

ISSUE #1

Section 1: [Section 3.08] Good Standing Requirement and Five-Day Advance Payment Cutoff for Voting

MARKUP #1 ->

A Member is deemed to be in good standing to vote at any meeting of the Association, to run for a seat on the Board and to use the Common Elements if, and only if, that Member has fully paid all assessments or fines made or levied against that Member or their Unit by the Board or the ADR Committee as herein provided, together with all interest, costs, attorney or paralegal fees, penalties and other expenses... Payment must be made in full and received by the Association or its managing agent at least five (5) calendar days before the date fixed for an annual or special meeting for a Unit Owner to be in good standing to vote at that meeting.

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. Section 3.08 (p. 1): Voting rights suspension clause lacks New Jersey statutory notice, hearing due process, or delinquency safeguards (N.J.S.A. 46:8B-14(k) & 45:22A-44(b) (Mandatory ADR Before Fining)).

Statutory / Legal Reference: N.J.S.A. 46:8B-14(k) & 45:22A-44(b) (Mandatory ADR Before Fining); N.J.S.A. 45:22A-21 to 45:22A-56 (PREDFDA & Radburn Election Law); N.J.S.A. 15A:1-1 et seq. (New Jersey Nonprofit Corporation Act)

Statutory Comparison: Under New Jersey community association and nonprofit corporation statutes (N.J.S.A. 46:8B-14(k) & 45:22A-44(b) (Mandatory ADR Before Fining); N.J.S.A. 15A:1-1 et seq. (New Jersey Nonprofit 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:

[Section 3.08] Good Standing Requirement and Five-Day Advance Payment Cutoff for Voting - A Member is deemed to be in good standing to vote at any meeting of the Association, to run for a seat on the Board and to use the Common Elements if, and only if, that Member has fully paid all assessments or fines made or levied against that Member or their Unit by the Board or the ADR Committee as herein provided, together with all interest, costs, attorney or paralegal fees, penalties and other expenses... Payment must be made in full and received by the Association or its managing agent at least five (5) calendar days before the date fixed for an annual or special meeting for a Unit Owner to be in good standing to vote at that meeting.

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Provided that any suspension of voting or membership privileges (to the extent permitted by New Jersey law) shall require prior written notice to the Owner, a reasonable opportunity to be heard, and strict compliance with N.J.S.A. 46:8B-14(k) & 45:22A-44(b) (Mandatory ADR Before Fining) and N.J.S.A. 15A:1-1 et seq. (New Jersey Nonprofit Corporation Act).