ISSUE #1

Section 4.7 - Sample Provision Excerpt (Public Preview)

Effect of Non-Payment of Assessments. (a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 10 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors which may not exceed...

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 4.7 (p. 1): Enforcement, fining, interest, or foreclosure provision violates Colorado HB 22-1137 (C.R.S. § 38-33.3-209.5) limits on cure periods, $500 fine cap, 8% interest cap, or prohibition on foreclosing fine liens.

Statutory / Legal Reference: C.R.S. § 38-33.3-209.5 & 38-33.3-316 (HB 22-1137)

Statutory Comparison: Under C.R.S. § 38-33.3-209.5 (as amended by HB 22-1137), for covenant violations that do not threaten public health or safety, the association must: (1) notify the unit owner by certified mail, return receipt requested; (2) grant two consecutive 30-day periods to cure before turning the matter over to an attorney or legal action; (3) cap total fines for a particular covenant violation at $500; (4) cap delinquency interest at 8% per annum; and (5) refrain from foreclosing on any assessment lien consisting solely of fines, fees, or collection costs.

CURRENT WORDING IN DOCUMENT:

Effect of Non-Payment of Assessments. (a) Any Assessment, charge or fee provided for in this Declaration, or any monthly or other installment thereof, which is not fully paid within 10 days after the due date thereof, as established by the Board of Directors, shall bear interest at the rate established by the Board of Directors which may not exceed...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to C.R.S. §§ 38-33.3-209.5 and 38-33.3-316 (HB 22-1137), for any covenant violation that does not threaten public health or safety: (a) the Association shall send written notice via certified mail, return receipt requested, providing the owner two (2) consecutive thirty (30) day cure periods; (b) the total amount of fines imposed for any single non-health/safety violation shall not exceed Five Hundred Dollars ($500.00); (c) delinquent assessments shall bear interest at no more than eight percent (8%) per annum; and (d) the Association shall not foreclose an assessment lien consisting solely of fines, collection costs, or attorney fees.