

Section 13.7 - Sample Provision Excerpt (Public Preview)

RIGHT OF FIRST REFUSAL. Each Beneficiary, insurer and guarantor of a first Mortgage encumbering one or more Lots, upon filing a written request for notification with the Board, is entitled to written notification from the Master Association of: 13 .2.1 Loss. Any condemnation or casualty loss which affects either a material portion of the Properties or the Lot(s) securing the respective first Mortgage.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · MORTGAGE WARRANTABILITY & RESERVE RISK

BOARD & COUNSEL REVIEW

Sec. 13.7 (p. 6): Right of First Refusal (ROFR) clause lacks mandatory exemptions for foreclosure, deeds in lieu of foreclosure, and FHA/GSE-insured mortgages.

Statutory / Legal Reference: Fannie Mae Selling Guide B4-2.1-03, Freddie Mac Guide Ch. 5701, & 24 C.F.R. § 203.43b (FHA / Agency Lending Guidelines)

Statutory Comparison: Under federal HUD/FHA regulations (24 C.F.R. §§ 203.41, 203.43b), VA regulations (38 C.F.R. § 36.4354), and Fannie Mae / Freddie Mac project eligibility standards, any Right of First Refusal in the governing documents renders the entire community non-warrantable for federal and conventional secondary-market mortgages unless it expressly exempts foreclosures, deeds-in-lieu of foreclosure, and mortgagee transfers, and complies with anti-discrimination mandates.

CURRENT WORDING IN DOCUMENT:

RIGHT OF FIRST REFUSAL. Each Beneficiary, insurer and guarantor of a first Mortgage encumbering one or more Lots, upon filing a written request for notification with the Board, is entitled to written notification from the Master Association of: 13 .2.1 Loss. Any condemnation or casualty loss which affects either a material portion of the Properties or the Lot(s) securing the respective first Mortgage.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

RIGHT OF FIRST REFUSAL. Each Beneficiary, insurer and guarantor of a first Mortgage encumbering one or more Lots, upon filing a written request for notification with the Board, is entitled to written notification from the Master Association of: 13 .2.1 Loss. Any condemnation or casualty loss which affects either a material portion of the Properties or the Lot(s) securing the respective first Mortgage.