

Sec. 22.1 (p. 36): Fining provision permits the Board to impose a fine without majority approval of an independent 3-member fining committee free of officers, directors, employees, and their immediate relatives.

Statutory / Legal Reference: Fla. Stat. § 718.303(3)(b)

Statutory Comparison: Under Fla. Stat. § 718.303(3)(b), a fine or suspension levied by the board of administration/directors may not be imposed unless the owner is provided at least 14 days' written notice and an opportunity for a hearing before an independent committee of at least three (3) members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee does not approve the proposed fine or suspension by a majority vote, it may not be imposed.

CURRENT WORDING IN DOCUMENT:

The Board of Directors may levy reasonable fines against units whose owners commit violations of the Condominium Act, the provisions of the condominium documents or Association rules and regulations, or who condone such violations by their family members, guests, invitees, tenants or lessees. Such fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 718.303(3)(b), no fine or suspension levied by the Board may be imposed unless approved by a majority vote of an independent fining committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, nor the spouse, parent, child, brother, or sister of an officer, director, or employee, following at least fourteen (14) days' written notice of the hearing.

- (a) the Association;
- (b) A Unit Owner;
- (c) Anyone who occupies or is a tenant, guest in a unit, or invitee of anyone so listed; or,
- (d) Any member of the Board of Directors who willfully and knowingly fails to comply with these provisions.

22.2 Fines. The Board of Directors may levy reasonable fines against units whose owners commit violations of the Condominium Act, the provisions of the condominium documents or Association rules and regulations, or who condone such violations by their family members, guests, invitees, tenants or lessees. Such fines shall be in an amount deemed necessary by the Board to deter future violations, but in no event shall any fine exceed the maximum amounts allowed by law.

(a) Procedure. The procedure for imposing such fines shall be as follows:

1. The party against whom the fine is sought to be levied shall be afforded an opportunity for hearing before a committee of other unit owners after reasonable notice of not less than fourteen (14) days, which notice shall include:
 - (i). A statement of the date, time and place of the hearing;
 - (ii). A statement of the specific provisions of the Declaration, Bylaws or rules and regulations which have allegedly been violated; and,
 - (iii). A short and plain statement of the factual matters asserted by the Association.
2. The party against whom the fine may be levied shall have a reasonable opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved, and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Committee.
3. The unit owners shall be the parties ultimately responsible for payment of a fine, regardless of whether the fine relates to conduct by a family member, guest, invitee, tenant or lessee.

22.3 Waiver of Rights. The failure of the Association or any member to enforce a right, provision, covenant or condition which may be granted by the Governing Documents shall not constitute a waiver of the right of the Association or member to enforce such right, provision, covenant or condition in the future. A provision of Chapter 718 , Florida Statutes, may not be waived by a Unit Owner if the waiver would adversely affect the rights of the Unit