

2018 CONDOMINIUM STATUTE AMENDMENTS

What Every Condominium Association Must Do

Amend its Executive Summary to:

1. State the date it was last prepared or revised. Sec. [703.33\(1\)](#) Wis. Stat.
2. Disclose the amount of the reserve balance as of the last date it was prepared or revised. Sec. [703.33\(1\)\(h\)\(11\)](#) Wis. Stat.
3. State whether the association has a first right to purchase the unit. Sec. [703.33\(1\)\(h\)\(13\)](#) Wis. Stat.
4. State whether the association charges a fee in connection with a transfer of ownership of the unit and, if a fee is charged, the amount of the fee. Sec. [703.33\(1\)\(h\)\(14\)](#) Wis. Stat.
5. State whether the association charges a fee for providing the disclosure materials required by Sec. 703.33 Wis. Stat. and, if a fee is charged, the amount of the fee. Sec. [703.33\(1\)\(h\)\(15\)](#) Wis. Stat.
6. State whether the association charges a fee for providing a payoff statement under Sec. [703.335](#) Wis. Stat., and, if a fee is charged, the amount of the fee. Sec. [703.33\(1\)\(h\)\(16\)](#) Wis. Stat.

Be aware that: - Sec. [703.335](#) Wis. Stat. – was also added to the statutes setting forth the procedure for someone to request a payoff statement.

- a. Sec. [703.33\(1\)](#) Wis. Stat. Upon request, the payoff statement must be provided within 10 business days without charge, unless it establishes the fee under the process set forth in Sec. [703.205](#) Wis. Stat.
- b. *Failing to provide the payoff statement within the deadline will cause the association to be liable for any actual damages or \$350, whichever is less.*

Nuts and Bolts of Complying

1. Amend your Executive Summary now;
2. Determine as a Board whether you are currently seeking or collecting fees beyond those allowed under the statute:
 - a. Sec. [703.20](#) Wis. Stat. – now limits the amount an association can charge for the Sec. [703.33](#) Wis. Stat. disclosure requirements to the lesser of the actual costs or \$50, unless the process under Sec. [703.205](#) Wis. Stat. is followed.
 - b. Sec. [703.335\(4\)\(a\)](#) Wis. Stat. – prohibits an association from charging for an initial payoff statement, and allows a charge of up to \$25 for a second payoff statement in a 2-month period.
 - c. There is no statutory limit on the amount an association can charge for:
 - i. A transfer fee; or
 - ii. An administrative fee.
Provided these are not just disguised prohibited fees under either (a) or (b).
3. If you charge or intend to charge fees greater than that allowed by either Sec. [703.20](#) Wis. Stat. or Sec. [703.335\(4\)\(a\)](#) Wis. Stat., then your association must do all of the following based on the procedure set forth in Sec. [703.205](#) Wis. Stat.:
 - a. Provide written notice to the unit owners at least 48 hours before any unit owner meeting to consider any of the following:
 - i. Establishing or increasing the fee;
 - ii. Entering into or modifying a management contract that does any of the following:
 1. Allows the manager to begin charging the fee; or
 2. If the manager already charges the fee, allows the manager to increase the amount of the fee.
 - iii. Adopting a written resolution at a unit owner meeting to take the actions above.
 - iv. Keep in Mind. Most associations require 10 days written notice of a unit owner meeting (See, Sec. [703.15\(4\)\(c\)](#) Wis. Stat.), a quorum of the unit owners present in person or by proxy and an affirmative vote of the majority of the unit owners present.
 - b. Provide written notice to all unit owners of the resolution within 48 hours of its adoption.

Best Practices

1. Consider hiring an attorney to amend your Executive Summary the first time, as this is not the time to make a mistake;
2. Determine what fees and the amounts your board believes is appropriate for your association and then determine how to legally make those applicable.
3. Be sure to timely respond to payoff requests (within 10 business days).
4. Consider amending your Declaration to clean up outdated language or unenforceable provisions, since Sec. [703.09\(2m\)](#) Wis. Stat. also became law on April 18, 2018, which allows a unit or the association to obtain first mortgagee approval to a declaration amendment if the bank fails to respond, provided the association complied with the act. In essence, the act requires written notice to the bank, delivered by certified mail, that includes all of the following:
 - a) A copy of the proposed amendment;
 - b) A request for approval or disapproval;
 - c) A form upon which the mortgagee may indicate approval or disapproval; and
 - d) A statement that if the mortgagee fails to return the form or otherwise disapprove within 60 days from the date of the mailing of the notice, the first mortgagee will be considered to have given its consent to the amendment.

Other Stuff

Please let us know if you have any questions or if anything included above is not clear. We would be happy to help.

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