

of Lien.

ISSUE #1

~~10.2.14.3~~ The Board may suspend for the entire period during which any Assessments, fees, charges, fines and penalties, together with interest and late charges, costs of collecting and reasonable attorneys' fees remain delinquent, the obligated Owner's right to vote on any matter at regular or special meetings of the Association.

10.2.14.4 The Board may, without notice or demand, enforce the lien established pursuant to the Declaration.

10.2.14.5 The Board may, without notice or demand, institute an action at law for a money judgment to recover the amount of the delinquent Assessment together with all fees, charges, fines and penalties, together with interest and late charges, costs of collecting and reasonable attorneys' fees.

10.2.15 Surplus Funds. The Association shall not be obligated to spend in any year all the Assessments and other sums received by it in such year, and may carry forward as surplus any balances remaining. The Association shall not be obligated to reduce the amount of the Annual Assessment in the succeeding year if a surplus exists from a prior year, and the Association may carry forward from year to year such surplus as the Board in its discretion may determine to be desirable for the greater financial security of the Association and the accomplishment of its purposes.

ARTICLE XI
NEGOTIABLE INSTRUMENTS AND SECURITIES

Section 11.1 Signatures on Checks, Etc. All checks, drafts, orders for payment of money, and negotiable instruments shall be signed by an officer or officers, employee or employees, or the Managing Agent of the Association as the Board of Directors may from time to time, by standing resolution or special order, prescribe.

Section 11.2 Signatures on Certificates and Securities. Endorsements or transfers of bonds or other securities will be signed by the President or Vice President and by the Treasurer or the Secretary of the Association unless the Board of Directors prescribes otherwise.

Section 11.3 Securities. An officer or officers of the Association will from time to time be designated by the Board of Directors to have power to control and direct the disposition of any bonds or other securities or property of the Association deposited in the custody of any trust company, bank, or custodian.

ARTICLE XII
RECORDS

Section 12.1 Records. The Manager, Managing Agent, and Board of Directors will keep records of all actions of the Manager, Managing Agent, and Board of Directors, as well as minutes of the meetings of the Board of Directors, minutes of the meetings of the Members, and

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 10.2.14.5 (p. 16): Violation and fining procedure fails to provide the mandatory 21-business-day response window, observer identification, or pre-fine notice and hearing required under Arizona law.

Statutory / Legal Reference: A.R.S. § 33-1803 & A.R.S. § 33-1242

Statutory Comparison: Under A.R.S. § 33-1803 (Planned Communities) and A.R.S. § 33-1242 (Condominiums), after notice and an opportunity to be heard, the board may impose reasonable monetary penalties. Any written notice of a violation must state the provision violated, the date of the violation, and the first and last name of the person who observed the violation, and if the owner responds by certified mail within 21 business days, no fine or enforcement action may proceed until the association provides the required written disclosures within 10 business days.

CURRENT WORDING IN DOCUMENT:

The Board may, without notice or demand, institute an action at law for a money judgment to recover the amount of the delinquent Assessment together with all fees, charges, fines and penalties, together with interest and late charges, costs of collecting and reasonable attorneys' fees.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to A.R.S. §§ 33-1803 and 33-1242, no monetary penalty shall be imposed without prior written notice and an opportunity to be heard. Any notice of violation shall specify the provision violated, the date of observation, the first and last name of the observer, and the process the owner must follow to contest the notice, including the owner's right to respond via certified mail within twenty-one (21) business days.