

# State of Wisconsin



2017 Assembly Bill 818

Date of enactment: April 16, 2018  
Date of publication\*: April 17, 2018

## 2017 WISCONSIN ACT 333

AN ACT to amend 703.09 (1) (c), 703.09 (2), 703.095, 703.12, 703.13 (6) (e), 703.13 (7) (c), 703.13 (8) (c), 703.165 (5) (intro.), 703.165 (5) (c) and 703.22 (title), (2) and (3); and to create 703.09 (2m) of the statutes; relating to: various changes to condominium law.

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

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

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

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

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

or equivalent security interest holder under this subsection.

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

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

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

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

(c) The unit owner or association shall deliver the notice under par. (b) by certified mail to the last-known

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

address of the first mortgagee. If no other address is known to the unit owner or association, the unit owner or association may deliver the notice to the address of the first mortgagee as the address appears on the mortgage or equivalent security instrument and to the address to which the unit owner sends any periodic payments on the first mortgage loan or its equivalent.

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

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

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

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

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

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

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

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

703.13 (7) (c) Plats and plans showing the boundaries and dimensions separating the new units together with their other boundaries and their new identifying numbers or letters shall be prepared. The plats and plans shall be

certified as to their accuracy and compliance with this subsection by a ~~civil engineer, architect, or~~ professional land surveyor.

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

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

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

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

**SECTION 15.** 703.165 (5) (c) of the statutes is amended to read:

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

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

**703.22 (title)** ~~Mechanics'~~ Construction and suppliers' liens.

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

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

**SECTION 25. Initial applicability.**

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

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

(3) DESCRIPTION OF UNITS. The treatment of section 703.12 of the statutes first applies to a deed or other

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instrument affecting title to a unit executed on the effective date of this subsection.

(4) RELOCATION OF BOUNDARIES BETWEEN ADJOINING UNITS; SEPARATION OF UNITS; MERGER OF UNITS. The treatment of section 703.13 (6) (e), (7) (c), and (8) (c) of the statutes first applies to plats and plans certified as to their accuracy and compliance with section 703.13 of the statutes on the effective date of this subsection.

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

(1) RELOCATION OF BOUNDARIES BETWEEN ADJOINING UNITS; SEPARATION OF UNITS; MERGER OF UNITS. The treatment of section 703.13 (6) (e), (7) (c), and (8) (c) of the statutes and SECTION 25 (4) of this act take effect on the first day of the 6th month beginning after publication.

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