ISSUE #1

Section 3 - Sample Provision Excerpt (Public Preview)

This notice will advise the homeowner of the action taken and that failure to comply within a given number of days, to be established at the discretion of the Board, will result in a fine in the amount of $300.00.

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 3 (p. 1): Disciplinary fine provision conflicts with California AB 130 (Cal. Civ. Code §§ 5850(c)-(e) & 5855(a), (f)) by authorizing non-health/safety fines exceeding $100 per violation, imposing interest/late fees on unpaid fines, or omitting mandatory pre-hearing cure (10 days' prior written hearing notice under § 5855(a)) and written decision notice within 14 days following the action (§ 5855(f), shortened from 15 days).

Statutory / Legal Reference: Cal. Civ. Code § 5850(c)-(e) & 5855(a), (f) (AB 130, enacted June 30, 2025)

Statutory Comparison: Under California Civil Code §§ 5850(c)-(e) and 5855(a), (f) (as amended by AB 130, effective June 30, 2025), an association shall not impose a monetary penalty exceeding $100 per violation unless the violation may result in an adverse health or safety impact on the common area or another member's property and the board makes a written finding specifying that adverse impact in an open meeting. Furthermore, AB 130 prohibits charging late fees or interest on unpaid monetary penalties, requires at least 10 days' written pre-hearing notice with a right to cure prior to the hearing (§ 5855(a)), and requires written notice of any disciplinary decision within 14 days following the action (§ 5855(f), shortened from 15 days).

CURRENT WORDING IN DOCUMENT:

This notice will advise the homeowner of the action taken and that failure to comply within a given number of days, to be established at the discretion of the Board, will result in a fine in the amount of $300.00.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to California Civil Code §§ 5850(c)-(e) and 5855(a), (f) (AB 130), no monetary penalty for a governing document violation shall exceed One Hundred Dollars ($100.00) per violation unless the Board makes a written finding in an open meeting that the violation results in an adverse health or safety impact. No late fee or interest shall be charged on any unpaid monetary penalty, no fine shall be imposed if the member cures the violation prior to the disciplinary hearing (following at least 10 days' written pre-hearing notice under § 5855(a)), and written notice of any disciplinary decision shall be delivered within fourteen (14) days following the action under § 5855(f).