

Section XII - Sample Provision Excerpt (Public Preview)

Fines and Late Fees levied against individual Owners. The Charges, together with interest, reasonable attorney's fees, and costs of collection, as provided in this Declaration, will be a charge on the land and will be a continuing lien upon the Lot against which the Charges are made.

ISSUE #1



MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

**Sec. XII (p. 13): Clause authorizes nonjudicial power-of-sale foreclosure without first obtaining a mandatory Tex. R. Civ. P. 736 court order under Tex. Prop. Code § 209.0092.**

Statutory / Legal Reference: Tex. Prop. Code § 209.009 & 209.0092

Statutory Comparison: Under Tex. Prop. Code § 209.009, a property owners' association may not foreclose a property owners' association assessment lien if the debt securing the lien consists solely of: (1) fines assessed by the association, (2) attorney's fees incurred by the association solely associated with fines assessed by the association, or (3) copy/recount charges under § 209.005(i) or § 209.0057(b-4). Furthermore, under Tex. Prop.

**CURRENT WORDING IN DOCUMENT:**

Fines and Late Fees levied against individual Owners. The Charges, together with interest, reasonable attorney's fees, and costs of collection, as provided in this Declaration, will be a charge on the land and will be a continuing lien upon the Lot against which the Charges are made.

**SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):**

**Pursuant to Tex. Prop. Code § 209.009, the Association shall not foreclose an assessment lien if the debt securing the lien consists solely of fines, attorney's fees solely associated with fines, or records/recount fees. Pursuant to Tex. Prop.**