515B.3-111 TORT AND CONTRACT LIABILITY.

(a) Neither the association nor any unit owner except the declarant is liable for that declarant's torts in connection with any part of the common interest community. An action alleging a tort or contract violation by the association shall not be brought against a unit owner solely by reason of ownership. If the tort or contract violation occurred during any period of declarant control and the association or a unit owner gives the declarant reasonable notice of and an opportunity to defend against the action, the declarant who then controlled the association is liable to the association or to any unit owner for (i) all losses not covered by insurance suffered by the association or that unit owner, and (ii) all costs that the association would not have incurred but for the tort or contract violation.

(b) Whenever the declarant is liable to the association or a unit owner under this section, the declarant is also liable for all expenses of litigation, including reasonable attorney's fees, incurred by the association or unit owner. Any statute of limitation affecting a right of action under this section is tolled until the period of declarant control terminates. A unit owner is not precluded from maintaining an action contemplated by this section because of being a unit owner or an officer or director of the association.

(c) Except as provided in subsections (a) and (b) with respect to a declarant, no unit owner shall have tort liability arising out of ownership of the common elements if the association has liability insurance coverage on the occurrence in an amount not less than $1,000,000.

History: *1993 c 222 art 3 s 11*