

State of Wisconsin



1997 Assembly Bill 537

Date of enactment: **July 1, 1998**
Date of publication*: **July 15, 1998**

1997 WISCONSIN ACT 333

AN ACT *to renumber* 703.02 (1); *to amend* 703.02 (16), 703.07 (1), 703.07 (2), 703.11 (2) (a), 703.11 (3), 703.26 (3) (a), 703.26 (3) (b), 703.275 (1), 703.275 (4) and 703.28 (1); *to repeal and recreate* 703.275 (5); and *to create* 703.02 (1b), 703.02 (1h), 703.02 (6m), 703.02 (14g), 703.095, 703.11 (2) (am), 703.115 and 703.28 (1m) of the statutes; **relating to:** recording requirements for condominium instruments.

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

SECTION 1. 703.02 (1) of the statutes is renumbered 703.02 (1d).

SECTION 2. 703.02 (1b) of the statutes is created to read:

703.02 (1b) "Addendum" means a condominium instrument that modifies a recorded condominium plat.

SECTION 3. 703.02 (1h) of the statutes is created to read:

703.02 (1h) "Amendment" means a condominium instrument that modifies a recorded condominium declaration.

SECTION 4. 703.02 (6m) of the statutes is created to read:

703.02 (6m) "Correction instrument" means an instrument drafted by a licensed land surveyor that complies with the requirements of s. 59.43 (2m) and that, upon recording, corrects an error in a condominium plat. "Correction instrument" does not include an instrument of conveyance.

SECTION 5. 703.02 (14g) of the statutes is created to read:

703.02 (14g) "Removal instrument" means an instrument that complies with the requirements of s. 59.43

(2m) and that removes property from the provisions of this chapter upon recording. "Removal instrument" does not include an instrument of conveyance.

SECTION 6. 703.02 (16) of the statutes is amended to read:

703.02 (16) "Unit number" means the number, ~~letter or combination thereof,~~ identifying a unit in a declaration.

SECTION 7. 703.07 (1) of the statutes is amended to read:

703.07 (1) A condominium may only be created by recording condominium instruments with the register of deeds of the county where the property is located. A condominium declaration and plat shall be presented together to the register of deeds for recording.

SECTION 8. 703.07 (2) of the statutes is amended to read:

703.07 (2) A condominium instrument, and all amendments, addenda and certifications of a condominium instrument, shall be recorded in every county in which any portion of the condominium is located, and shall be indexed in the name of the declarant and the name of the condominium. Subsequent instruments affecting the title to a unit which is physically located entirely within a single county shall be recorded only in that county, notwithstanding the fact that the common ele-

* Section 991.11, WISCONSIN STATUTES 1995-96: 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

ments are not physically located entirely within that county. Subsequent amendments and addenda shall be indexed under the name of the condominium.

SECTION 9. 703.095 of the statutes is created 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 correction instrument if it does not refer to the instrument being corrected and may not record amendments and addenda unless they are numbered consecutively and bear the name of the condominium as it appears in the declaration.

SECTION 10. 703.11 (2) (a) of the statutes is amended to read:

703.11 (2) (a) The name of the condominium and county in which the property is located on each sheet of the plat. The name of the condominium must be unique in the county in which the condominium is located. If there is more than one sheet, each sheet shall be consecutively numbered and show the relation of that sheet number to the total number of sheets.

SECTION 11. 703.11 (2) (am) of the statutes is created to read:

703.11 (2) (am) A blank space at least 2.5 inches by 2.5 inches in size on the first sheet for recording use by the register of deeds.

SECTION 12. 703.11 (3) of the statutes is amended to read:

703.11 (3) DESIGNATION OF UNITS. Every unit shall be designated on the condominium plat by the unit number ~~or other appropriate designation.~~ Unit numbers may not contain more than 8 numerals and must be unique throughout the condominium.

SECTION 13. 703.115 of the statutes is created to read:

703.115 Local review of condominium instruments. (1) A county may adopt an ordinance to require the review of condominium instruments before recording by persons employed by the county of recording or by a city, village or town that is located in whole or in part in the county of recording if the ordinance does all of the following:

(a) Requires the review to be completed within 10 working days after submission of the condominium instrument and provides that, if the review is not completed within this period, the condominium instrument is approved for recording.

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

(c) If the person performing the review approves the condominium instrument, requires the person to certify approval in writing, accompanied by his or her signature and title.

(2) An ordinance adopted under this section may authorize the county to charge a fee that reflects the actual cost of performing the review.

SECTION 15. 703.26 (3) (a) of the statutes is amended to read:

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

SECTION 16. 703.26 (3) (b) of the statutes is amended to read:

703.26 (3) (b) On recording of an amendment of a declaration and an addendum to a plat, each unit owner, by operation of law, has the percentage interests in the common elements, liabilities in the common expenses, rights to common surpluses, and shall have the number of votes, set forth in the amendment to the declaration. Following any expansion, the interest of any mortgagee shall attach, by operation of law, to the new percentage interests in the common elements appurtenant to the unit on which it is a lien.

SECTION 17. 703.275 (1) of the statutes is amended to read:

703.275 (1) AGREEMENT; LEGAL EFFECT. Any 2 or more condominiums, by agreement of the unit owners as provided in this section, may be merged or consolidated into a single condominium. Unless the agreement otherwise provides, the condominium resulting from a merger or consolidation is, for all purposes, the legal successor of all of the preexisting condominiums and the operations and activities of all associations of the preexisting condominiums shall be merged or consolidated into a single association which shall hold all powers, rights, obligations, assets and liabilities of the preexisting associations. The resultant condominium must bear the name of one of the preexisting condominiums.

SECTION 18. 703.275 (4) of the statutes is amended to read:

703.275 (4) VOTES. The merger or consolidation agreement is effective if the agreement is approved by the unit owners of units to which at least ~~80%~~ 75% of the votes in each preexisting association are allocated. If the declaration of a preexisting association specifies that a percentage greater than ~~80%~~ 75% of the votes in that association is required to approve a merger or consolidation agreement, the greater percentage applies to the vote

of that association. A declaration of a preexisting association may specify a smaller percentage and the smaller percentage applies to the vote of that association only if all of the units in the preexisting condominium are restricted exclusively to nonresidential uses.

SECTION 19. 703.275 (5) of the statutes is repealed and recreated to read:

703.275 (5) **RECORDING.** Both a restatement of the declaration of the resultant condominium that includes the merger agreement and an addendum to the condominium plat of the resultant condominium shall be recorded as provided in s. 703.07. The register of deeds shall reference the document number, volume and page of the plat of the resultant condominium on the plat of the preexisting condominium and shall note that the preexisting condominium has been merged.

SECTION 20. 703.28 (1) of the statutes is amended to read:

703.28 (1) All of the unit owners may remove all or any part of the property from the provisions of this chapter by ~~an instrument to that effect~~ a removal instrument, duly recorded, provided that the holders of all liens affecting any of the units consent thereto or agree, in either

case by instruments duly recorded, that their liens be transferred to the percentage of the undivided interest of the unit owner in the property.

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

703.28 (1m) (a) If the merger of 2 or more condominiums under s. 703.275 would result in the creation of a new plat for the resultant condominium, the property of the preexisting condominiums shall first be removed from the provisions of this chapter by recording a removal instrument.

(b) Before a certified survey map, condominium plat, subdivision plat or other plat may be recorded for the same property, the condominium shall first be removed from the provisions of this chapter by recording a removal instrument.

SECTION 22. Initial applicability.

(1) The treatment of section 703.115 of the statutes first applies to condominium instruments submitted for review on the effective date of this subsection.

SECTION 23. Effective date.

(1) This act takes effect on the first day of the 6th month beginning after publication.
