

Section 1: [Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.09] Continuing Lien for Assessments and Fines Without Annual Reinscription or Sworn Statement - All annual, special, and individual assessments (including fines levied by the Covenants Committee), together with interest at eighteen percent (18%) per annum, late charges, and attorney's fees, shall constitute a continuing privilege and lien upon the Lot superior to all other liens except ad valorem taxes and first mortgages, and shall remain in full force and effect until paid.

Section 2: [Declaration of Covenants, Article VII, Section 7.14] Deactivation of Gate Transponder and Suspension of Guest Entry

In the event any Owner is more than thirty (30) days delinquent in the payment of any assessment or fine, the Association may deactivate the Owner's automated vehicular gate transponders and suspend the Owner's right to pre-authorize guest entry through the unmanned security lanes until the account is brought current.

MARKUP #1 ->



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.09 (p. 1): Statutory Requirements for Sworn Detailed Statement, Certified Mail Service, and Five-Year Peremption of HOA Privilege

Statutory / Legal Reference: La. R.S. 9:1145 to 9:1148 (Louisiana Homeowners Association Privilege / Lien Statute) & La. R.S. 9:2941

Statutory Comparison: Under La. R.S. 9:1145 and 9:1146, a Louisiana HOA does NOT enjoy an automatic, self-executing 'continuing lien' until paid. To preserve a privilege on a lot, the association must file a sworn detailed statement of its claim in the mortgage records of Orleans Parish and concurrently serve it on the delinquent owner by certified mail, return receipt requested. Furthermore, under La. R.S. 9:1147, the recorded privilege is perempted (extinguished) five (5) years after recordation unless a suit to enforce it and a notice of lis pendens are timely filed, and the statutory privilege under La. R.S. 9:1145 covers only 'dues, charges, or assessments' authorized by recorded building restrictions - not unrecorded committee fines.

CURRENT WORDING IN DOCUMENT:

[Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.09] Continuing Lien for Assessments and Fines Without Annual Reinscription or Sworn Statement - All annual, special, and individual assessments (including fines levied by the Covenants Committee), together with interest at eighteen percent (18%) per annum, late charges, and attorney's fees, shall constitute a continuing privilege and lien upon the Lot superior to all other liens except ad valorem taxes and first mortgages, and shall remain in full force and effect until paid.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.09 ([Declaration of Covenants, Conditions and Restrictions, Article V, Section 5.09] Continuing Lien for Assessments and Fines Without Annual Reinscription or Sworn Statement - All annual, special, and individual assessments (including fines levied by the Covenants Committee), together with interest at eighteen percent (18%) per annum, late charges, and attorney's fees, shall constitute a continuing privilege and lien upon the Lot superior to all other liens except ad valorem taxes and first mortgages, and shall remain in full force and effect until paid.) to conform with La. R.S. 9:1145 to 9:1148 (Louisiana Homeowners Association Privilege / Lien Statute) & La. R.S. 9:2941 and the manual attorney audit recommendations for English Turn Property Owners Association, Inc..