



INSTRUMENT # 2004070012
79 PGS

MARKUP #1 ->

which he may be a party or on which he may become involved by reason of his being or having been a Director or officer of the Association, whether or not he is Director or officer at the time such expenses are incurred, except in such cases when the Director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of these duties. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such Director or officer may be entitled.

ARTICLE VII
FISCAL MANAGEMENT

The provisions for fiscal management of the Association set forth in the Declaration of Condominium shall be supplemented by the following provisions:

7.1 Accounts: Receipts and expenditures of the Association shall be credited and charged to accounts under the following classifications, as shall be appropriate:

(a) Operating Expenses: Operating expenses shall include all receipts and expenditures to be made within the year from which the receipts are budgeted and may include a reasonable allowance for contingencies and working funds. The balance in this fund at the end of each year shall be applied to reduce the assessment for current expenses for the succeeding year or to fund reserves.

(b) Reserves: Reserve accounts shall be established as provided for in the Condominium Act, as amended from time to time, unless waived by the appropriate vote of the membership of the Association.

7.2 Budget: The Board of Directors shall adopt a budget for each fiscal year which shall include the estimated funds required to fund the operating account and reserve accounts.

7.3 Procedure: The budget shall be adopted by the Board of Directors according to the provisions of the Condominium Act, as amended from time to time.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. VII (p. 12): Outdated reserve waiver clause contradicts mandatory post-milestone SIRS requirements.

Statutory / Legal Reference: Fla. Stat. § 718.112(2)(f) (HB 1021)

Statutory Comparison: Effective under HB 1021, condominium and cooperative associations cannot waive or reduce reserves for items required by a Structural Integrity Reserve Study (SIRS), nor use structural reserve funds for non-scheduled purposes without statutory exemptions.

CURRENT WORDING IN DOCUMENT:

to fund reserves.

(b) Reserves: Reserve accounts shall be established as provided for in the Condominium Act, as amended from time to time, unless waived by the appropriate vote of the membership of the Association. Budget: The Board of Directors shall adopt a budget for each fiscal year which shall include the estimated funds required to fund the operating account and reserve accounts.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided, however, that reserve funding for components covered by a Structural Integrity Reserve Study (SIRS) pursuant to Fla. Stat. § 718.112(2)(g) cannot be waived, reduced, or used for any purpose other than their designated structural replacement.

ISSUE #1