

381.9143 Exercise of development rights.

- (1) To exercise any development right reserved under KRS 381.9133(1)(h), the declarant shall prepare, execute, and record an amendment to the declaration and comply with KRS 381.9141. The declarant is the unit owner of any units thereby created. The amendment to the declaration shall assign an identifying number to each new unit created, and, except in the case of subdivision or conversion of units described in subsection (3) of this section, reallocate the allocated interests among all units. The amendment shall describe any common elements and any limited common elements thereby created and, in the case of limited common elements, designate the unit to which each is allocated to the extent required by KRS 381.9139.
- (2) Development rights may be reserved within any real estate added to the condominium if the amendment adding that real estate includes all matters required by KRS 381.9133 or 381.9135, as the case may be, and the plats and plans include all matters required by KRS 381.9141. This provision does not extend the time limit on the exercise of development rights imposed by the declaration under KRS 381.9133(1)(h).
- (3) If a declarant exercises a development right to subdivide or convert a unit previously created into additional units, common elements, or both, the declaration shall be amended as follows:
 - (a) If the declarant converts the unit entirely to common elements, the amendment to the declaration shall reallocate all the allocated interests of that unit among the other units as if that unit had been taken by eminent domain; or
 - (b) If the declarant subdivides the unit into two (2) or more units, whether or not any part of the unit is converted into common elements, the amendment to the declaration shall reallocate all the allocated interests of the unit among the units created by the subdivision in any reasonable manner prescribed by the declarant.
- (4) If the declaration provides, pursuant to KRS 381.9133(1)(h), that all or a portion of the real estate is subject to the development right of withdrawal, then the following shall apply:
 - (a) If all the real estate is subject to withdrawal, and the declaration does not describe separate portions of real estate subject to that right, none of the real estate may be withdrawn after a unit has been conveyed to a purchaser without the written consent of all unit owners owning units within the real estate; and
 - (b) If a portion or portions are subject to withdrawal, no portion may be withdrawn after a unit in that portion has been conveyed to a purchaser without the written consent of all unit owners owning units within that portion.

Effective: January 1, 2011

History: Created 2010 Ky. Acts ch. 97, sec. 22, effective January 1, 2011.