Section General - Sample Provision Excerpt (Public Preview)

WHEREAS, Section 720.303(4), Florida Statutes, defines the official records of the Association and the time periods a manner in which they shall be kept; WHEREAS, the Association fully supports an owner's legal entitlement to inspect and copy official records of the Association as provided in Section 720.

ISSUE #1

MARKUP #1 ->

MARKUP #1 · OUTDATED STATUTE LOCK

BOARD & COUNSEL REVIEW

Sec. General (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:

WHEREAS, Section 720.303(4), Florida Statutes, defines the official records of the Association and the time periods and manner in which they shall be kept; WHEREAS, the Association fully supports an owner's legal entitlement to inspect and copy official records of the Association as provided in Section 720.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

WHEREAS, Section 720.303(4), Florida Statutes, defines the official records of the Association and the time periods and manner in which they shall be kept; WHEREAS, the Association fully supports an owner's legal entitlement to inspect and copy official records of the Association as provided in Section 720. [RECOMMENDED KAUFMAN AMENDMENT]: In accordance with Kaufman v.