

**381.9167 Powers of unit owners' association -- Emergency assessments.**

- (1) Except as provided in subsection (2) of this section and subject to the provisions of the declaration, the association, even if unincorporated, may:
  - (a) Adopt and amend bylaws, rules, and regulations;
  - (b) Adopt and amend budgets for revenues, expenditures, and reserves, and collect assessments for common expenses from unit owners;
  - (c) Hire and discharge managers and other employees, agents, and independent contractors;
  - (d) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two (2) or more unit owners on matters affecting the condominium;
  - (e) Make contracts and incur liabilities;
  - (f) Regulate the use, maintenance, repair, replacement, and modification of common elements, and authorize access to any unit for those purposes;
  - (g) Cause additional improvements to be made as a part of the common elements;
  - (h) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property, except that common elements may only be conveyed or subjected to a lien or security interest as provided in KRS 381.9185;
  - (i) Grant easements, leases, licenses, and concessions through or over the common elements;
  - (j) Impose and receive payments, fees, or charges:
    1. For the use, rental, or operation of the common elements other than limited common elements described in KRS 381.9127(2), (4), and (6);
    2. For services provided to unit owners; and
    3. To cover emergency or extraordinary circumstances affecting the condominium or any part thereof;
  - (k) Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association that may include reimbursement to the association of reasonable fees and costs, including attorney fees, associated with the enforcement of this paragraph;
  - (l) Impose reasonable charges for the preparation and recordation of amendments to the declaration, certificates required by KRS 381.9203, or statements of unpaid assessments, except that:
    1. Any fee imposed for the preparation of a certificate shall not exceed the lesser of two hundred twenty-five dollars (\$225) or eighty percent (80%) of the current monthly assessment fee charged that unit by the association; and
    2. No more than fifty dollars (\$50) shall be charged to update a previous certificate issued in the same fiscal year of the association;

- (m) Provide for the indemnification of its officers and executive board and maintain directors' and officers' liability insurance;
  - (n) Assign its right to future income, including the right to receive common expense assessments, for the purpose of securing financial accommodations obtained by the association to perform its duties and obligations under the declaration or KRS 381.9101 to 381.9207;
  - (o) Exercise any other powers conferred by the declaration or bylaws;
  - (p) Exercise all other powers that may be exercised in this Commonwealth by legal entities of the same type as the association; and
  - (q) Exercise any other powers necessary and proper for the governance and operation of the association.
- (2) The declaration shall not impose limitations on the power of the association to deal with the declarant that are more restrictive than the limitations imposed on the power of the association to deal with other persons.
- (3) Notwithstanding the declaration, an association may impose an emergency assessment against any unit affected to:
- (a) Comply with a judicial order; or
  - (b) Repair an emergency condition of any common structural, utility, or mechanical component which has made, or is in imminent danger of making, any unit, common element, or limited common element unsafe, uninhabitable, or uninsurable, provided the association is first provided an opinion affixed with a professional seal from a professional engineer or licensed architect stating the emergency condition.
- (4) The emergency assessment provided for in subsection (3) of this section shall be made upon the vote of:
- (a) A simple majority of unit owners present at a special called meeting. If the declaration does not provide for special meetings, one (1) may be called under this subsection to address the issues identified in subsection (3) of this section; or
  - (b) Seventy-five percent (75%) of the members of the association's executive board.

Any emergency assessment made under this subsection may be reduced or rescinded by a vote of a simple majority of total unit owners at a special meeting.

**Effective:** April 11, 2012

**History:** Amended 2012 Ky. Acts ch. 99, sec. 4, effective April 11, 2012. -- Created 2010 Ky. Acts ch. 97, sec. 34, effective January 1, 2011.