

MARKUP #1 ->

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 6.7 (p. 23): 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 of Maintenance. An Owner who receives a warning Jetter will have fourteen days to resolve the identified violations or issues or the Board may levy fines. If more time is required to complete the required maintenance or repair, Owners may request more time from the Board. In the event that an Owner fails or refuses to comply with any maintenance, repair or replacement obligation under the Governing Documents, after written notice of noncompliance and demand from the Association, the Association shall have the authority, in

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.

ISSUE #1

6.5. Association's Access to Lots. The Association has an irrevocable right of access to Lots and improvements thereon as necessary to prevent damage to one or more Lots. The Association's right of access includes, without limitation, entry for purposes of inspection or preventive maintenance as well as the right, but not the duty, to enter under circumstances where the health or safety of an Owner, Tenant, Guest, Occupant or Invitee may be endangered. The exercise of the Association's rights of access to the Lots shall be accomplished with due respect for the rights of Owners to privacy and freedom from unreasonable annoyance, as well as with appropriate precautions to protect the personal property upon a Lot, within a Dwelling or within a Villa Unit.

6.6. Negligence: Damage Caused by Condition of Lot. The Owner of each Lot shall be liable for the expenses of any maintenance, repair or replacement of the Common Area, other Lots, or personal property made necessary by his intentional act or omission or negligence, by the Owner, his Tenant, Guest Occupant or Invitee. Each Owner has a duty to maintain his Lot in such a manner as to prevent foreseeable and reasonably preventable damage to other Lots, the Common Area, or the personal property of other Owners and residents. If any condition, defect or malfunction, resulting from an Owner's failure to perform this duty causes damage to other Lots, the Common Area, or personal property of others, the Owner of the offending Lot shall be liable for repairing the damaged property for all costs of repair or replacement not paid by insurance. If one or more of the Lots involved is not occupied at the time the damage is discovered, the Association may enter the Lot without prior notice to the Owner and take reasonable action to mitigate damage or prevent its spread. The Association may, but is not obligated to, repair the damage. Any and all costs and expenses incurred by the Association in mitigating or repairing such damage shall be chargeable to the responsible Owner and Lot as an Assessment, secured by a lien.

6.7. Enforcement of Maintenance. An Owner who receives a warning letter will have fourteen days to resolve the identified violations or issues or the Board may levy fines. If more time is required to complete the required maintenance or repair, Owners may request more time from the Board. In the event that an Owner fails or refuses to comply with any maintenance, repair or replacement obligation under the Governing Documents, after written notice of noncompliance and demand from the Association, the Association shall have the authority, in the sole discretion of the Board of Directors, but not the obligation, to undertake any reasonable action the Board of Directors shall determine in its judgment to bring the Lot, and any improvements thereon, into compliance. and All costs and expenses incurred by the Association in bring the Lot, and any improvements thereon, into compliance shall be chargeable to the responsible Owner and Lot as an Assessment, secured by a lien.

6.8 Damage to Single Family Home. In case of damage or casualty loss (fire, hurricane, flood, etc.) to a Dwelling, the Owner of the Dwelling which has suffered damage or casualty loss shall timely reconstruct such Dwelling in accordance with the original plans and specifications of the Dwelling unless otherwise authorized by the ARC. Such reconstruction shall commence within ninety (90) days after the damage or casualty loss first occurred and be substantially completed within one (1) year after the damage or casualty loss first occurred, unless prevented by causes beyond the Lot Owners or its reasonable control.