



ISSUE #1

Rules and Regulations, the Board, or an Agent of the Board designated for that purpose, shall notify the Owner of the nature of the violation. If said violation is not cured within five (5) days or if said violation consists of acts or conduct by the Owner, and such acts or conduct are repeated, the Board may levy a fine for each offense against the Owner the amount of such fine shall be in such reasonable amount as may be established from time to time by the Board in accordance with law, in an amount deemed adequate to encourage observance of applicable provisions of the Umbrella Declaration, Articles, By-Laws, Rules and Regulations. Each day during which the violation continues shall be deemed a separate offense. Such fines shall be assessed as a Special Assessment against the Owner and shall constitute a lien upon the Lot or Parcel of such Owner, and may be foreclosed by the Umbrella Association in the same manner as any other lien; provided that before foreclosure of any lien arising from a fine, the defaulting Owner shall be entitled to a hearing before the Board, upon reasonable written notice, specifying the violations charged and may be represented by counsel; provided further that no fine may be levied in any event against the Declarant. In addition, the Board may suspend the right of any Member to use Recreational and

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 6.02 (p. 17): Fining provision permits the Board to impose a fine without majority approval of an independent 3-member fining committee free of officers, directors, employees, and their immediate relatives.

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

Statutory Comparison: Under Fla. Stat. § 720.305(2)(b), a fine or suspension levied by the board of administration/directors may not be imposed unless the owner is provided at least 14 days' written notice and an opportunity for a hearing before an independent committee of at least three (3) members appointed by the board who are not officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. If the committee does not approve the proposed fine or suspension by a majority vote, it may not be imposed.

CURRENT WORDING IN DOCUMENT:

Enforcement and Fines: The Board shall enforce by legal means, provisions of the Umbrella Declaration, the Articles, the By-Laws and 16 Rules and Regulations, the Board, or an Agent of the Board designated for that purpose, shall notify the Owner of the nature of the violation. If said violation is not cured within five (5) days or if said violation consists of acts or conduct by the Owner, and such acts or conduct are repeated, the Board may levy a fine for each offense against the Owner the amount of such fine shall be in such reaso

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Pursuant to Fla. Stat. § 720.305(2)(b), no fine or suspension levied by the Board may be imposed unless approved by a majority vote of an independent fining committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, nor the spouse, parent, child, brother, or sister of an officer, director, or employee, following at least fourteen (14) days' written notice of the hearing.