to the board of directors, and the
20 decision of the board of directors may be challenged in an arbitration proceeding in
21 the manner provided in sub. (6) (b) and (c).

22 **SECTION 121.** 709.02 (2) (intro.) of the statutes is amended to read:

23 709.02 (2) (intro.) In regard to a transfer of a condominium unit, as defined in
24 s. 703.02 (15), if the owner is required to provide the information under sub. (1), the
25 owner shall furnish, in addition to and at the same time as the information required

ASSEMBLY BILL 647**SECTION 121**

1 under sub. (1), all the following information as an addendum to the real estate
2 condition report under s. 709.03:

3 **SECTION 122.** 709.02 (2) (d) of the statutes is amended to read:

4 709.02 (2) (d) ~~A Unless excused by s. 703.365, a copy of the executive summary~~
5 required under s. 703.33 (1) (h).

6 **SECTION 123. Initial applicability.**

7 (1) GENERAL APPLICATION. The treatment of sections 703.02 (15), 703.03, 703.15
8 (2) (a), (b), and (d), and 703.26 (1), (2) (a), and (3) (a) of the statutes first applies to
9 condominiums for which condominium instruments are recorded on the effective
10 date of this subsection.

11 (2) CONVERSION TO CONDOMINIUM. The treatment of section 703.08 (1) (intro.),
12 (2) (intro.), and (3) of the statutes first applies to conversions of residential real
13 properties to condominiums for which notices are delivered on the effective date of
14 this subsection.

15 (3) COMPENSATION RECOVERY. The treatment of section 703.09 (3) (bm) of the
16 statutes first applies to actions to recover compensation with respect to declaration
17 amendments that are recorded on the effective date of this subsection.

18 (4) DIRECTOR TERMS. The treatment of section 703.10 (2) (d) of the statutes first
19 applies to bylaws adopted or amended on the effective date of this subsection.

20 (5) USE OF COMMON SURPLUSES. The treatment of sections 703.13 (2) and 703.16
21 (1) of the statutes first applies to common surpluses arising on the effective date of
22 this subsection.

23 (6) UNIT BOUNDARY RELOCATIONS, SEPARATIONS, AND MERGERS.

ASSEMBLY BILL 647**SECTION 123**

1 (a) The treatment of section 703.13 (6) (b) and (c) of the statutes first applies
2 to unit boundary relocations for which application is made on the effective date of this
3 paragraph.

4 (b) The treatment of section 703.13 (7) (cm) and (dm) of the statutes, the
5 renumbering and amendment of section 703.13 (7) (b), (c), and (d) of the statutes, and
6 the creation of section 703.13 (7) (b) 1. of the statutes first apply to unit separations
7 for which application is made on the effective date of this paragraph.

8 (c) The treatment of section 703.13 (8) (b) of the statutes first applies to unit
9 mergers for which application is made on the effective date of this paragraph.

10 (7) TOLLING STATUTE OF LIMITATIONS. The treatment of section 703.15 (6) of the
11 statutes first applies to actions arising on the effective date of this subsection.

12 (8) DECLARANT OBLIGATIONS. The treatment of section 703.16 (2) (b) of the
13 statutes first applies to obligations arising on the effective date of this subsection.

14 (9) BUDGETS. The treatment of section 703.161 (2) (intro.) and (g) of the statutes
15 first applies to budgets adopted on the effective date of this subsection.

16 (10) ASSESSMENT LIENS.

17 (a) The treatment of section 703.165 (2) of the statutes first applies to
18 foreclosures commenced on the effective date of this paragraph.

19 (b) The treatment of section 703.165 (3) of the statutes first applies to
20 assessments for which the last installment becomes due on the effective date of this
21 paragraph.

22 (11) BLANKET LIENS. The renumbering and amendment of section 703.25 (3) of
23 the statutes first applies to blanket liens for which lien statements are filed on the
24 effective date of this subsection.

