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MARKUP #1 ->

in the public records of Leon County, Florida. Any such amendment shall be limited to future conduct and activities on, or future use of, the property described in Exhibit "A".

ARTICLE XXII: ADDITIONAL COVENANTS AND RESTRICTIONS

Until seventy-five percent (75%) of the lots have been sold by the Developer, no property owner, without the prior written approval of the Developer, may impose any additional covenants or restrictions on any part of the properties.

ARTICLE XXII: LAKE USES

Certain lots extend into lakes. The lot owner of the portion or portions of lakes may not fence such area, build structures, or docks or cause such lake area to be unusable by other parties who have access to the lake, or interfere with the use of the lake area by other parties who have access to the lake. No fences may be erected within twenty (20) feet of the edge of a lake or pond area. Parties having access to the lake shall not operate any motors on the lake except electric motors.

ARTICLE XXIV: GENERAL PROVISIONS

ISSUE #1

Section 1. Duration: The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Developer, present and future owners of lots in the subdivision and the association, for a term of fifty (50) years from the date this Declaration is recorded, after which time the covenants shall be automatically extended for successive periods of ten (10) years unless an instrument signed by the then owners of two-thirds (2/3) of the lots has been recorded, agreeing to change the duration of said covenants and restrictions in whole or in part. Provided, however, that no such agreement to change shall be effective unless made and recorded the three (3) years in advance of such change, and unless written notice of the proposed agreement is sent to every owner at least ninety (90) days in advance of any action taken.

MARKUP #1 · MRTA 30-YEAR COVENANT EXPIRATION RISK

BOARD & COUNSEL REVIEW

Sec. 1. (p. 11): Declaration duration/automatic-renewal clause relies on private renewal language without addressing Florida Marketable Record Title Act (MRTA, Ch. 712) 30-year statutory extinguishment.

Statutory / Legal Reference: Fla. Stat. Ch. 712 (§§ 712.05 - 712.06), § 720.303(2)(e) & § 720.3032

Statutory Comparison: Under Florida's Marketable Record Title Act (Ch. 712), residential HOA covenants expire by operation of law 30 years after their root of title despite private 50- or 90-year terms or automatic 10-year renewal clauses, unless the Board timely records a Summary Notice of Preservation (§ 712.05(2)(b)) or Statement of Marketable Title Action (§ 720.3032). Furthermore, § 720.303(2)(e) requires the Board to consider the desirability of preserving the covenants from MRTA extinguishment at the first board meeting after the annual meeting each year.

CURRENT WORDING IN DOCUMENT:

Duration: The covenants and restrictions of this Declaration shall run with and bind the land, and shall inure to the benefit of and be enforceable by the Developer, present and future owners of lots in the subdivision and the association, for a term of fifty (50)

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding the stated term or automatic renewal periods above, pursuant to Fla. Stat. Chapter 712 and §§ 720.303(2)(e) and 720.3032, the Board of Directors shall annually consider preservation of these covenants at the first board meeting (excluding the organizational meeting) following each annual meeting of the members, and shall record a Summary Notice of Preservation or Statement of Marketable Title Action in the County Public Records prior to the expiration of thirty (30) years from the root of title.