

State of Wisconsin



2021 Senate Bill 561

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2021 WISCONSIN ACT 166

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

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

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

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

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

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

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

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

~~it the association~~ is organized, the membership of the association shall at all times consist exclusively of all of the unit owners.

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

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

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

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

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

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

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

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

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

* 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."

703.20 (1) (b) *Financial records.* (intro.) An ~~Except as provided under par. (c), an association shall keep detailed, maintain appropriate financial records for at least 6 years, including all of the following:~~

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

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

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

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

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

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

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

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

3. Financial statements.

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

5. Income and expense statements.

6. Insurance policies issued within the past 6 years.

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

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

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

SECTION 10m. 703.20 (1) (c) of the statutes is created to read:

703.20 (1) (c) *Exception; records of initial construction.* An association is not required under par. (b) to maintain any financial records related to the declarant's initial construction of the common elements during the period of declarant control under s. 703.15 (2) (c) if the costs of the initial construction are not assessed against unit owners as common expenses and no contract related to the initial construction is made by or on behalf of the association.

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

703.20 (1g) **INSPECTION AND COPYING OF RECORDS BY UNIT OWNERS.** (a) A unit owner may inspect and copy, at a reasonable time and location specified by the association, any of the records of the association described under sub. (1) created within the past 6 years and any records of the association described under sub. (1) (a) 3. and (b) 7. regardless of when those records were created. A unit owner may select the date for the inspection and copying by providing the association written notice of the selected date at least 10 business days before the selected date if the selected date is a business day or other day agreed to by the association.

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

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

2. Personnel records of the association.

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

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

5. A financial record described under sub. (1) (c).

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

(d) An association may impose a reasonable charge for copies of any records the association provides to a unit owner under par. (a). The association may charge the unit owner for the costs of labor and materials used to provide the copies but may not charge an amount that exceeds the estimated cost of production or reproduction of the copies or \$150, whichever is less.

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

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

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

1. The site is any of the following:

a. Wholly owned and operated by the large association.

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

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

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

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

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

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

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

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

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

703.20 (3) DECLARANT RESPONSIBILITIES FOR RECORDS; FINANCIAL AUDITS. During the period of declarant control under s. 703.15 (2) (c), the declarant is responsible for creating and maintaining the ~~financial and operational~~ records of the association ~~described under sub. (1)~~ and shall turn the records over to the directors elected under s. 703.15 (2) (f). During the period of declarant control under s. 703.15 (2) (c) and for one year thereafter, upon written request to the association by the lesser of 3 unit owners or the owners of 10 percent of the units, not including units owned by the declarant, the association shall arrange for an independent audit of its ~~the associa-~~

~~tion's~~ financial records at the association's expense. ~~The cost of any~~ If unit owners request an audit requested within 36 months after the completion of a previous audit shall be paid for by, the requesting unit owners shall pay the cost of the audit.

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

703.20 (4) FINANCIAL AUDITS AFTER EXPIRATION OF DECLARANT CONTROL. Beginning one year after the expiration of any period of declarant control under s. 703.15 (2) (c), upon written request to the association by a majority of unit owners, the association shall arrange for an independent audit of the association's financial records at the association's expense. If unit owners request an audit within 36 months after the completion of a previous audit under this subsection or sub. (3), the requesting unit owners shall pay the cost of the audit.

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

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

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

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

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

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

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

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

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

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

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

703.33 (title) Disclosure requirements in connection with sale of unit.