

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE BOARD & COUNSEL REVIEW

liability company or association shall be a Member and shall designate in writing at the time of acquisition of the Lot an individual who shall have the power to vote said membership, and in the absence of such designation and until such designation is made, the president, general partner, manager, managing member, or chief executive officer of such corporation, partnership, limited liability company or association shall have the power to vote the membership.

Section 3.14 Suspension of Voting Rights. In the event any Owner is delinquent in the payment of any Assessments or other amounts due under any of the provisions of the Project Documents for a period of ninety (90) days, said Owner's right to vote as a Member of the Association shall automatically be suspended, and shall remain suspended until all payments, including accrued interest and attorneys' fees, are brought current.

Section 3.15 Fines. The Association, acting through its Board of Directors, shall have the right to adopt a schedule of fines for violation of any provision of the Project Documents by any Owner or such Owner's licensees and invitees. No fine shall be imposed without first providing a written warning to the Owner describing the violation and an opportunity to be heard. Only if and to the extent permitted by applicable law, fines shall constitute a lien on all Lots owned by the Owner and shall be paid within thirty (30) days following imposition. Except as otherwise limited by applicable law, failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any assessments under Article IV.

ARTICLE IV
COVENANT FOR MAINTENANCE ASSESSMENTS

Section 4.1 Creation of the Lien and Personal Obligation of Assessments. The Declarant, for each Lot owned by it, hereby covenants, and each Owner of a Lot, by becoming the Owner thereof, whether or not it is expressed in the deed or other instrument by which the Owner acquired ownership of the Lot, is deemed to covenant and agree to pay to the Association annual assessments, special assessments, individual lot assessments and any applicable neighborhood assessments. The annual, special, individual lot and neighborhood assessments, together, with interest, costs, and reasonable attorneys' fees, shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made. Each such Assessment, together with interest, costs, and reasonable attorneys' fees, shall also be the personal obligation of the Owner of such Lot at the time when the Assessment became due. Except as otherwise expressly provided herein or by applicable law, an Owner is jointly and severally liable with the previous Owner for all unpaid assessments that came due up to the time of transfer of title. This liability is without prejudice to any right the present Owner may have to recover any amounts paid by the present owner from the previous owner. Notwithstanding anything to the contrary contained in this Section, the liability of a First Mortgagee, or its successor or assignee as a subsequent holder of the first mortgage who acquires title to a parcel by foreclosure or by deed in lieu of foreclosure, for the unpaid assessments that became due before the mortgagee's acquisition of title, shall be limited as and to the extent provided by Section 720.3085, Florida Statutes, as amended from time to time. In the case of co-ownership of a Residential Unit, all of such co-owners shall be jointly and severally liable for the entire amount of the Assessments. The Association shall, upon demand, at any time, furnish to any Owner liable for an assessment a certificate in writing signed by an officer of the Association, setting forth whether said assessment has been paid. The Association

Sec. 3.15 (p. 16): HOA clause permits placing a lien on a parcel for unpaid fines without the statutory \$1,000 minimum threshold.

Statutory / Legal Reference: Fla. Stat. § 720.305(2)

Statutory Comparison: Under Fla. Stat. § 720.305(2), a fine of less than \$1,000 may not become a lien against a parcel.

CURRENT WORDING IN DOCUMENT:

Only if and to the extent permitted by applicable law, fines shall constitute a lien on all Lots owned by the Owner and shall be paid within thirty (30) days following imposition. Except as otherwise limited by applicable law, failure to pay any fine shall subject the Owner to the same potential

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.305(2), a fine of less than \$1,000 may not become a lien against a parcel.

ISSUE #1