ISSUE #1

Section 6.1 - Sample Provision Excerpt (Public Preview)

the right of the Association to suspend the voting rights and right to use...

MARKUP #1 ->

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. 6.1 (p. 1): Voting rights suspension clause lacks Virginia statutory notice, hearing due process, or delinquency safeguards (Va. Code § 55.1-1819 (60-Day Delinquency Floor & Hearing Requirement) & 18 VAC 48-70).

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

Statutory Comparison: Under Virginia community association and nonprofit corporation statutes (Va. Code § 55.1-1819 (60-Day Delinquency Floor & Hearing Requirement) & 18 VAC 48-70; Va. Code Ann. §§ 13.1-801 to 13.1-946 (Virginia Nonstock Corporation Act)), member voting rights are a fundamental corporate governance right and may not be summarily suspended without strict compliance with statutory delinquency thresholds, prior written notice, and an opportunity to be heard.

CURRENT WORDING IN DOCUMENT:

the right of the Association to suspend the voting rights and right to use...

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 § 55.1-1819 ($50 Single / $10 Per-Diem Cap & 14-Day Certified Notice) & 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). Association counsel should review this provision and adopt a conforming amendment or board policy resolution to align with Va. Code § 55.1-1819 ($50 Single / $10 Per-Diem Cap & 14-Day Certified Notice) & 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).