

**381.9183 Tort and contract liability. (Effective January 1, 2011)**

- (1) Neither the association nor any unit owner except the declarant shall be liable for that declarant's torts in connection with any part of the condominium which that declarant has the responsibility to maintain.
- (2) An action alleging a wrong done by the association shall be brought against the association and not against any unit owner.
- (3) If the wrong occurred during any period of declarant control and the association gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association shall be liable to the association or to any unit owner:
  - (a) For all tort losses not covered by insurance suffered by the association or that unit owner; and
  - (b) For all costs which the association would not have incurred but for a breach of contract or other wrongful act or omission.
- (4) Whenever the declarant is liable to the association under this section, the declarant shall be liable for all litigation expenses, including reasonable attorneys fees, incurred by the association.
- (5) Any statute of limitation affecting the association's right of action under this section is tolled until the period of declarant control terminates. A unit owner is not precluded from bringing an action contemplated by this section because he or she is a unit owner or a member or officer of the association. Liens resulting from judgments against the association shall be governed by KRS 381.9195.

**Effective:** January 1, 2011

**History:** Created 2010 Ky. Acts ch. 97, sec. 42, effective January 1, 2011.