

ISSUE #1

MARKUP #1 ->

Section 1: [Board Resolution on Annual Assessments Late Fee & Covenants Article IV] Board-Adopted \$50.00 Flat Late Fee

Any Annual Assessment not paid within thirty (30) days after the due date shall be assessed an immediate \$50.00 late fee in addition to interest at the maximum rate permitted by law, and the Association shall record a Notice of Lien in the Office of the Chancery Clerk of Rankin County at the Owner's expense.



MARKUP #1 · SUBJECTIVE OR OVERBROAD WORDING

BOARD & COUNSEL REVIEW

Sec. Board Resolution on Annual Assessments Late Fee & Covenants Article IV (p. 1): Cumulative \$50.00 Flat Late Fee Plus Maximum Statutory Interest on Modest Annual Dues

Statutory / Legal Reference: Miss. Code Ann. § 75-17-1 & Mississippi Common Law on Liquidated Damages / Penalties

Statutory Comparison: Under Mississippi contract and servitude law (and Miss. Code Ann. § 75-17-1), where the recorded Declaration specifies a percentage interest rate on delinquent assessments but does not expressly authorize a separate flat \$50.00 late charge, a unilateral Board resolution adding a \$50.00 flat penalty on top of statutory interest constitutes an unenforceable penalty/usurious charge in excess of the Declaration's assessment covenant.

**CURRENT WORDING IN DOCUMENT:**  
[Board Resolution on Annual Assessments Late Fee & Covenants Article IV] Board-Adopted \$50.00 Flat Late Fee Plus Default Interest on Annual Assessments - Any Annual Assessment not paid within thirty (30) days after the due date shall be assessed an immediate \$50.00 late fee in addition to interest at the maximum rate permitted by law, and the Association shall record a Notice of Lien in the Office of the Chancery Clerk of Rankin County at the Owner's expense.

**SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):**  
Amend Section Board Resolution on Annual Assessments Late Fee & Covenants Article IV ([Board Resolution on Annual Assessments Late Fee & Covenants Article IV] Board-Adopted \$50.00 Flat Late Fee Plus Default Interest on Annual Assessments - Any Annual Assessment not paid within thirty (30) days after the due date shall be assessed an immediate \$50.00 late fee in addition to interest at the maximum rate permitted by law, and the Association shall record a Notice of Lien in the Office of the Chancery Clerk of Rankin County at the Owner's expense.) to conform with Miss. Code Ann. § 75-17-1 & Mississippi Common Law on Liquidated Damages / Penalties and the manual attorney audit recommendations for Cowan Creek Homeowners Association, Inc..