
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 168 [2021 Senate Bill 590]

Requirements Related to Condominium Documents and Technical Changes to Condominium Law

2021 Wisconsin Act 168 makes a number of changes to the laws governing condominiums and condominium documents, including changes to recording requirements, changes to improve clarity and consistency, and technical changes.

CLARIFYING AND MAKING CONSISTENT RECORDING REQUIREMENTS

Act 168 requires that every instrument offered for record related to a condominium other than a plat or an addendum, which is a modification to a plat, satisfy the following requirements:

- Include the name of the condominium as it appears in the declaration.
- Be in the standard format for recorded documents, which for certain documents includes the name of the drafter.
- Include any signatures required by law.
- Be authenticated by an authorized method.
- Be accompanied by the certified written approval of the local reviewer, if the instrument is a condominium instrument or an instrument that modifies a condominium instrument and the relevant county has adopted an ordinance requiring local review.

In addition to the applicable requirements above, the act specifies that a modification or correction to a recorded condominium instrument must satisfy the following requirements:

- Refer to the instrument being modified or corrected, including the modified document's number and, if applicable, the volume and page numbers assigned to the document being modified.
- Be numbered consecutively and state that it is an amendment and restatement of the condominium instrument being modified or corrected.
- Identify all units in the condominium.
- Clearly state the changes being made.

The act also makes the following miscellaneous changes to rules relating to recording requirements:

- Requires that a condominium instrument and related instruments be indexed in the grantor's and grantee's names and in the description of the condominium property that is located in the relevant county. Prior law required indexing in the name of the declarant and the name of the condominium.
- Requires that a recorded condominium plat include a survey that includes, among other preexisting requirements, a clear and concise description of the surveyed property.

- Specifies that a modification to a condominium plat is effective when it is recorded in the same manner as other condominium instruments.
- Updates the reasons a condominium instrument may be rejected by a county that requires local review of instruments before recording.
- Updates the information required for an acceptable description of a unit in a deed or other instrument affecting title.
- Provides that an instrument executing the separation of units is effective when, in addition to being executed, it is recorded in the separator's name.
- Specifies that an executed statutory reserve account statement must include the name of the drafter, bear the appropriate signatures, and be properly authenticated to be recorded.

CHANGES TO ACCESS TO BYLAWS

Act 168 requires that the association promptly deliver to each unit a copy of an approved amendment to the bylaws.

CLARIFYING LAW RELATING TO EXPANSION CONDOMINIUMS

Act 168 reorganizes and clarifies the requirements for a declaration that establishes a condominium that reserves the right to expand to additional property.

The act specifies that the property included in a reservation of the right to expand is not subject to the condominium declaration and not part of the condominium until the property is properly added to the condominium.

CHANGES TO REQUIREMENTS TO MERGE CONDOMINIUMS

Act 168 reorganizes and clarifies the recording requirements and recording process when creating a resultant condominium after a merger or consolidation. The act includes the following changes:

- Requires the register of deeds to make reference to document numbers in the tract index for counties that maintain a tract index.
- Specifies that a removal instrument is not required when filing a survey map or plat as a part of a condominium merger or consolidation.

MISCELLANEOUS CHANGES

State law provides alternative procedures for a small condominium, which is a condominium with no more than 12 units. Under these procedures, an agreement between the condominium owners may be used instead of bylaws to govern the small condominium. Act 168 lowers the vote threshold required to make an amendment to this agreement from unanimous to 75 percent.

Act 168 also includes the following changes:

- Specifies that an "amendment" includes a modification to a recorded condominium declaration that relocates unit boundaries, separates or merges units, or merges or consolidates a condominium.
- Specifies that the amendment processes related to the separation and merging of units are an exception to the general condominium declaration amendment process.

- Defines “deliver” as including delivery by hand, U.S. mail, commercial delivery, facsimile transmission, or electronic means.
- Specifies that a correction instrument may only be used to correct a scrivener error on a condominium plat, including erroneous distances, angles, directions, bearings, chords, building or unit numbers, and street names.
- Specifies that “appurtenance number” is no longer required in the legal description of a condominium.
- Improves consistency in language relating to amendments, addendums, and modifications.

Effective date: October 1, 2022

PW:ksm