CHAPTER 499B
HORIZONTAL PROPERTY (CONDOMINIUMS)

Referred to in §354.9, 425.11, 427A.1, 535B.1, 572.1, 572.31, 669.14

499B.1 Short title.
This chapter shall be known as the “Horizontal Property Act”.
[C66, 71, 73, 75, 77, 79, 81, §499B.1]

499B.2 Definitions.
Unless it is plainly evident from the context that a different meaning is intended, as used in this chapter:

1. “Apartment” means one or more rooms occupying all or a part of a floor or floors in a building of one or more floors or stories and notwithstanding whether the apartment be intended for use or used as a residence, office, for the operation of any industry or business or for any other use not prohibited by law.

2. “Building” means and includes one or more buildings, whether attached to one or more buildings or unattached; provided, however, that if there is more than one building, all such buildings shall be described and included in the declaration, or an amendment thereto, and comprise an integral part of a single horizontal property regime.

3. “Co-owner” means a person, corporation, or other legal entity capable of holding or owning any interest in real property who owns all or an interest in an apartment within the building.

4. “Council of co-owners” means all the co-owners of the building. The business and affairs of the council of co-owners may be conducted by organizing a corporation not for pecuniary profit of which the co-owners are members.

5. “General common elements”, unless otherwise provided in the declaration or lawful amendments thereto, means and includes:

   a. The land on which the building is erected.
   b. The foundations, basements, floors, exterior walls of each apartment and of the building, ceilings and roofs, halls, lobbies, stairways, and entrances and exits or communication ways, elevators, garbage incinerators and in general all devices or installations existing for common use.
   c. Compartments or installations of central services for public utilities, common heating and refrigeration units, reservoirs, water tanks and pumps servicing other than one apartment.
   d. Premises for lodging of service personnel engaged in performing services other than services within a single apartment.
6. “Limited common elements” means and includes those common elements which are specified in or determined under the declaration to be reserved for the use of one or more apartments to the exclusion of the other apartments, such as special corridors, stairways and elevators, sanitary services common to the apartments of a particular floor, and the like.

7. “Majority of co-owners” or “percent of co-owners” means the owners of more than one-half or owners of that percent of interest in the building irrespective of the total number of co-owners.

8. “Property” includes the land whether committed to the horizontal property regime in fee or as a leasehold interest, the building, all other improvements located thereon, and all easements, rights and appurtenances belonging thereto.

9. All pronouns used herein include the male, female and neuter genders and include the singular or plural numbers, as the case may be.

[C66, 71, 73, 75, 77, 79, 81, §499B.2]

2016 Acts, ch 1073, §140
Referred to in §103.22, 103.23

499B.3 Recording of declaration to submit property to regime.

1. When the sole owner or all of the owners, or the sole lessee or all of the lessees of a lease desire to submit a parcel of real property upon which a building is located or to be constructed to the horizontal property regime established by this chapter, a declaration to that effect shall be executed and acknowledged by the sole owner or lessee or all of such owners or lessees and shall be recorded in the office of the county recorder of the county in which such property lies. The county recorder shall collect recording fees pursuant to section 331.604.

2. If the declaration is to convert an existing structure, the declarant shall file the declaration of the horizontal property regime with the city in which the regime is located or with the county if not located within a city at least sixty days before being recorded in the office of the county recorder to enable the city or county, as applicable, to establish that the converted structure meets appropriate building code requirements as provided in section 499B.20. However, if the city or county, as applicable, does not have a building code, the declarant shall file the declaration with the state building code commissioner instead of the applicable city or county at least sixty days before the recording of the declaration to enable the commissioner to establish that the converted structure meets the state building code, as adopted pursuant to section 103A.7.

3. A declaration under this section for a horizontal property regime proposed to be located within an area of review established by a city under section 354.9 shall, in addition to being submitted to the county, be submitted to the city for review and approval.

[C66, 71, 73, 75, 77, 79, 81, §499B.3]

Referred to in §499B.4, 499B.12

499B.4 Contents of declaration.

The declaration provided for in section 499B.3 shall contain:

1. A description of the land.

2. A description of the building, stating the number of stories and basements, the number of apartments and the principal materials of which it is or is to be constructed.

3. The apartment number of each apartment, and a statement of its location, approximate area, number of rooms, an immediate common area to which it has access, and any other data necessary for its proper identification.

4. A description of the general common elements and facilities.

5. A description of the limited common elements and facilities, if any, stating to which apartments their use is reserved.

6. The fractional or percentage interest which each apartment bears to the entire horizontal property regime. The sum of such shall be one if expressed in fractions and one hundred if expressed in percentage.
7. The provision as to the percentage of votes by the apartment owners which shall be
determinative of whether to rebuild, repair, restore, or sell the property in the event of damage
or destruction of all or part of the property.
8. Any further details in connection with the property which the person executing the
declaration may deem desirable to set forth consistent with this chapter.
9. The method by which the declaration may be amended, consistent with the provisions
of this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.4]
Referred to in §499B.3, 499B.7, 499B.12

499B.5 Contents of deeds of apartments.
Deeds of apartments shall include the following particulars:
1. Description of land as provided in section 499B.4, including the document reference
number and date of recording of the declaration.
2. The apartment number of the apartment in the declaration and any other data necessary
for its proper identification.
3. The percentage of undivided interest appertaining to the apartment in the common
areas and facilities.
4. Any further details which the grantor and grantee may deem desirable to set forth
consistent with the declaration and this chapter.

[C66, 71, 73, 75, 77, 79, 81, §499B.5]
2009 Acts, ch 27, §29

499B.6 Copy of the floor plans to be filed.
There shall be attached to the declaration, at the time it is filed, a full and an exact copy of
the plans of the building, which copy shall be entered of record along with the declaration.
The plans shall show graphically all particulars of the building including but not limited to
the dimensions, area, and location of common elements affording access to each apartment.
Other common elements, both limited and general, shall be shown graphically insofar as
possible and shall be certified to by an engineer, architect, or land surveyor, who is licensed
to practice that profession in this state.

[C66, 71, 73, 75, 77, 79, 81, §499B.6; 82 Acts, ch 1068, §1]

499B.7 Interest in common elements — reference to them in instrument.
1. The fractional or percentage interest in the general common elements and the fractional
or percentage interest in the limited common elements where such exist are hereby declared
to be appurtenant to each of the separate apartments.
2. Any conveyance, encumbrance, lien, alienation, or devise of an apartment under a
horizontal property regime by any instrument which describes the land and apartment as
set forth in section 499B.4 shall also convey, encumber, alienate, devise, or be a lien upon the
fractional or percentage interest appurtenant to each such apartment under section 499B.4,
subsection 6, to the general common elements, and the respective share or percentage interest
to limited common elements where applicable, whether such general common elements or
limited common elements are described as in section 499B.4, subsections 4 and 5, by general
reference only, or not at all.

[C66, 71, 73, 75, 77, 79, 81, §499B.7]
2015 Acts, ch 29, §67

499B.8 Removal from provisions of this chapter.
1. All of the apartment owners may remove a property from the provisions of this chapter
by an instrument to that effect, duly recorded, provided that the holders of all liens affecting
any of the apartments 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 apartment
owner in the property as hereinafter provided.
2. Upon removal of the property from the provisions of this chapter, the property shall
be deemed to be owned in common by the apartment owners. The undivided interest in
the property owned in common which shall appertain to each apartment owner shall be the
percentage of undivided interest previously owned by such owner in the common area and
facilities.
[C66, 71, 73, 75, 77, 79, 81, §499B.8]
Referred to in §499B.9

499B.9 Removal no bar to subsequent resubmission.
The removal provided for in section 499B.8 shall in no way bar the subsequent resubmission
of the property to the provisions of this chapter.
[C66, 71, 73, 75, 77, 79, 81, §499B.9]

2000 Acts, ch 1142, §2, 5

499B.10 Individual apartments and interest in common elements are alienable.
When real property containing a building is committed to a horizontal property regime,
each individual apartment located in the building and the interests in the general common
elements and limited common elements if any, appurtenant thereto, shall constitute for all
purposes a separate parcel of real property and shall be as completely and freely alienable
as any separate parcel of real property is or may be under the laws of this state, except as
limited by the provisions of this chapter.
[C66, 71, 73, 75, 77, 79, 81, §499B.10]


499B.11 Real property tax and special assessments — levy on each apartment.
1. All real property taxes and special assessments shall be assessed and levied on each
apartment and its respective appurtenant fractional share or percentage of the land, general
common elements and limited common elements where applicable as these apartments and
appurtenances are separately owned, and not on the entire horizontal property regime. The
fair market value determined for an apartment includes the value of its appurtenant share or
percentage of the land, general common elements, and limited common elements.
2. Any exemption from taxes that may exist on real property or the ownership thereof
shall not be denied by virtue of the registration of the property under the provisions of this
chapter.
[C66, 71, 73, 75, 77, 79, 81, §499B.11]

499B.12 Liens against apartments — removal from lien — effect of part payment.
1. Subsequent to recording the declaration provided for in section 499B.3, and while the
property remains enrolled in a horizontal property regime, no lien shall thereafter arise or
be effective against the property. During such period liens or encumbrances shall arise or be
created only against the individual apartment and the general common elements and limited
common elements where applicable, appurtenant to such apartment, in the same manner and
under the same conditions in every respect as liens or encumbrances may arise or be created
upon or against any other separate parcel of real property subject to individual ownership.
2. In the event a lien against two or more apartments becomes effective, the owners of
the separate apartments may remove their apartment and the general common elements and
limited common elements where applicable appurtenant to such apartment from the lien by
payment of the fractional or proportional amounts attributable to each of the apartments
affected. Such individual payments shall be computed by reference to the fractions or
percentages appearing on the declaration provided for in section 499B.4, subsection 6.
Subsequent to any such payment, discharge or other satisfaction the individual apartment
and the general common elements and limited common elements applicable appurtenant
thereto shall thereafter be free and clear of the lien so paid, satisfied or discharged. Such
partial payment, satisfaction or discharge shall not prevent the lienor from proceeding to
enforce the lienor’s rights against any apartment and the general common elements, limited
common elements where applicable appurtenant thereto not so paid, satisfied or discharged.
[C66, 71, 73, 75, 77, 79, 81, §499B.12]
499B.13 Limitation upon availability of partition — exception as to limitation of partition by joint ownership.

1. The provisions of chapter 651, relating to partition of real property shall not be available to any owner of any interest in real property included within a regime established under this chapter as against any other owner or owners of any interest or interests in the same regime, so as to terminate the regime.

2. Nothing contained in the chapter shall be construed as a limitation on partition by joint owners of one or more apartments in a regime as to individual ownership of such apartment or apartments without terminating the regime, or as to ownership of such apartment or apartments and lands outside the limits of the regime.

[C66, 71, 73, 75, 77, 79, 81, §499B.13]

499B.14 Bylaws.

The administration of every property shall be governed by bylaws, a true copy of which shall be annexed to the declaration and made a part thereof. No modification of or amendment to the bylaws shall be valid unless set forth in an amendment to the declaration and such amendment is duly recorded.

[C66, 71, 73, 75, 77, 79, 81, §499B.14]

499B.15 Contents of bylaws.

The bylaws must provide for at least the following:

1. The form of administration, indicating whether this shall be in charge of an administrator or of a board of administration, or otherwise, and specifying the powers, manner of removal, and, where proper, the compensation thereof.

2. If the form of administration is a board of administration, board meetings must be open to all apartment owners except for meetings between the board and its attorney with respect to proposed or pending litigation where the contents of the discussion would otherwise be governed by the attorney-client privilege. Notice of each board meeting must be mailed or delivered to each apartment owner at least seven days before the meeting. Minutes of meetings of the board of administration must be maintained in written form or in another form that can be converted into written form within a reasonable time. The official records of the board of administration must be open to inspection and available for photocopying at reasonable times and places. Any action taken by a board of administration at a meeting that is in violation of any of the provisions of this subsection is not valid or enforceable.

3. Method of calling or summoning the co-owners to assemble; what percentage, if other than a majority of apartment owners, shall constitute a quorum; who is to preside over the meeting; and who will keep the minute book wherein the resolutions shall be recorded.

4. Maintenance, repair, and replacement of the common areas and facilities and payments therefor including the method of approving payment vouchers.

5. Manner of collecting from the apartment owners their share of the common expenses.

6. Designation and removal of personnel necessary for the maintenance, repair and replacement of the common areas and facilities.

7. The percentage of votes required to amend the bylaws.

[C66, 71, 73, 75, 77, 79, 81, §499B.15]

2010 Acts, ch 1080, §1; 2015 Acts, ch 29, §68

499B.16 Disposition of property — destruction or damage.

If within thirty days of the date of the damage or destruction to all or part of the property, it is not determined by the council of co-owners to repair, reconstruct or rebuild, then and in that event:

1. The property shall be deemed to be owned in common by the apartment owners;

2. The undivided interest in the property owned in common which shall appertain to each apartment owner shall be the percentage of undivided interest previously owned by such owner in the common areas and facilities;

3. Any liens affecting any of the apartments shall be deemed to be transferred in
accordance with the existing priorities to the percentage of the undivided interest of the
apartment owner in the property as provided herein; and

4. The property shall be subject to an action for partition at the suit of any apartment
owner, in which event the net proceeds of sale, together with the net proceeds of the insurance
on the property, if any, shall be considered as one fund and shall be divided among all the
apartment owners in a percentage equal to the percentage of undivided interest owned by
each owner in the property, after first paying out of the respective shares of the apartment
owners, to the extent sufficient for the purpose, all liens on the undivided interest in the
property owned by each apartment owner.

[C66, 71, 73, 75, 77, 79, 81, §499B.16]

§499B.17 Lien against owner of unit.
All sums assessed by the council of co-owners but unpaid for the share of the common
expenses chargeable to any apartment shall constitute a lien on such apartment prior to all
other liens except only tax liens on the apartment in favor of any assessing unit and special
district and all sums unpaid on a first mortgage of record. Such lien may be foreclosed
by suit by the council of co-owners or the representatives thereof, acting on behalf of
the apartment owners, in like manner as a mortgage of real property. In the event of any
such foreclosure, the apartment owner shall be required to pay a reasonable rental for
the apartment if so provided in the bylaws, and the plaintiff in such foreclosure shall be
entitled to the appointment of a receiver to collect the same. The council of co-owners or the
representatives thereof, acting on behalf of the apartment owners, shall have power, unless
prohibited by the declaration, to bid in the apartment at foreclosure sale, and to acquire and
hold, lease, mortgage and convey the same. Suit to recover a money judgment for unpaid
common expenses shall be maintainable without foreclosing or waiving the lien securing
the same.

[C66, 71, 73, 75, 77, 79, 81, §499B.17]
2011 Acts, ch 25, §60

§499B.18 Common expenses before foreclosure.
Where the mortgagee of a first mortgage of record or other purchaser of an apartment
obtains title to the apartment as a result of foreclosure of the first mortgage, such acquirer
of title, the acquirer’s successors and assigns, shall not be liable for the share of the
common expenses or assessments by the council of co-owners chargeable to such apartment
which became due prior to the acquisition of title to such apartment by such acquirer.
Such unpaid share of common expenses or assessments shall be deemed to be common
expenses collectible from all of the apartment owners including such acquirer, the acquirer’s
successors and assigns.

[C66, 71, 73, 75, 77, 79, 81, §499B.18]

§499B.19 Common expenses after voluntary conveyance.
In a voluntary conveyance the grantee of an apartment shall be jointly and severally
liable with the grantor for all unpaid assessments against the latter for the grantor’s share
of the common expenses up to the time of the grant or conveyance, without prejudice to
the grantee’s right to recover from the grantor the amounts paid by the grantee therefor.
However, any such grantee shall be entitled to a statement from the council of co-owners or
its representatives, setting forth the amount of the unpaid assessments against the grantor
and such grantee shall not be liable for, nor shall the apartment conveyed be subject to a lien
for, any unpaid assessments against the grantor in excess of the amount therein set forth.

[C66, 71, 73, 75, 77, 79, 81, §499B.19]

§499B.20 Conversions to meet building codes.
After April 25, 2000, an existing structure shall not be converted to a horizontal property
regime unless the converted structure meets local city or county, as applicable, building code
requirements in effect on the date of conversion or the state building code requirements, as
adopted pursuant to section 103A.7, if the local city or county does not have a building code.
For purposes of this section, if the structure is located in a city, the city building code applies and if the structure is located in the unincorporated area of the county, the county building code applies.

2000 Acts, ch 1142, §4, 5; 2004 Acts, ch 1086, §82
Referred to in §499B.3

499B.21 Effect of documents and instruments.

1. Unless amended or terminated by the following documents or instruments, all terms, conditions, covenants, and provisions contained in the following documents or instruments shall remain in full force and effect as long as the horizontal property regime remains in existence:
   a. The declaration of the horizontal property regime and any amendments thereto.
   b. The articles of incorporation of the horizontal property regime and any amendments thereto.
   c. The bylaws of the horizontal property regime and any amendments thereto.
   d. Any rules and regulations adopted pursuant to the declaration of the horizontal property regime and the bylaws of the horizontal property regime.
   e. Any property interests created by any documents or instruments specified in paragraph “a”, “b”, “c”, or “d”.

2. A document or instrument specified in subsection 1, and any property interests created by such document or instrument, shall not be extinguished, limited, or impaired by application of section 558.68 or 614.24.

2014 Acts, ch 1095, §3, 6
Referred to in §558.68, 614.24