ISSUE #1

Section 1. - Sample Provision Excerpt (Public Preview)

(b) The right of the Board of Directors to suspend the voting rights and right to use the Common Area by an Owner of a Site (i) for any period during which any assessment against his site remains unpaid, and (ii) for a period not to exceed sixty (60) days for any single infraction of its pUblished rules and regulations.

MARKUP #1 ->

MARKUP #1 · STATUTORY FINING & HEARING DEFECT

BOARD & COUNSEL REVIEW

Sec. 1. (p. 1): Voting rights suspension clause authorizes suspending a member's voting rights for assessment delinquency or rule infractions without incorporating the mandatory statutory delinquency thresholds, prior written notice, and pre-suspension hearing safeguards required under Va. Code § 55.1-1819 (Corporate Voting Entitlement & Charter Delegation) & 18 VAC 48-70; Va. Code Ann. § 55.1-1800 to 55.1-1836 (Virginia Property Owners' Association Act) & 18 VAC 48-50 / 48-60 / 48-70 (Virginia CIC Board & Ombudsman Regulations); Va. Code Ann. §...

Statutory / Legal Reference: Va. Code Ann. § 13.1-846(A) (Virginia Nonstock Corporation Act - Corporate Voting Entitlement)

Statutory Comparison: Under Va. Code § 55.1-1819 (Corporate Voting Entitlement & Charter Delegation) & 18 VAC 48-70; Va. Code Ann. § 55.1-1800 to 55.1-1836 (Virginia Property Owners' Association Act) & 18 VAC 48-50 / 48-60 / 48-70 (Virginia CIC Board & Ombudsman Regulations); Va. Code Ann. § 13.1-801 to 13.1-946 (Virginia Nonstock Corporation Act), member voting rights are appurtenant to lot or unit ownership and may not be summarily suspended upon default or for non-monetary rule infractions without strict compliance with statutory delinquency periods, advance written notice, and an opportunity to be heard.

CURRENT WORDING IN DOCUMENT:

(b) The right of the Board of Directors to suspend the voting rights and right to use the Common Area by an Owner of a Site (i) for any period during which any assessment against his site remains unpaid, and (ii) for a period not to exceed sixty (60) days for any single infraction of its pUblished rules and regulations.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Notwithstanding any contrary provision in this section, this covenant shall be administered and enforced strictly in accordance with Va. Code Ann. § 13.1-846(A) (Virginia Nonstock Corporation Act - Corporate Voting Entitlement). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with Va. Code Ann. § 13.1-846(A) (Virginia Nonstock Corporation Act - Corporate Voting Entitlement).