Section VI - Sample Provision Excerpt (Public Preview)

Rights of Mortgagees
o Section 1 - Notice
o Section 2 - Payments by Mortgagees
o Section 3 - Consent of Mortgagees Required
§ (a) - (g)
o Section 4 - Exemption from Right of First Refusal

ISSUE #1

No Priority

MARKUP #1 ->

MARKUP #1 · MORTGAGE WARRANTABILITY & RESERVE RISK

BOARD & COUNSEL REVIEW

Sec. VI (p. 2): Right of First Refusal (ROFR) clause lacks mandatory exemptions for foreclosure, deeds in lieu of foreclosure, and FHA/GSE-insured mortgages.

Statutory / Legal Reference: Fannie Mae Selling Guide B4-2.1-03, Freddie Mac Guide Ch. 5701, & 24 C.F.R. § 203.43b (FHA / Agency Lending Guidelines)

Statutory Comparison: Under federal HUD/FHA regulations (24 C.F.R. §§ 203.41, 203.43b), VA regulations (38 C.F.R. § 36.4354), and Fannie Mae / Freddie Mac project eligibility standards, any Right of First Refusal in the governing documents renders the entire community non-warrantable for federal and conventional secondary-market mortgages unless it expressly exempts foreclosures, deeds-in-lieu of foreclosure, and...

CURRENT WORDING IN DOCUMENT:
Rights of Mortgagees o Section 1 - Notice o Section 2 - Payments by Mortgagees o Section 3 - Consent of Mortgagees Required § (a) - (g) o Section 4 - Exemption from Right of First Refusal o Section 5 - No Priority

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Any Right of First Refusal reserved herein shall not apply to or impair the rights of any institutional First Mortgagee, nor shall it...