

CHAPTER 711 CONDOMINIUM ACT

711.01	Short title.	711.13	Maintenance; limitation upon improvement.
711.02	Purpose; cumulative.	711.14	Common expenses and common surplus.
711.03	Definitions.	711.15	Assessments; liability; lien and priority; interest; collection.
711.04	Condominium parcels; appurtenances; possession and enjoyment.	711.16	Termination.
711.05	Restraint upon separation and partition of common elements.	711.17	Equitable relief.
711.06	Common elements.	711.18	Limitation of liability.
711.07	Legal description of condominium parcels.	711.19	Separate taxation of condominium parcels; survival of declaration after tax sale.
711.08	Creation of condominiums; contents of declaration.	711.20	Liens.
711.09	Recording of declaration.	711.21	Zoning and building.
711.10	Amendment of declaration.	711.22	Authority to regulate.
711.11	Bylaws.	711.23	Remedies for violation.
711.12	The association.		
711.121	Associations to acquire and enter into agreements.		

711.01 Short title.—This law shall be known and may be cited as the condominium act.

History.—§1, ch. 63-35.

711.02 Purpose; cumulative.—The purpose of this law is to give statutory recognition to the condominium form of ownership of real property. It shall not be construed as repealing or amending any law now in effect except those in conflict herewith, and any such conflicting law shall be affected only insofar as they apply to condominiums.

History.—§2, ch. 63-35.

711.03 Definitions.—As used in this law:

(1) Assessment means a share of the funds required for the payment of common expenses which from time to time is assessed against the unit owner.

(2) Association means the entity responsible for the operation of a condominium.

(3) Bylaws mean the bylaws for the government of the condominium as they exist from time to time.

(4) Common elements means the portions of the condominium property not included in the units.

(5) Common expenses means the expenses for which the unit owners are liable to the association.

(6) Common surplus means the excess of all receipts of the association, including but not limited to assessments, rents, profits and revenues on account of the common elements, over the amount of common expenses.

(7) Condominium is that form of ownership of condominium property under which units of improvements are subject to ownership by one or more owners, and there is appurtenant to each unit as part thereof an undivided share in the common elements.

(8) Condominium parcel means a unit together with the undivided share in the common elements which is appurtenant to the unit.

(9) Condominium property means and includes the land in a condominium, whether or not contiguous, and all improvements thereon

and all easements and rights appurtenant thereto intended for use in connection with the condominium.

(10) Declaration, or declaration of condominium, means the instrument or instruments by which a condominium is created, and such instrument or instruments as they are from time to time amended.

(11) Limited common elements means and includes those common elements which are reserved for the use of a certain unit or units to the exclusion of other units.

(12) Operation, or operation of the condominium, means and includes the administration and management of the condominium property.

(13) Unit means a part of the condominium property which is to be subject to private ownership.

(14) Unit owner or owner of a unit means the owner of a condominium parcel.

History.—§3, ch. 63-35; (7) §1, ch. 65-387.

711.04 Condominium parcels; appurtenances; possession and enjoyment.—

(1) A condominium parcel is a separate parcel of real property, the ownership of which may be in fee simple, or any other estate in real property recognized by law.

(2) There shall pass with a unit as appurtenances thereto:

(a) An undivided share in the common elements.

(b) The exclusive right to use such portion of the common elements as may be provided by the declaration.

(c) An exclusive easement for the use of the air space occupied by the unit as it exists at any particular time and as the unit may lawfully be altered or reconstructed from time to time, which easement shall be terminated automatically in any air space which is vacated from time to time.

(d) An undivided share in the common surplus.

(e) Such other appurtenances as may be provided in the declaration.

(3) The owner of a unit is entitled to the exclusive possession of his unit. He shall be entitled to use the common elements in accordance with the purposes for which they are intended, but no such use shall hinder or encroach upon the lawful rights of owners of other units.

History.—§4, ch. 63-35.

711.05 Restraint upon separation and partition of common elements.—

(1) The undivided share in the common elements which is appurtenant to a unit shall not be separated therefrom and shall pass with the title to the unit whether or not separately described.

(2) A share in the common elements appurtenant to a unit cannot be conveyed or encumbered except together with the unit.

(3) The shares in the common elements appurtenant to units shall remain undivided, and no action for partition of the common elements shall lie.

History.—§5, ch. 63-35.

711.06 Common elements.—

(1) Common elements includes within its meaning the following items:

(a) The land on which the improvements are located and any other land included in the condominium property whether or not contiguous.

(b) All parts of the improvements which are not included within the units.

(c) Easements through units for conduits, ducts, plumbing, wiring and other facilities for the furnishing of utility services to units and the common elements.

(d) An easement of support in every portion of a unit which contributes to the support of a building.

(e) Installations for the furnishing of utility services to more than one unit or to the common elements or to a unit other than the unit containing the installation.

(f) The property and installations in connection therewith required for the furnishing of services to more than one unit or to the common elements.

(2) The declaration may designate other parts of the condominium property as common elements.

History.—§6, ch. 63-35.

711.07 Legal description of condominium parcels.—Following the recording of the declaration, a description of a condominium parcel by the number or other designation by which the unit is identified in the declaration together with the recording data identifying the declaration shall be a sufficient legal description for all purposes. Such a description shall include all appurtenances to the unit concerned whether or not separately described, including but not limited to the undivided share in the common elements appurtenant thereto.

History.—§7, ch. 63-35.

711.08 Creation of condominiums; contents of declaration.—

(1) A condominium may be created by re-

cording in the public records of the county wherein the land to be included is located a declaration executed with the formalities of a deed by all persons having title of record to such land, which declaration shall contain or provide for the following matters:

(a) A statement submitting the condominium property to condominium ownership.

(b) The name by which the condominium is to be identified, which name shall include the word condominium or be followed by the words a condominium.

(c) Legal description of the land included.

(d) An identification of each unit by letter, name, or number, or combination thereof, so that no unit bears the same designation as any other unit.

(e) Survey of the land and a graphic description of the improvements in which units are located and a plot plan thereof which together with the declaration are in sufficient detail to identify the common elements and each unit and their relative locations and approximate dimensions. Such survey, plot plan and description may be in the form of exhibits consisting of building plans, floor plans, maps, sketches, surveys or other means, provided that there shall be included or attached a certificate or certificates of an architect, engineer or surveyor authorized to practice in this state that such material, together with the wording of the declaration, is a correct representation of the improvements described, and that there can be determined therefrom the identification, location, dimensions and size of the common elements and of each unit.

(f) The undivided shares, stated as percentages or fractions, in the common elements which are appurtenant to each of the units.

(g) The proportions or percentages and manner of sharing common expenses and owning common surplus.

(h) Voting rights of owners of units.

(i) Method of amendment of declaration.

(j) Bylaws.

(k) The name of the association and whether or not it is incorporated. If the association is not incorporated, the name and residence address of the person designated as agent to receive service of process upon the association. Such agent must be a resident of the state.

(1) Such other provisions not inconsistent with this law as may be desired, including but not limited to those relating to amendment of the declaration, values of the condominium property and of each unit or condominium parcel, statement of purpose for which condominium property and units are intended, designation of limited common elements, responsibility for maintenance and repair of units, insuring of the condominium property against loss and the owners and association against liability, reconstruction or repair after casualty and votes required in connection therewith, use restrictions, limitation upon conveyance, sale, leasing, purchase, ownership and occupancy of units, termination of the condominium.

(2) The declaration provided by subsection

(1), may include such covenants and restrictions concerning the use, occupancy and transfer of the units as are permitted by law with reference to real property; provided, however, that the rule of property known as the rule against perpetuities shall not be applied to defeat a right given any person or entity by the declaration for the purpose of allowing unit owners to retain reasonable control over the use, occupancy and transfer of units.

(3) All valid provisions of the declaration shall be enforceable equitable servitudes and shall run with the land and shall be effective until the declaration is revoked.

History.—§8, ch. 63-35; (2) §2, ch. 65-387.

711.09 Recording of declaration.—

(1) When duly executed with the formalities required for the execution of a deed, a declaration together with all exhibits thereto and all amendments thereof shall be entitled to record according to law as an agreement relating to the conveyance of land and when recorded in the public records of the county where the land described in the declaration is located shall constitute constructive notice to creditors, subsequent purchasers and all other persons.

(2) Graphic descriptions of improvements constituting exhibits to a declaration, when accompanied by the certificate of an architect, engineer or surveyor elsewhere required, shall be recorded as a part of a declaration without approval of any public body or officer.

(3) The clerk of the circuit court recording the declaration may for his convenience file or record the exhibits of a declaration in a separate book and shall indicate the place of filing or recording upon the margin of the record of the declaration.

History.—§9, ch. 63-35; (3) §3, ch. 65-387.

711.10 Amendment of declaration.—

(1) An amendment of a declaration shall become effective when recorded according to law.

(2) An amendment shall be evidenced by a certificate executed with formalities of a deed and shall include the recording data identifying the declaration.

(3) Unless otherwise provided in the declaration as originally recorded, no amendment shall change any condominium parcel unless the record owner thereof and all record owners of liens thereon shall join in the execution of the amendment.

(4) Notwithstanding any other provision of this act or the declaration, the designation of the agent for the service of process named in the declaration may be changed from time to time by an instrument executed by the association with the formalities required for the execution of a deed and recorded among the public records of the county in which the condominium property is located.

History.—§10, ch. 63-35.

711.11 Bylaws.—

(1) The operation of the condominium property shall be governed by bylaws, which shall be set forth in or annexed to the declaration.

No modification of or amendment to the bylaws shall be valid unless set forth in or annexed to a duly recorded amendment to the declaration.

(2) The bylaws shall provide for the following:

(a) The form of administration, indicating the title of the officers and board of administration, if any, and specifying the powers, duties, manner of selection and removal, and compensation, if any, of officers and boards.

(b) Method of calling or summoning unit owners to assemble at meetings; the percentage of unit owners or voting rights required to make decisions, and to constitute a quorum. The foregoing requirements as to meetings are not to be construed, however, to prevent unit owners from waiving notice of meetings or from acting by written agreement without meetings, if so provided in the bylaws, the declaration or this law.

(c) Manner of collecting from the unit owners their shares of the common expenses.

(d) The method by which the bylaws may be amended consistent with the provisions of this law.

(3) The bylaws may provide for the following:

(a) Method of adopting and of amending administrative rules and regulations governing the details of the operation and use of the common elements.

(b) Such restrictions on and requirements respecting the use and maintenance of the units and the use of the common elements, not set forth in the declaration, as are designed to prevent unreasonable interference with the use of the units and common elements.

(c) Such other provisions not inconsistent with this law or with the declaration as may be desired.

History.—§11, ch. 63-35.

711.12 The association.—

(1) The operation of the condominium shall be by the association, the name of which shall be stated in the declaration. The declaration may require the association to be organized as a particular entity, such as but not limited to a corporation for profit or corporation not for profit, in which the owners of units shall be stockholders or members.

(2) The association, whether or not incorporated, shall be an entity which shall act through its officers and shall have the capability of contracting, bringing suit and being sued. If not incorporated the association shall be deemed to be an entity existing pursuant to this act and shall have power to execute contracts, deeds, mortgages, leases and other instruments by its officers. Service of process upon the association if not incorporated may be had by serving any officer of the association or by serving the agent designated for service of process. Service of process upon the association shall not constitute service of process upon any unit owner.

(3) No unit owner, except as an officer of

the association, shall have any authority to act for the association.

(4) Unless limited by the declaration the powers and duties of the association shall include those set forth in this law. The powers and duties of the association shall include also those set forth in the declaration and bylaws.

(5) The association shall have the irrevocable right to have access to each unit from time to time during reasonable hours as may be necessary for the maintenance, repair or replacement of any common elements therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the common elements or to another unit or units.

(6) The association shall have the power to make and collect assessments, and to lease, maintain, repair and replace the common elements.

(7) The association shall maintain accounting records according to good accounting practices which shall be open to inspection by unit owners at reasonable times. Such records shall include:

(a) A record of all receipts and expenditures.

(b) An account for each unit which shall designate the name and address of the unit owner, the amount of each assessment, the dates and amounts in which the assessment come due, the amounts paid upon the account and the balance due.

(8) The association, whether or not incorporated, shall have the power unless prohibited by the declaration of condominium, articles of incorporation, or bylaws of the association, to purchase units in the condominium and to acquire and hold, lease, mortgage and convey the same.

History.—§12, ch. 63-35; (2) §4, (8) n. §5, ch. 65-387.

711.121 Associations to acquire and enter into agreements.—In addition to any other provisions of this chapter, an association may acquire and enter into agreements whereby it acquires leaseholds, memberships and other possessory or use interests in lands or facilities including but not limited to country clubs, golf courses, marinas and other recreational facilities, whether or not contiguous to the lands of the condominium, intended to provide for the enjoyment, recreation or other use or benefit of the unit owners. All of such leaseholds, memberships and other possessory or use interests existing or brought into existence at the time of recording the declaration shall be set forth and fully described therein. Subsequent to the recording of the declaration, the association may not acquire or enter into agreements acquiring such leaseholds, memberships or other possessory or use interests except as authorized by the declaration and bylaws. The declaration and bylaws may declare the expenses of rental, membership fees, operations, replacements and other undertakings in connection therewith to be common expenses and may include covenants and restrictions con-

cerning the use of the same by the unit owners and such other provisions not inconsistent with this law as may be desired.

History.—§1, ch. 65-9.

711.13 Maintenance; limitation upon improvement.—

(1) The maintenance of the common elements shall be the responsibility of the association.

(2) There shall be no material alteration or substantial additions to the common elements except in a manner provided in the declaration.

(3) No unit owner shall make any alterations in the portions of the improvements of a condominium which are to be maintained by the association or remove any portion thereof, or make any additions thereto, or do any work which would jeopardize the safety or soundness of the building containing his unit or impair any easement.

History.—§13, ch. 63-35.

711.14 Common expenses and common surplus.—

(1) Common expenses shall include the expenses of the operation, maintenance, repair, or replacement of the common elements, costs of carrying out the powers and duties of the association and any other expense designated as common expense by this law, the declaration or the bylaws.

(2) Funds for the payment of common expenses shall be assessed against unit owners in the proportions or percentages of sharing common expenses provided in the declaration.

(3) The common surplus shall be owned by unit owners in the shares provided in the declaration.

History.—§14, ch. 63-35.

711.15 Assessments; liability; lien and priority; interest; collection.—

(1) A unit owner, regardless of how title is acquired, including without limitation a purchaser at a judicial sale, shall be liable for all assessments coming due while he is the owner of a unit. In a voluntary conveyance the grantee shall be jointly and severally liable with the grantor for all unpaid assessments against the latter for his share of the common expenses up to the time of such voluntary conveyance, without prejudice to the rights of the grantee to recover from the grantor the amounts paid by the grantee therefor.

(2) The liability for assessments may not be avoided by waiver of the use or enjoyment of any common elements or by abandonment of the unit for which the assessments are made.

(3) Assessments and installments thereon not paid when due shall bear interest from the date when due until paid at the rate provided in the declaration, not to exceed the rate allowed by law, and if no rate is provided then at the legal rate.

(4) The association shall have a lien on each condominium parcel for any unpaid assessments, and interest thereon, against the unit owner of such condominium parcel. If author-

ized by the declaration said lien shall also secure reasonable attorney's fees incurred by the association incident to the collection of such assessment or enforcement of such lien. Said lien shall be effective from and after the time of recording in the public records in the county in which the condominium parcel is located of a claim of lien stating the description of the condominium parcel, the name of the record owner, the amount due and the date when due, and the lien shall continue in effect until all sums secured by the lien shall have been fully paid. Such claims of liens shall include only assessments which are due and payable when the claim of lien is recorded. Such claims of liens shall be signed and verified by an officer or agent of the association and shall then be entitled to be recorded. Upon full payment the party making payment shall be entitled to a recordable satisfaction of the lien. All such liens shall be subordinate to the lien of a mortgage or other lien recorded prior to the time of recording of the claim of lien.

(5) Liens for assessments may be foreclosed by suit brought in the name of the association in like manner as a foreclosure of a mortgage on real property. In any such foreclosure the unit owner shall be required to pay a reasonable rental for the condominium parcel, if so provided in the declaration or bylaws, and the plaintiff in such foreclosure shall be entitled to the appointment of a receiver to collect the same. The association shall have the power, unless prohibited by the declaration or bylaws, to bid in the condominium parcel at foreclosure sale, and to acquire and hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid assessments may be maintained without waiving the lien securing the same.

(6) Where the mortgagee of a first mortgage of record or other purchaser of a condominium unit obtains title to the condominium parcel as a result of foreclosure of the first mortgage, such acquirer of title, his successors and assigns, shall not be liable for the share of common expenses or assessments by the association pertaining to such condominium parcel or chargeable to the former unit owner of such parcel which became due prior to acquisition of title as a result of the foreclosure. Such unpaid share of common expenses or assessments shall be deemed to be common expenses collectible from all of the unit owners including such acquirer, his successors and assigns.

(7) Any unit owner shall have the right to require from the association a certificate showing the amount of unpaid assessments against him with respect to his condominium parcel. The holder of a mortgage or other lien shall have the same right as to any condominium parcel upon which he has a lien. Any person other than the owner who relies upon such certificate shall be protected thereby.

History.—§15, ch. 63-35; (6) §6, ch. 65-387.

711.16 Termination.—

(1) All of the unit owners may remove the

condominium property from the provisions of this law by an instrument to that effect, duly recorded, provided that the holders of all liens affecting any of the condominium parcels consent thereto or agree, in either case by instruments duly recorded, that their liens be transferred to the undivided share of the unit owner in the property as hereinafter provided.

(2) Upon removal of the condominium property from the provisions of this law, the condominium property shall be deemed to be owned in common by the unit owners. Unless otherwise provided in the declaration, the undivided share in the property owned in common by each unit owner shall be the undivided share previously owned by such owner in the common elements.

(3) The condominium may be terminated in such other manner as may be prescribed in the declaration. After termination of a condominium in any manner, the liens upon condominium parcels shall be upon the respective undivided shares of the owners as tenants in common.

(4) The termination of a condominium shall not bar the creation of another condominium affecting the same property.

History.—§16, ch. 63-35; (1)-(3) §7, ch. 65-387.

711.17 Equitable relief.—In the event of substantial damage to or destruction of all or a substantial part of the condominium property, and in the event the property is not repaired, reconstructed, or rebuilt within a reasonable period of time, any unit owner shall have the right to petition a court of equity having jurisdiction in and for the county where the condominium property is located for equitable relief, which may, but need not necessarily, include a termination of the condominium and a partition.

History.—§17, ch. 63-35.

711.18 Limitation of liability.—

(1) The liability of the owner of a unit for common expenses shall be limited to the amounts for which he is assessed from time to time in accordance with this law, the declaration and bylaws.

(2) The owner of a unit shall have no personal liability for any damages caused by the association on or in connection with the use of the common elements. A unit owner shall be liable for injuries or damages resulting from an accident in his own unit to the same extent and degree that the owner of a house would be liable for an accident occurring within his house.

History.—§18, ch. 63-35.

711.19 Separate taxation of condominium parcels; survival of declaration after tax sale.—

(1) Property taxes and special assessments assessed by municipalities, counties and other taxing authorities shall be assessed against and collected on the condominium parcels and not upon the condominium property as a whole. Each condominium parcel shall be separately assessed for ad valorem taxes and special assessments as a single parcel. The taxes and special assessments levied against each condominium parcel shall constitute a lien only upon

such condominium parcel so assessed and upon no other portion of the condominium property.

(2) All provisions of a declaration relating to a condominium parcel which has been sold for taxes or special assessments shall survive and be enforceable after the issuance of a tax deed or master's deed upon foreclosure of an assessment, certificate or lien, a tax deed, tax certificate, or tax lien, to the same extent that they would be enforceable against a voluntary grantee, immediate, mediate, or remote, of the owner of the title immediately prior to the delivery of the tax deed or master's deed.

(3) Nothing contained in this act shall be construed to alter, amend, or expand the laws governing exemption of homesteads from taxation. It is the specific intent of the legislature that the aggregate of all of the homestead exemptions from taxation in any one building shall not exceed the sum of five thousand dollars irrespective of the number of units contained therein.

History.—§19, ch. 63-35.

711.20 Liens.—

(1) Subsequent to recording the declaration and while the property remains subject to the declaration, no liens of any nature shall thereafter arise or be created against the condominium property as a whole except with the unanimous consent of the unit owners. During such period liens may arise or be created only against the several condominium parcels.

(2) Labor performed or materials furnished to a unit shall not be the basis for the filing of a lien pursuant to the mechanics' lien law against the unit or condominium parcel of any unit owner not expressly consenting to or requesting the same. No labor performed or materials furnished to the common elements shall be the basis for a lien thereon, but if duly authorized by the association such labor or materials shall be deemed to be performed or furnished with the express consent of each unit owner and shall be the basis for the filing of a lien against all condominium parcels in the proportions for which the owners thereof are liable for common expenses.

(3) In the event a lien against two or more condominium parcels becomes effective each owner thereof may relieve his condominium parcel of the lien by payment of the proportionate amount attributable to his condominium parcel. Upon such payment it shall be the duty of the

lienor to release the lien of record for such condominium parcel.

(4) Service or delivery of notices, papers or copies thereof permitted or required under the mechanics lien law for or incident to the perfection or enforcement of liens arising from labor or materials furnished to the common elements, duly authorized by the association, may be effected by service on or delivery to the association. Suits to foreclose or otherwise enforce liens arising from labor or materials furnished to the common elements may be brought against the association and the owners of units shall not be deemed necessary parties to such suits.

History.—§20, ch. 63-35.
cf.—§§713.01-713.36 Part I, Mechanics' Lien Law.

711.21 Zoning and building.—All laws, ordinances and regulations concerning buildings or zoning shall be construed and applied with reference to the nature and use of such property without regard to the form of ownership. No law, ordinance or regulation shall establish any requirement concerning the use or location, placement or construction of buildings or other improvements which are, or may thereafter be subjected to the condominium form of ownership, unless such requirement shall be equally applicable to all buildings and improvements of the same kind not then or thereafter to be subjected to the condominium form of ownership.

History.—§21, ch. 63-35; §8, ch. 65-387.

711.22 Authority to regulate.—Buildings included in a condominium property shall be subject to the authority, regulation or control of the Florida hotel and restaurant commission only to the extent provided in chapter 509. Such buildings not subject to the authority, regulation or control of the Florida hotel and restaurant commission under chapter 509 shall be subject to the provisions of chapter 399 with respect to elevators.

History.—§22, ch. 63-35.

711.23 Remedies for violation.—Each unit owner shall be governed by and shall comply with this law and the declaration and bylaws as they may exist from time to time. Failure to do so shall entitle the association or any other unit owner to recover sums due for damages or injunctive relief or both. Such actions may be maintained by the association or in a proper case by an aggrieved unit owner. Such relief shall not be exclusive of other remedies provided by law.

History.—§23, ch. 63-35.