

### **381.9105 Definitions for KRS 381.9101 to 381.9207.**

As used in KRS 381.9101 to 381.9207, or in the declaration or bylaws of any condominium unless specifically provided or the context otherwise requires:

- (1) "Affiliate of a declarant" means any person who controls, is controlled by, or is under common control with a declarant.
  - (a) A person controls a declarant if the person:
    1. Is a general partner, officer, director, limited liability entity member or manager, or employer of the declarant and has the legal authority to direct the business and affairs of the declarant;
    2. Directly, indirectly, or acting in concert with one (1) or more other persons, or through one (1) or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than fifty percent (50%) of the voting interest in the declarant; or
    3. Controls in any manner the election of a majority of the directors of the declarant.
  - (b) A person is controlled by a declarant if the declarant:
    1. Is a general partner, officer, director, limited liability entity member or manager, or employer of the person and has the legal authority to direct the business and affairs of the person;
    2. Directly, indirectly, or acting in concert with one (1) or more other persons, or through one (1) or more subsidiaries, owns, controls, holds with power to vote, or holds proxies representing more than fifty percent (50%) of the voting interest in the person; or
    3. Controls in any manner the election of a majority of the directors of the person.
- Control does not exist if the powers described in paragraph (a) or (b) of this subsection are held solely as security for an obligation and are not exercised;
- (2) "Allocated interests" means the undivided interest in the common elements, the common expense liability, and votes in the association allocated to each unit;
- (3) "Association" or "unit owners' association" means the association organized pursuant to KRS 381.9165;
- (4) "Capital expenditure" means an expenditure to replace, repair, or improve common elements, or acquire new common elements;
- (5) "Common elements" means all portions of a condominium other than the units;
- (6) "Common expenses" means expenditures made or financial liabilities incurred by the association, to the extent permitted by the declaration or KRS 381.9101 to 381.9207, together with any allocations to reserves;
- (7) "Common expense liability" means the liability for common expenses allocated to each unit pursuant to KRS 381.9137;
- (8) "Condominium" means real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are

vested in the unit owners;

- (9) "Declarant" means any person or group of persons acting in concert who:
  - (a) As part of a common promotional plan for the condominium, formulated, sponsored, and promoted by the person or persons, offers to dispose of his, her, or their interest in a unit within the condominium not previously disposed of; or
  - (b) Reserves or succeeds to any special declarant right;
- (10) "Declaration" means any instrument, including a master deed, however denominated, that creates a condominium, and any amendments to those instruments;
- (11) "Development rights" means any right or combination of rights reserved by a declarant in the declaration to:
  - (a) Add real estate to a condominium;
  - (b) Create units, common elements, or limited common elements within a condominium;
  - (c) Subdivide units or convert units into common elements;
  - (d) Allocate or reallocate common elements among units; or
  - (e) Withdraw real estate from a condominium;
- (12) "Dispose" or "disposition" means a voluntary transfer to a purchaser of any legal or equitable interest in a unit, but does not include the creation, assignment, transfer, or release of a mortgage or security interest;
- (13) "Executive board" means the body, regardless of name, designated in the declaration to act on behalf of the association;
- (14) "Identifying number" means a symbol or address that identifies only one (1) unit in a condominium;
- (15) "Leasehold condominium" means a condominium in which all or a portion of the real estate is subject to a lease the expiration or termination of which will terminate the condominium or reduce its size;
- (16) "Limited common element" means a portion of the common elements allocated by the declaration or by operation of KRS 381.9127 for the exclusive use of one (1) or more but fewer than all of the units;
- (17) "Master association" means an organization described in KRS 381.9161, whether or not it is also an association described in KRS 381.9165;
- (18) "Person" means a natural person, corporation, business trust, estate, trust, partnership, association, joint venture, limited liability company, government, governmental subdivision or agency, or other legal or commercial entity;
- (19) "Purchaser" means any person other than a declarant or a person in the business of selling real estate for his or her own account, who by means of a voluntary or involuntary transfer acquires a legal or equitable interest in a unit other than:
  - (a) A leasehold interest, including renewal options of less than twenty (20) years; or
  - (b) As security for an obligation;
- (20) "Real estate" means any fee simple interest, leasehold estate, or other estate

or interest in, over, or under land, including structures, fixtures, and other improvements and interests which by custom, usage, or law pass with a conveyance of land though not described in the contract of sale or instrument of conveyance. "Real estate" includes parcels with or without upper or lower boundaries, and spaces that may be filled with air or water;

- (21) "Recording data" means the book and page number of instruments recorded in the office of a county clerk;
- (22) "Residential" means use for dwelling or personal recreation, or both;
- (23) "Special declarant rights" means rights reserved for the benefit of a declarant to:
  - (a) Complete improvements indicated on plats and plans filed with the declaration;
  - (b) Exercise any development rights;
  - (c) Maintain sales offices, management offices, signs advertising the condominium, and models;
  - (d) Use easements through the common elements for the purpose of making improvements within the condominium or within real estate which may be added to the condominium;
  - (e) Make the condominium part of a larger condominium or a planned community;
  - (f) Make the condominium subject to a master association; or
  - (g) Appoint or remove any officer of the association, master association, or any executive board member during any period of declarant control;
- (24) "Unit" means a physical portion of the condominium designated for separate ownership or occupancy, the boundaries of which are described in KRS 381.9133, including patios, balconies, and other spaces if designated in the declaration; and
- (25) "Unit owner" means a declarant or other person who owns a unit, or a lessee of a unit in a leasehold condominium whose lease expires simultaneously with any lease the expiration or termination of which will remove the unit from the condominium, but does not include a person having an interest in a unit solely as security for an obligation or as a sublessee of a lessee of a unit.

**Effective:** April 11, 2012

**History:** Amended 2012 Ky. Acts ch. 99, sec. 2, effective April 11, 2012. -- Created 2010 Ky. Acts ch. 97, sec. 3, effective January 1, 2011.