

Section 1: [Bylaws Article VII, Section 4 (Borrowing Money and Pledging Assets)] Board Authority to Borrow Funds and

MARKUP #1 ->

ISSUE #1

The Board of Directors shall have the power to borrow money on behalf of the Association in such amounts and upon such terms as the Board deems necessary for capital improvements or operating needs, and to pledge, mortgage, or assign future assessment revenues as security therefor without a vote of the Membership, provided the loan term does not exceed ten (10) years.

Section 2: [Bylaws Article X, Section 2 (Enforcement of Covenants and Legal Action)] Immediate Filing of Covenant En

Upon any breach or threatened breach of the Covenants, Bylaws, or Rules by a Member, the Board of Directors may immediately commence an action at law or in equity against the Member for injunctive relief, damages, and attorney's fees without prior mediation or informal conference.

MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Bylaws Article VII, Section 4 (Borrowing Money and Pledging Assets) (p. 1): Authorizing the Board to borrow more than \$5,000 or 10% of the annual budget without member approval violates Ind. Code § 32-25.5-3-5

Statutory / Legal Reference: Ind. Code § 32-25.5-3-5 (Indiana Homeowners Associations Act - Borrowing Limits)

Statutory Comparison: Under Ind. Code § 32-25.5-3-5(a)-(b), a homeowners association board may NOT borrow money during any calendar year on behalf of the association in an amount that exceeds the greater of: (1) \$5,000 during any calendar year; or (2) if the association operated under an annual budget in the previous calendar year, an amount equal to at least 10% of the previous annual budget of the association, UNLESS the borrowing is approved by the affirmative vote of a majority of the members voting by paper ballot or proxy at a meeting called for that purpose.

CURRENT WORDING IN DOCUMENT:

and upon such terms as the Board deems necessary for capital improvements or operating needs, and to pledge, mortgage, or assign future assessment revenues as security therefor without a vote of the Membership, provided the loan term does not exceed ten (10) years.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Bylaws Article VII, Section 4 (Borrowing Money and Pledging Assets) ([Bylaws Article VII, Section 4 (Borrowing Money and Pledging Assets)] Board Authority to Borrow Funds and Encumber Association Revenue Without Member Vote - The Board of Directors shall have the power to borrow money on behalf of the Association in such amounts and upon such terms as the Board deems necessary for capital improvements or operating needs, and to pledge, mortgage, or assign future assessment revenues as security therefor without a vote of the Membership, provided the loan term does not exceed ten (10) years.) to conform with Ind. Code § 32-25.5-3-5 (Indiana Homeowners Associations Act - Borrowing Limits) and the manual attorney audit recommendations for Hidden Valley Lake Property Owners Association, Inc..