

Section Clause #1 - Sample Provision Excerpt (Public Preview)

not apply to Chapter 718, 719 or 720 Associations.
2.
Application of 617 to Community Associations - F.S. 617.1703(1)(a) / SB 602.
Clarifies that if Chapter F.S. 617 contradicts F.S. Chapters 718 (condominiums), 719 (cooperatives), 720 (homeowner associations), 721 (timeshares) or 723 (mobile homes) then those Chapters prevail over F.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · OUTDATED STATUTE LOCK

BOARD & COUNSEL REVIEW

Sec. Clause #1 (p. 1): Declaration references Florida Statutes without express Kaufman language ("as amended from time to time"), risking unconstitutional impairment of contract challenges upon statutory changes.

Statutory / Legal Reference: Kaufman v. Shere, 347 So. 2d 627 (Fla. 3d DCA 1977); Cohn v. Grand Condo. Ass'n, 62 So. 3d 1120 (Fla. 2011)

Statutory Comparison: Under Florida Supreme Court precedent (Cohn), legislative amendments that impair vested contract rights cannot be applied retroactively to an existing community unless the Declaration contains express language adopting the statute "as amended from time to time" (the Kaufman doctrine).

CURRENT WORDING IN DOCUMENT:

not apply to Chapter 718, 719 or 720 Associations. 2. Application of 617 to Community Associations - F.S. 617.1703(1)(a) / SB 602. Clarifies that if Chapter F.S. 617 contradicts F.S. Chapters 718 (condominiums), 719 (cooperatives), 720 (homeowner associations), 721 (timeshares) or 723 (mobile homes) then those Chapters prevail over F.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

In accordance with Kaufman v. Shere, amend the governing law clause to read:
"...governed by Chapter 718 [or 720], Florida Statutes, as the same exists on the date hereof and as the same may be amended from time to time."