Section 8.1 - Sample Provision Excerpt (Public Preview)

establish penalties for the infraction thereof;
(b) Suspend the voting rights and the right to use the recreational facilities of a member during any period in which such member shall be in default in payment of any assessment levied Infraction of published rules and regulations may result in suspension of rights, after notice and a hearing before the Board...

ISSUE #1

MARKUP #1 ->

MARKUP #1 · POTENTIAL ISSUE FOR REVIEW

BOARD & COUNSEL REVIEW

Sec. 8.1 (p. 5): Potential Issue for Review: Fining or enforcement clause grants authority to levy fines or penalties without spelling out the statutory notice, cure, fine schedule, and hearing procedures under Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061 - look for this language in other governing documents (such as a standalone Fining/Enforcement Policy, Rules & Regulations, Bylaws, or amendments) that were not included in this review.

Statutory / Legal Reference: Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules); Tex. Prop. Code § 209.006, 209.0061

Statutory Comparison: Under Tex. Prop. Code §§ 209.006, 209.0061, 82.102(d) and Tex. Prop. Code Ch. 209 (Texas Residential Property Owners Protection Act) & 22 TAC § 535.401 (TREC Management Certificate Rules), an association cannot impose a fine or suspend common-area or voting rights without first providing written notice of the specific covenant violation, a reasonable opportunity to cure, and a formal opportunity...

CURRENT WORDING IN DOCUMENT:
establish penalties for the infraction thereof;
(b) Suspend the voting rights and the right to use the recreational facilities of a member during any period in which such member shall be in default in payment of any assessment levied Infraction of published rules and regulations may result in suspension of rights, after notice and a hearing before the Board...

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):
Look for the required notice, cure, fine schedule, and hearing language in other governing documents not included in this review. If not already set forth in another document, incorporate: Update the fining and suspension procedure to require advance written notice of the specific violation, an opportunity to cure, a formal hearing procedure, and adherence to statutory fine limits under Tex.