

1 AN ACT relating to information to be provided by condominium associations.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 381.9167 is amended to read as follows:

- 4 (1) Except as provided in subsection (2) of this section and subject to the provisions of
5 the declaration, the association, even if unincorporated, may:
- 6 (a) Adopt and amend bylaws, rules, and regulations;
 - 7 (b) Adopt and amend budgets for revenues, expenditures, and reserves, and
8 collect assessments for common expenses from unit owners;
 - 9 (c) Hire and discharge managers and other employees, agents, and independent
10 contractors;
 - 11 (d) Institute, defend, or intervene in litigation or administrative proceedings in its
12 own name on behalf of itself or two (2) or more unit owners on matters
13 affecting the condominium;
 - 14 (e) Make contracts and incur liabilities;
 - 15 (f) Regulate the use, maintenance, repair, replacement, and modification of
16 common elements, and authorize access to any unit for those purposes;
 - 17 (g) Cause additional improvements to be made as a part of the common elements;
 - 18 (h) Acquire, hold, encumber, and convey in its own name any right, title, or
19 interest to real or personal property, except that common elements may only
20 be conveyed or subjected to a lien or security interest as provided in KRS
21 381.9185;
 - 22 (i) Grant easements, leases, licenses, and concessions through or over the
23 common elements;
 - 24 (j) Impose and receive payments, fees, or charges:
 - 25 1. For the use, rental, or operation of the common elements other than
26 limited common elements described in KRS 381.9127(2), (4), and (6);
 - 27 2. For services provided to unit owners; and

- 1 3. To cover emergency or extraordinary circumstances affecting the
2 condominium or any part thereof;
- 3 (k) Impose charges for late payment of assessments and, after notice and an
4 opportunity to be heard, levy reasonable fines for violations of the declaration,
5 bylaws, and rules and regulations of the association that may include
6 reimbursement to the association of reasonable fees and costs, including
7 attorney fees, associated with the enforcement of this paragraph;
- 8 (l) Impose reasonable charges for the preparation and recordation of amendments
9 to the declaration, certificates required by KRS 381.9203, or statements of
10 unpaid assessments, except that:
- 11 1. Any fee imposed for the preparation of a certificate shall not exceed the
12 lesser of one hundred dollars (\$100)~~two hundred twenty five dollars~~
13 ~~(\$225)~~ or eighty percent (80%) of the current monthly assessment fee
14 charged that unit by the association; and
- 15 2. No fee~~more than fifty dollars (\$50)~~ shall be charged to update a
16 ~~previous~~ certificate issued~~in~~ less than one (1)~~the same fiscal~~ year
17 prior by~~of~~ the association;
- 18 (m) Provide for the indemnification of its officers and executive board and
19 maintain directors' and officers' liability insurance;
- 20 (n) Assign its right to future income, including the right to receive common
21 expense assessments, for the purpose of securing financial accommodations
22 obtained by the association to perform its duties and obligations under the
23 declaration or KRS 381.9101 to 381.9207;
- 24 (o) Exercise any other powers conferred by the declaration or bylaws;
- 25 (p) Exercise all other powers that may be exercised in this Commonwealth by
26 legal entities of the same type as the association; and
- 27 (q) Exercise any other powers necessary and proper for the governance and

1 operation of the association.

2 (2) The declaration shall not impose limitations on the power of the association to deal
3 with the declarant that are more restrictive than the limitations imposed on the
4 power of the association to deal with other persons.

5 (3) Notwithstanding the declaration, an association may impose an emergency
6 assessment against any unit affected to:

7 (a) Comply with a judicial order; or

8 (b) Repair an emergency condition of any common structural, utility, or
9 mechanical component which has made, or is in imminent danger of making,
10 any unit, common element, or limited common element unsafe, uninhabitable,
11 or uninsurable, provided the association is first provided an opinion affixed
12 with a professional seal from a professional engineer or licensed architect
13 stating the emergency condition.

14 (4) The emergency assessment provided for in subsection (3) of this section shall be
15 made upon the vote of:

16 (a) A simple majority of unit owners present at a special called meeting. If the
17 declaration does not provide for special meetings, one (1) may be called under
18 this subsection to address the issues identified in subsection (3) of this section;
19 or

20 (b) Seventy-five percent (75%) of the members of the association's executive
21 board.

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

24 ➔Section 2. KRS 324.160 is amended to read as follows:

25 (1) The commission may order any or all of the following sanctions for violation of
26 subsections (4) to (7) of this section:

27 (a) Suspension of any license;

- 1 (b) Revocation of any license;
- 2 (c) Levy of fines not to exceed one thousand dollars (\$1,000);
- 3 (d) Placing of any licensee on probation for a period of up to twelve (12) months;
- 4 (e) Requiring successful completion of academic credit hours or additional credit
- 5 hours in real estate courses from an accredited institution or approved real
- 6 estate school; or
- 7 (f) Issuing a formal or informal reprimand.
- 8 (2) A canceled license may be renewed if the licensee pays all necessary fees and meets
- 9 all other active licensure requirements within one (1) year of the cancellation date.
- 10 No licensee whose license is canceled shall engage in real estate brokerage during
- 11 the period of cancellation or receive any compensation for real estate brokerage
- 12 unless the compensation was earned prior to the effective date of the cancellation.
- 13 (3) No licensee whose license is suspended shall engage in real estate brokerage or
- 14 receive any compensation for real estate brokerage unless the compensation was
- 15 earned prior to the suspension period.
- 16 (4) The commission shall impose sanctions set out in subsection (1) of this section
- 17 against a licensee for:
- 18 (a) Obtaining a license through false or fraudulent representation;
- 19 (b) Making any substantial misrepresentation or failing to disclose known defects
- 20 which substantially affect the value of the property;
- 21 (c) Making any false promises of a character likely to influence, persuade, or
- 22 induce;
- 23 (d) Pursuing a continued and flagrant course of misrepresentation or making false
- 24 promises through agents or advertising or otherwise;
- 25 (e) Acting for more than one (1) party in a transaction without the knowledge of
- 26 all parties for whom the licensee acts;
- 27 1. A real estate licensee shall not directly or indirectly buy property listed

- 1 with him or her or with the broker with whom the licensee is affiliated,
2 nor acquire an interest therein, without first indicating in writing on the
3 offer to purchase his or her status as a licensee;
- 4 2. Before a licensee becomes a party to a contract to purchase real property,
5 the licensee shall disclose his or her status as a licensee to all parties to
6 the transaction, in writing, on the sales contract or on the offer to
7 purchase;
- 8 3. Before a licensee sells, or receives compensation for property in which
9 the licensee owns an interest, the licensee shall disclose, in writing, any
10 interest in the property to all parties to the transaction;
- 11 (f) Accepting valuable consideration for the performance of any of the acts
12 specified in this chapter, from any person, except from his or her principal
13 broker in accordance with a compensation agreement between them. When
14 acting as an agent in the management of property, a real estate licensee shall
15 not accept any commission, rebate, or profit on expenditures made for a client
16 without the full knowledge and consent of the client;
- 17 (g) Representing or attempting to represent a broker other than a principal broker,
18 without the express knowledge and consent of the principal broker with whom
19 the licensee is affiliated;
- 20 (h) Failing to account for or remit, within a reasonable time, any money belonging
21 to others that comes into the licensee's possession. When acting as a property
22 manager, the licensee shall render an accounting and remit all moneys to his
23 or her client strictly in accordance with the contract of employment;
- 24 (i) Paying valuable consideration to any person for services performed in
25 violation of this chapter;
- 26 (j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty
27 of, or having been convicted of, a felony or of a misdemeanor involving

- 1 sexual misconduct the time for appeal has lapsed or the judgment or
2 conviction has been affirmed on appeal, irrespective of an order granting
3 probation following the conviction suspending the imposition of sentence;
- 4 (k) Failing to report a conviction, plea of guilty, or an "Alford" plea to a felony or
5 a misdemeanor involving sexual misconduct to the commission;
- 6 (l) Soliciting, selling, or offering for sale real property under a scheme or
7 program that constitutes a lottery, contest, or deceptive practice;
- 8 (m) Acting in the dual capacity of licensee and undisclosed principal in any real
9 estate transaction;
- 10 (n) Guaranteeing, authorizing, or permitting a person to guarantee that future
11 profits shall result from a resale of real property;
- 12 (o) Negotiating or attempting to negotiate the sale, exchange, lease, or rental of
13 real property, or attempting to obtain a brokerage agreement with a consumer
14 knowing that the consumer had a written outstanding contract granting
15 exclusive agency with another real estate broker;
- 16 (p) Publishing or circulating an unjustified or unwarranted threat of legal
17 proceedings or other action;
- 18 (q) Failing or refusing on demand to furnish copies of a document pertaining to a
19 transaction dealing with real estate to a person whose signature is affixed to
20 the document;
- 21 (r) Failing, within a reasonable time, to provide information requested by the
22 commission as a result of a formal or informal complaint to the commission
23 which may indicate a violation of this chapter;
- 24 (s) Paying valuable consideration to any person for the name of potential sellers
25 or buyers, except as otherwise provided in KRS 324.020(4);
- 26 (t) Violating any of the provisions in this chapter or any lawful order, rule, or
27 administrative regulation made or issued under the provisions of this chapter;

1 (u) *Failing to provide documentation required under KRS 381.9203(1) to the*
 2 *purchaser;*

3 (v) Any other conduct that constitutes improper, fraudulent, or dishonest dealing;
 4 or

5 (w)~~(v)~~ Gross negligence.

6 (5) Any conduct constituting a violation of the Federal Fair Housing Act, including use
 7 of scare tactics or blockbusting, shall be considered improper conduct as referred to
 8 in subsection (4)(v)~~(u)~~ of this section.

9 (6) No unlawful act or violation of any provision of this chapter by any affiliated
 10 licensee of the principal broker shall be cause for holding the principal broker
 11 primarily liable, unless the broker has knowledge of the unlawful violation and did
 12 not prevent it. The principal broker and his or her designated manager, if any, shall
 13 exercise adequate supervision over the activities of licensed affiliates and all
 14 company employees to ensure that violations of this chapter do not occur. The
 15 failure of a broker or his or her designated manager to exercise adequate supervision
 16 of the licensed affiliates shall constitute a violation of this chapter.

17 (7) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall
 18 be considered improper dealing.

19 ➔Section 3. KRS 324.165 is amended to read as follows:

20 (1) No person shall:

21 (a) Solicit or request a referral fee from a real estate licensee unless that person
 22 introduced the business to the real estate licensee from whom the referral fee
 23 is sought and a contractual referral fee relationship exists between the person
 24 and the real estate licensee; or

25 (b) Threaten to reduce or withhold employee relocation benefits or to take other
 26 action adverse to the interests of a client of a real estate licensee because of an
 27 agency relationship.

1 (2) No real estate licensee, relocation firm, or firm with a corporate relocation policy or
2 benefits, or anyone on behalf of any licensee or firm, shall counsel a client of
3 another real estate licensee regarding the manner in which the client may terminate
4 or amend an existing listing contract, buyer agency agreement, or other agency
5 relationship. Communicating corporate relocation policy or benefits to a
6 transferring employee shall not be considered a violation of this section, as long as
7 the communication does not involve advice or encouragement regarding the manner
8 in which the client may terminate or amend an existing agency relationship.

9 (3) Violation of this section by a broker or sales associate shall be considered improper
10 conduct as referred to in KRS 324.160(4)~~(v)~~~~(u)~~. Violation of this section by
11 unlicensed persons shall be subject to the penalties in KRS 324.990.

12 ➔Section 4. KRS 324.312 is amended to read as follows:

13 (1) A principal broker shall return an associate's license to the commission
14 immediately:

15 (a) Upon the written termination of the association between the broker and the
16 associate; or

17 (b) At any time upon the commission's request.

18 (2) If a principal broker fails to return a license to the commission as required by
19 subsection (1) of this section within five (5) business days, the commission shall
20 consider the license as released, and the principal broker shall be in violation of
21 KRS 324.160(4)~~(v)~~~~(u)~~.