

is obtained through the institution of legal proceedings. All such costs of enforcement shall be treated as a lien against the violating unit owners' unit and shall be collected in the same manner as any other assessment, including, but not limited to, the filing of a Claim of Lien.

As of the effective date of this amendment, unit owners may not lease their unit during the first twelve (12) months of ownership. Thereafter, owners must lease their units in accordance with the following restrictions.

No lease or tenancy shall be made except for a minimum period of three (3) months or a maximum period of twelve (12) months. No lease or tenancy shall be made except upon form approved by the Board of Directors of the Association, which form shall, among other provisions, require the tenant or lessee to keep, perform and abide by all terms, provisions, conditions and covenants of the Declaration of Condominium, as amended, and the Rules and Regulations of the Association as adopted from time to time by the Board of Directors.

AMENDMENT TO ARTICLE 54 OF THE BY-LAWS

54.4 In the event any unit owner wishes to rent or lease his unit, the Association shall have the option to rent or lease said unit upon the same conditions that are offered by the unit owner to a third person. Any amendment to rent or lease said unit, without prior authorization of the Association, shall be deemed a breach of this Declaration, and shall be null and void and shall confer no title or interest whatsoever upon the intended tenant or lessee. Unit owners shall be responsible for all costs incurred by the Association in enforcement of the requirements set forth herein, whether or not enforcement is obtained through the institution of legal proceedings. All such costs of enforcement shall be treated as a lien against the violating unit owners' unit and shall be collected in the same manner as any other assessment, including, but not limited to, the filing of a Claim of Lien.

As of the effective date of this amendment, unit owners may not lease their unit during the first twelve (12) months of ownership. Thereafter, owners must lease their units in accordance with the following restrictions.

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AMENDMENT OF A NEW ARTICLE 65 TO THE BY-LAWS
(a new provision)

65. Fines. In addition to the means for enforcement provided elsewhere herein, the Association shall have the right to assess fines against a unit owner or its guests, relatives or lessees, in the manner provided herein, and such fines shall be collectible through any other enforcement procedures available to the Association as provided in the Declaration and these By-Laws, and the Condominium Act of the State of Florida, as may be amended from time to time, including, but not limited to, obtaining a money judgment against the owner of the unit which is being fined.

(a) The Board of Directors shall appoint a Covenants Enforcement Committee which shall be charged with determining where there is probable cause that any of the provisions of the Declaration of Condominium, the Articles of Incorporation, these By-Laws, and the rules and regulations

MARKUP #1 ->

MARKUP #1 · OUTDATED STATUTE LOCK

BOARD & COUNSEL REVIEW

Sec. 6 (p. 5): 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:

and the Condominium Act of the State of Florida, as may be amended from time to time, including, but not limited to, obtaining a money judgment against the owner of the unit which is being fined.
(a) The Board of

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."

ISSUE #1

B4453 P1135