

- ISSUE #1
- MARKUP #1 ->

initiation of foreclosure actions;
initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;
increases in assessments;
levying of special assessments;
appeals from a denial of architectural control approval;
suspension of a right of a particular Member before the Member has an opportunity to attend a regular or special meeting of the Board of Directors to present the Member's position, including any defense, on the issue;
lending or borrowing of money;
the adoption or amendment of a dedicatory instrument;
the approval of an annual budget or the approval of an amendment of an annual budget that increases the budget by more than 10 percent;
the sale or purchase of real property;
the filling of a vacancy on the Board of Directors;
the construction of capital improvements other than the repair, replacement or enhancement of existing capital improvements; or
the election of an officer.

- IV. "ARTICLE V – OFFICERS" shall be amended and supplemented as follows:
- "Section 5 – Vice President - ACC" shall be deleted in its entirety and restated with the following:
5. Vice President – Grounds. The Vice President- Grounds shall have the power of the President if the President is absent or unable to serve until a new President is elected. The Vice President – Grounds shall report to the President. The Vice President – Grounds will serve as the liaison between the Board of Directors and the ACC, but will not be a member of the ACC. The Vice President Grounds will facilitate the preservation and improvement of the community grounds in the community. The Vice President – Grounds shall have such other duties as the President or Board of Directors may impose.
- V. "ARTICLE X" shall be amended and supplemented as follows: - Section 1 shall be deleted in its entirety and restated with the following:
1. These By-Laws may be amended by: (a) a majority vote of the Board of Directors pursuant to Section 22.102 of the Texas Business Organizations Code at any properly noticed regular or special meeting of the Board of Directors; or (b) by vote of two-thirds (2/3) a quorum of the members present in person, by proxy, absentee ballot, or electronic ballot at any properly noticed regular or special meeting of the members.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 14 (p. 11): Enforcement/fining provision omits mandatory Texas Property Code § 209.006 certified mail notice, 30-day Board hearing request window, or HB 614 recorded fine schedule requirements.

Statutory / Legal Reference: Tex. Prop. Code § 209.006, § 209.0061 & § 209.007

Statutory Comparison: Under Tex. Prop. Code § 209.006 and § 209.007, an association may not levy a fine or suspend an owner's right to use a common area unless it first gives written notice by certified mail describing the violation, providing a reasonable period to cure (if curable and not a repeat violation within 6 months), and stating that the owner may request a hearing before the Board on or before the 30th day after the notice was mailed. Further, under § 209.0061 (HB 614), the association must maintain and provide a recorded enforcement policy specifying general categories of restrictive covenants and a schedule of fines for each category.

CURRENT WORDING IN DOCUMENT:

finer; damage assessments; 10
(iii) initiation of foreclosure actions;
(iv) initiation of enforcement actions, excluding temporary restraining orders or violations involving a threat to health or safety;

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Before the Association levies a fine, suspends an Owner's right to use a common area, or files suit other than to collect regular or special assessments or foreclose a lien, the Association shall give written notice to the Owner by certified mail in compliance with Tex. Prop. Code § 209.006. The notice must describe the violation, include a copy of or link to the Association's recorded enforcement and fine schedule policy required by Tex. Prop. Code § 209.0061 (HB 614), specify a reasonable cure period (for curable violations), and inform the Owner that they have thirty (30) days from the date notice is mailed to submit a written request for a hearing before the Board pursuant to Tex. Prop. Code § 209.007.