

**KENTUCKY'S CONDOMINIUM SELLER'S  
CERTIFICATE REQUIREMENTS OUTLINE  
(Revised May 2012)**

On April 11, 2012, amendments to Kentucky's January 1, 2011 Condominium Act (hereafter, the "2011 Condo Act")<sup>1</sup> became effective. These laws include provisions to protect condominium purchasers and sellers, as well as the licensees who represent them. Licensees should become familiar with the statutory requirements concerning the provision of the [Condominium Seller's Certificate](#). For this reason, the Commission has prepared the following outline of the certificate requirements in KRS 381.9203:

**I. RIGHTS OF CONDO PURCHASERS:**

- A. A condo purchaser has a right to receive:
  - 1. A certificate, which satisfies the requirements in KRS 381.9203, and is "current to the date of issuance and signed and dated by the association's manager or authorized agent"<sup>2</sup>;
  - 2. A copy of the following association records:
    - a. the declaration, other than the plats and plans;
    - b. the bylaws; and
    - c. the rules or regulations;
- B. If an association fails to provide a completed certificate or if it is provided later than ten (10) days after the condo unit owner/seller requests it, then the condo purchaser's contract to buy will be voidable "until the certificate has been provided and for five (5) days thereafter or until conveyance, whichever first occurs."<sup>3</sup>
- C. Failure to provide a certificate does not void a deed to a purchaser.<sup>4</sup>

**II. CONDO SELLER'S RESPONSIBILITY & PROTECTION & LICENSEE PROTECTIONS:**

- A. If none of the certificate exemptions listed in KRS 381.9201(2) apply, then a seller of a condo unit must furnish the above-listed documents to a condo purchaser, "before execution of any contract for sale of a unit, or otherwise before conveyance."<sup>5</sup> (Emphasis added).
- B. Neither a condo unit owner nor his or her agent providing a purchaser with the certificate issued pursuant to the updated condo law will be held liable to the purchaser:
  - 1. if the association fails or delays to timely provide the required certificate; or
  - 2. if the association provides and includes any erroneous information in the certificate.

**III. THE ASSOCIATION'S RIGHTS & RESPONSIBILITIES:**

- A. An association has the right to charge a "reasonable" fee:
  - 1. to prepare the certificate required in KRS 381.9203, but the fee for this service "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."<sup>6</sup> (Emphasis added).

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<sup>1</sup> See KRS 381.9101 to 381.9207.

<sup>2</sup> See KRS 381.9203(1).

<sup>3</sup> See KRS 381.9203(3).

<sup>4</sup> See KRS 381.9203(5).

<sup>5</sup> See KRS 381.9203(1).

<sup>6</sup> See KRS 381.9167(1)(1).

2. to update a previous certificate issued in the same fiscal year of the association, but the fee for this service shall not exceed fifty dollars (\$50).<sup>7</sup>
  3. to provide a condo unit owner with a copy of the association's year-end financial report, upon request and payment of the association's fee for providing this service.
- B. An association must:
1. Furnish the required certificate to the seller of a unit, within ten (10) days after **receipt of the unit owner's written request**, to enable the unit owner to furnish it to "a purchaser **or purchaser's agent** before execution of any contract for sale of the unit, or otherwise before conveyance by the unit owner";<sup>8</sup> (Emphasis added).
  2. Keep sufficient details in its financial records to enable the association to satisfy the certificate requirements;<sup>9</sup>
  3. Prepare all financial statements in accordance with generally-accepted accounting principles, excluding the statement of cash receipts and disbursements which must be kept on a cash basis.<sup>10</sup>
- C. Failure to provide a certificate does not void a deed to a purchaser.<sup>11</sup>

#### IV. **IMPORTANT REMINDERS:**

- A. If a licensee has a seller-client who does not know, or is uncertain about, whether the property to be sold is or is not subject to the requirements of the amended 2011 Condo Act, then the licensee should advise the seller-client to contact a private attorney.
- B. Kentucky's updated condominium law provisions are not included in Kentucky's real estate license laws, KRS Chapter 324. They are found in KRS Chapter 381 and can be accessed from the following website: <http://www.lrc.ky.gov/KRS/381-00/CHAPTER.HTM>
- C. The KREC does not have any jurisdiction over "community association managers and the management or business activities of not-for-profit community associations, which include townhouse, condominium, homeowner, or neighborhood associations."<sup>12</sup>

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<sup>7</sup> See KRS 381.9167(1)(l).

<sup>8</sup> See KRS 381.9203(1).

<sup>9</sup> See KRS 381.9197(1).

<sup>10</sup> See KRS 381.9197(1).

<sup>11</sup> See KRS 381.9203(5).

<sup>12</sup> See KRS 324.2812.