

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

of Chapter 718, Florida Statutes, the Condominium Act. The purpose of this pamphlet is to provide prospective purchasers with important information that should be considered prior to making a purchase.

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MARKUP #1 · OUTDATED STATUTE LOCK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:

of Chapter 718, Florida Statutes, the Condominium Act. The purpose of this pamphlet is to provide prospective purchasers with important information that should be considered prior to making a purchase.

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."