

By Senator Gardiner

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1                                   A bill to be entitled  
2       An act relating to residential properties; amending s.  
3       718.112, F.S.; requiring each newly elected director  
4       to certify to the secretary of the association that he  
5       or she has read the association's declarations of  
6       covenants and restrictions, articles of incorporation,  
7       bylaws, and current written policies and will work to  
8       uphold such documents and policies to the best of his  
9       or her ability; providing that a failure to timely  
10      file the statement automatically disqualifies the  
11      director from service on the association's board of  
12      directors; requiring the secretary of the association  
13      to retain a director's certification for inspection by  
14      the members for a specified period of years after a  
15      director's election; amending s. 720.303, F.S.;  
16      revising provisions relating to homeowners'  
17      association board meetings, inspection and copying of  
18      records, and reserve accounts of budgets; prohibiting  
19      a salary or compensation for certain association  
20      personnel; providing exceptions; amending s. 720.305,  
21      F.S.; authorizing fines assessed against members which  
22      exceed a certain amount to become a lien against a  
23      parcel; amending s. 720.306, F.S.; providing  
24      requirements for secret ballots; requiring newly  
25      elected members of a board of directors to make  
26      certain certifications in writing to the association;  
27      providing for disqualification for failure to make  
28      such certifications; requiring an association to  
29      retain certifications for a specified time; amending

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30 s. 720.401, F.S.; requiring that the disclosure  
31 summary to prospective parcel owners include  
32 additional provisions; amending s. 34.01, F.S.;  
33 correcting a cross-reference to conform to changes  
34 made by the act; amending s. 720.302, F.S.; correcting  
35 a cross-reference to conform to changes made by the  
36 act; establishing legislative intent; repealing s.  
37 720.311, F.S., relating to a procedure for dispute  
38 resolution in homeowners' associations; providing that  
39 dispute resolution cases pending on the date of repeal  
40 will continue under the repealed provisions; creating  
41 part IV of ch. 720, F.S., relating to dispute  
42 resolution; creating s. 720.501, F.S.; providing a  
43 short title; creating s. 720.502, F.S.; providing  
44 legislative findings; creating s. 720.503, F.S.;  
45 setting applicability of provisions for mediation and  
46 arbitration applicable to disputes in homeowners'  
47 associations; creating exceptions; providing  
48 applicability; tolling applicable statutes of  
49 limitations; creating s. 720.504, F.S.; requiring that  
50 the notice of dispute be delivered before referral to  
51 mediation or arbitration; creating s. 720.505, F.S.;  
52 creating a statutory notice form for referral to  
53 mediation; requiring delivery by certified mail or  
54 personal delivery; setting deadlines; requiring  
55 parties to share costs; requiring the selection of a  
56 mediator and times to meet; providing penalties for  
57 failure to mediate; creating s. 720.506, F.S.;  
58 creating an opt-out provision; creating s. 720.507,

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59 F.S.; creating a statutory notice form for referral to  
60 arbitration; requiring delivery by certified mail or  
61 personal delivery; setting deadlines; requiring  
62 parties to share costs; requiring the selection of an  
63 arbitrator and times to meet; providing penalties for  
64 failure to arbitrate; creating s. 720.508, F.S.;

65 providing for rules of procedure; providing for  
66 confidentiality; creating s. 720.509, F.S.; setting  
67 qualifications for mediators and arbitrators; creating  
68 s. 720.510, F.S.; providing for enforcement of  
69 mediation agreements and arbitration awards; providing  
70 that any three or more condominium associations may  
71 form a self-insurance fund for certain purposes under  
72 certain conditions; requiring that the contract for  
73 participating in the fund disclose certain information  
74 and contain certain provisions; requiring that a  
75 disclosure be provided to an association before  
76 execution of such contract; requiring that such  
77 disclosure contain certain information; providing for  
78 the charging of contributions for participation in the  
79 fund; requiring that the majority of the governing  
80 board of the fund be participants in the fund;

81 providing powers of the governing board; authorizing  
82 the fund to enter into certain contracts; requiring  
83 that the fund use a general lines agent meeting  
84 certain criteria when soliciting participation in the  
85 fund; prohibiting the fund from taking certain actions  
86 when selecting such agent; requiring that the fund be  
87 independently audited at specified intervals;

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88 authorizing the fund to accumulate funds or distribute  
89 excess funds to participants on a pro rata basis;  
90 providing for a deductible for participants in the  
91 fund; exempting such self-insurance funds from certain  
92 requirements, regulations, fees, taxes, and  
93 assessments; providing effective dates.

94

95 Be It Enacted by the Legislature of the State of Florida:

96

97 Section 1. Paragraph (d) of subsection (2) of section  
98 718.112, Florida Statutes, is amended to read:

99 718.112 Bylaws.—

100 (2) REQUIRED PROVISIONS.—The bylaws shall provide for the  
101 following and, if they do not do so, shall be deemed to include  
102 the following:

103 (d) *Unit owner meetings*.—

104 1. There shall be an annual meeting of the unit owners held  
105 at the location provided in the association bylaws and, if the  
106 bylaws are silent as to the location, the meeting shall be held  
107 within 45 miles of the condominium property. However, such  
108 distance requirement does not apply to an association governing  
109 a timeshare condominium. Unless the bylaws provide otherwise, a  
110 vacancy on the board caused by the expiration of a director's  
111 term shall be filled by electing a new board member, and the  
112 election shall be by secret ballot; however, if the number of  
113 vacancies equals or exceeds the number of candidates, no  
114 election is required. The terms of all members of the board  
115 shall expire at the annual meeting and such board members may  
116 stand for reelection unless otherwise permitted by the bylaws.

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117 In the event that the bylaws permit staggered terms of no more  
118 than 2 years and upon approval of a majority of the total voting  
119 interests, the association board members may serve 2-year  
120 staggered terms. If no person is interested in or demonstrates  
121 an intention to run for the position of a board member whose  
122 term has expired according to the provisions of this  
123 subparagraph, such board member whose term has expired shall be  
124 automatically reappointed to the board of administration and  
125 need not stand for reelection. In a condominium association of  
126 more than 10 units, coowners of a unit may not serve as members  
127 of the board of directors at the same time. Any unit owner  
128 desiring to be a candidate for board membership shall comply  
129 with subparagraph 3. A person who has been suspended or removed  
130 by the division under this chapter, or who is delinquent in the  
131 payment of any fee or assessment as provided in paragraph (n),  
132 is not eligible for board membership. A person who has been  
133 convicted of any felony in this state or in a United States  
134 District or Territorial Court, or who has been convicted of any  
135 offense in another jurisdiction that would be considered a  
136 felony if committed in this state, is not eligible for board  
137 membership unless such felon's civil rights have been restored  
138 for a period of no less than 5 years as of the date on which  
139 such person seeks election to the board. The validity of an  
140 action by the board is not affected if it is later determined  
141 that a member of the board is ineligible for board membership  
142 due to having been convicted of a felony.

143 2. The bylaws shall provide the method of calling meetings  
144 of unit owners, including annual meetings. Written notice, which  
145 notice must include an agenda, shall be mailed, hand delivered,

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146 or electronically transmitted to each unit owner at least 14  
147 days prior to the annual meeting and shall be posted in a  
148 conspicuous place on the condominium property at least 14  
149 continuous days preceding the annual meeting. Upon notice to the  
150 unit owners, the board shall by duly adopted rule designate a  
151 specific location on the condominium property or association  
152 property upon which all notices of unit owner meetings shall be  
153 posted; however, if there is no condominium property or  
154 association property upon which notices can be posted, this  
155 requirement does not apply. In lieu of or in addition to the  
156 physical posting of notice of any meeting of the unit owners on  
157 the condominium property, the association may, by reasonable  
158 rule, adopt a procedure for conspicuously posting and repeatedly  
159 broadcasting the notice and the agenda on a closed-circuit cable  
160 television system serving the condominium association. However,  
161 if broadcast notice is used in lieu of a notice posted  
162 physically on the condominium property, the notice and agenda  
163 must be broadcast at least four times every broadcast hour of  
164 each day that a posted notice is otherwise required under this  
165 section. When broadcast notice is provided, the notice and  
166 agenda must be broadcast in a manner and for a sufficient  
167 continuous length of time so as to allow an average reader to  
168 observe the notice and read and comprehend the entire content of  
169 the notice and the agenda. Unless a unit owner waives in writing  
170 the right to receive notice of the annual meeting, such notice  
171 shall be hand delivered, mailed, or electronically transmitted  
172 to each unit owner. Notice for meetings and notice for all other  
173 purposes shall be mailed to each unit owner at the address last  
174 furnished to the association by the unit owner, or hand

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175 delivered to each unit owner. However, if a unit is owned by  
176 more than one person, the association shall provide notice, for  
177 meetings and all other purposes, to that one address which the  
178 developer initially identifies for that purpose and thereafter  
179 as one or more of the owners of the unit shall so advise the  
180 association in writing, or if no address is given or the owners  
181 of the unit do not agree, to the address provided on the deed of  
182 record. An officer of the association, or the manager or other  
183 person providing notice of the association meeting, shall  
184 provide an affidavit or United States Postal Service certificate  
185 of mailing, to be included in the official records of the  
186 association affirming that the notice was mailed or hand  
187 delivered, in accordance with this provision.

188         3. The members of the board shall be elected by written  
189 ballot or voting machine. Proxies shall in no event be used in  
190 electing the board, either in general elections or elections to  
191 fill vacancies caused by recall, resignation, or otherwise,  
192 unless otherwise provided in this chapter. Not less than 60 days  
193 before a scheduled election, the association shall mail,  
194 deliver, or electronically transmit, whether by separate  
195 association mailing or included in another association mailing,  
196 delivery, or transmission, including regularly published  
197 newsletters, to each unit owner entitled to a vote, a first  
198 notice of the date of the election along with a certification  
199 form provided by the division attesting that he or she has read  
200 and understands, to the best of his or her ability, the  
201 governing documents of the association and the provisions of  
202 this chapter and any applicable rules. Any unit owner or other  
203 eligible person desiring to be a candidate for the board must

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204 give written notice to the association not less than 40 days  
205 before a scheduled election. Together with the written notice  
206 and agenda as set forth in subparagraph 2., the association  
207 shall mail, deliver, or electronically transmit a second notice  
208 of the election to all unit owners entitled to vote therein,  
209 together with a ballot which shall list all candidates. Upon  
210 request of a candidate, the association shall include an  
211 information sheet, no larger than 8 1/2 inches by 11 inches,  
212 which must be furnished by the candidate not less than 35 days  
213 before the election, along with the signed certification form  
214 provided for in this subparagraph, to be included with the  
215 mailing, delivery, or transmission of the ballot, with the costs  
216 of mailing, delivery, or electronic transmission and copying to  
217 be borne by the association. The association is not liable for  
218 the contents of the information sheets prepared by the  
219 candidates. In order to reduce costs, the association may print  
220 or duplicate the information sheets on both sides of the paper.  
221 The division shall by rule establish voting procedures  
222 consistent with the provisions contained herein, including rules  
223 establishing procedures for giving notice by electronic  
224 transmission and rules providing for the secrecy of ballots.  
225 Elections shall be decided by a plurality of those ballots cast.  
226 There shall be no quorum requirement; however, at least 20  
227 percent of the eligible voters must cast a ballot in order to  
228 have a valid election of members of the board. No unit owner  
229 shall permit any other person to vote his or her ballot, and any  
230 such ballots improperly cast shall be deemed invalid, provided  
231 any unit owner who violates this provision may be fined by the  
232 association in accordance with s. 718.303. A unit owner who



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233 needs assistance in casting the ballot for the reasons stated in  
234 s. 101.051 may obtain assistance in casting the ballot. The  
235 regular election shall occur on the date of the annual meeting.  
236 The provisions of this subparagraph shall not apply to timeshare  
237 condominium associations. Notwithstanding the provisions of this  
238 subparagraph, an election is not required unless more candidates  
239 file notices of intent to run or are nominated than board  
240 vacancies exist.

241 4. Any approval by unit owners called for by this chapter  
242 or the applicable declaration or bylaws, including, but not  
243 limited to, the approval requirement in s. 718.111(8), shall be  
244 made at a duly noticed meeting of unit owners and shall be  
245 subject to all requirements of this chapter or the applicable  
246 condominium documents relating to unit owner decisionmaking,  
247 except that unit owners may take action by written agreement,  
248 without meetings, on matters for which action by written  
249 agreement without meetings is expressly allowed by the  
250 applicable bylaws or declaration or any statute that provides  
251 for such action.

252 5. Unit owners may waive notice of specific meetings if  
253 allowed by the applicable bylaws or declaration or any statute.  
254 If authorized by the bylaws, notice of meetings of the board of  
255 administration, unit owner meetings, except unit owner meetings  
256 called to recall board members under paragraph (j), and  
257 committee meetings may be given by electronic transmission to  
258 unit owners who consent to receive notice by electronic  
259 transmission.

260 6. Unit owners shall have the right to participate in  
261 meetings of unit owners with reference to all designated agenda

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262 items. However, the association may adopt reasonable rules  
263 governing the frequency, duration, and manner of unit owner  
264 participation.

265 7. Any unit owner may tape record or videotape a meeting of  
266 the unit owners subject to reasonable rules adopted by the  
267 division.

268 8. Unless otherwise provided in the bylaws, any vacancy  
269 occurring on the board before the expiration of a term may be  
270 filled by the affirmative vote of the majority of the remaining  
271 directors, even if the remaining directors constitute less than  
272 a quorum, or by the sole remaining director. In the alternative,  
273 a board may hold an election to fill the vacancy, in which case  
274 the election procedures must conform to the requirements of  
275 subparagraph 3. unless the association governs 10 units or less  
276 and has opted out of the statutory election process, in which  
277 case the bylaws of the association control. Unless otherwise  
278 provided in the bylaws, a board member appointed or elected  
279 under this section shall fill the vacancy for the unexpired term  
280 of the seat being filled. Filling vacancies created by recall is  
281 governed by paragraph (j) and rules adopted by the division.

282 9. Within 30 days after being elected to the board of  
283 directors, a new director shall certify in writing to the  
284 secretary of the association that he or she has read the  
285 association's declarations of covenants and restrictions,  
286 articles of incorporation, bylaws, and current written policies,  
287 that he or she will work to uphold such documents and policies  
288 to the best of his or her ability, and that he or she will  
289 faithfully discharge his or her fiduciary responsibility to the  
290 association's members. Failure to timely file the statement

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291 automatically disqualifies the director from service on the  
292 association's board of directors. The secretary shall cause the  
293 association to retain a director's certification for inspection  
294 by the members for 5 years after a director's election. Failure  
295 to have such certification on file does not affect the validity  
296 of any appropriate action.

297  
298 Notwithstanding subparagraphs (b)2. and (d)3., an association of  
299 10 or fewer units may, by the affirmative vote of a majority of  
300 the total voting interests, provide for different voting and  
301 election procedures in its bylaws, which vote may be by a proxy  
302 specifically delineating the different voting and election  
303 procedures. The different voting and election procedures may  
304 provide for elections to be conducted by limited or general  
305 proxy.

306 Section 2. Paragraph (b) of subsection (2), paragraphs (a)  
307 and (c) of subsection (5), paragraphs (b), (c), (d), (f), and  
308 (g) of subsection (6) of section 720.303, Florida Statutes, are  
309 amended, and subsection (12) is added to that section, to read:

310 720.303 Association powers and duties; meetings of board;  
311 official records; budgets; financial reporting; association  
312 funds; recalls.—

313 (2) BOARD MEETINGS.—

314 (b) Members have the right to attend all meetings of the  
315 board and to speak on any matter placed on the agenda by  
316 petition of the voting interests for at least 3 minutes. The  
317 association may adopt written reasonable rules expanding the  
318 right of members to speak and governing the frequency, duration,  
319 and other manner of member statements, which rules must be

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320 consistent with this paragraph and may include a sign-up sheet  
321 for members wishing to speak. Notwithstanding any other law, ~~the~~  
322 ~~requirement that board meetings and committee meetings be open~~  
323 ~~to the members is inapplicable to~~ meetings between the board or  
324 a committee to discuss proposed or pending litigation with and  
325 the association's attorney, or ~~with respect to~~ meetings of the  
326 board held for the purpose of discussing personnel matters are  
327 not required to be open to the members.

328 (5) INSPECTION AND COPYING OF RECORDS.—The official records  
329 shall be maintained within the state and must be open to  
330 inspection and available for photocopying by members or their  
331 authorized agents at reasonable times and places within 10  
332 business days after receipt of a written request for access.  
333 This subsection may be complied with by having a copy of the  
334 official records available for inspection or copying in the  
335 community. If the association has a photocopy machine available  
336 where the records are maintained, it must provide parcel owners  
337 with copies on request during the inspection if the entire  
338 request is limited to no more than 25 pages.

339 (a) The failure of an association to provide access to the  
340 records within 10 business days after receipt of a written  
341 request submitted by certified mail, return receipt requested,  
342 creates a rebuttable presumption that the association willfully  
343 failed to comply with this subsection.

344 (c) The association may adopt reasonable written rules  
345 governing the frequency, time, location, notice, records to be  
346 inspected, and manner of inspections, but may not require ~~impose~~  
347 ~~a requirement that~~ a parcel owner to demonstrate any proper  
348 purpose for the inspection, state any reason for the inspection,

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349 or limit a parcel owner's right to inspect records to less than  
350 one 8-hour business day per month. The association may impose  
351 fees to cover the costs of providing copies of the official  
352 records, including, without limitation, the costs of copying.  
353 The association may charge up to 50 cents per page for copies  
354 made on the association's photocopier. If the association does  
355 not have a photocopy machine available where the records are  
356 kept, or if the records requested to be copied exceed 25 pages  
357 in length, the association may have copies made by an outside  
358 vendor or association management company personnel and may  
359 charge the actual cost of copying, including any reasonable  
360 costs involving personnel fees and charges at an hourly rate for  
361 employee time to cover administrative costs to the association.  
362 The association shall maintain an adequate number of copies of  
363 the recorded governing documents, to ensure their availability  
364 to members and prospective members. Notwithstanding the  
365 provisions of this paragraph, the following records are ~~shall~~  
366 not ~~be~~ accessible to members or parcel owners:

367 1. Any record protected by the lawyer-client privilege as  
368 described in s. 90.502 and any record protected by the work-  
369 product privilege, including, but not limited to, any record  
370 prepared by an association attorney or prepared at the  
371 attorney's express direction which reflects a mental impression,  
372 conclusion, litigation strategy, or legal theory of the attorney  
373 or the association and which was prepared exclusively for civil  
374 or criminal litigation or for adversarial administrative  
375 proceedings or which was prepared in anticipation of imminent  
376 civil or criminal litigation or imminent adversarial  
377 administrative proceedings until the conclusion of the

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378 litigation or ~~adversarial~~ administrative proceedings.

379 2. Information obtained by an association in connection  
380 with the approval of the lease, sale, or other transfer of a  
381 parcel.

382 3. Disciplinary, health, insurance, and personnel records,  
383 including payroll records, of the association's employees.

384 4. Medical records of parcel owners or community residents.

385 (6) BUDGETS.—

386 (b) In addition to annual operating expenses, the budget  
387 may include reserve accounts for capital expenditures and  
388 deferred maintenance for which the association is responsible.  
389 If reserve accounts are not established pursuant to paragraph  
390 (d), funding of such reserves shall be limited to the extent  
391 that the governing documents ~~do not~~ limit increases in  
392 assessments, including reserves. If the budget of the  
393 association includes reserve accounts established pursuant to  
394 paragraph (d), such reserves shall be determined, maintained,  
395 and waived in the manner provided in this subsection. Once an  
396 association provides for reserve accounts pursuant to paragraph  
397 (d) in the budget, the association shall thereafter determine,  
398 maintain, and waive reserves in compliance with this subsection.  
399 The provisions of this section do not preclude the termination  
400 of a reserve account established pursuant to this paragraph upon  
401 approval of a majority of the voting interests of the  
402 association. Upon such approval, the terminating reserve account  
403 shall be removed from the budget.

404 (c)1. If the budget of the association does not provide for  
405 reserve accounts pursuant to paragraph (d) ~~governed by this~~  
406 ~~subsection~~ and the association is responsible for the repair and

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407 maintenance of capital improvements that may result in a special  
408 assessment if reserves are not provided, each financial report  
409 for the preceding fiscal year required by subsection (7) shall  
410 contain the following statement in conspicuous type: THE BUDGET  
411 OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR  
412 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN  
413 SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE  
414 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
415 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT LESS THAN~~ A  
416 MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY  
417 VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

418 2. If the budget of the association does provide for  
419 funding accounts for deferred expenditures, including, but not  
420 limited to, funds for capital expenditures and deferred  
421 maintenance, but such accounts are not created or established  
422 pursuant to paragraph (d), each financial report for the  
423 preceding fiscal year required under subsection (7) must also  
424 contain the following statement in conspicuous type: THE BUDGET  
425 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
426 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND  
427 DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN  
428 OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
429 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),  
430 FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE  
431 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR  
432 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

433 (d) An association shall be deemed to have provided for  
434 reserve accounts if ~~when~~ reserve accounts have been initially  
435 established by the developer or if ~~when~~ the membership of the

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436 association affirmatively elects to provide for reserves. If  
437 reserve accounts are not initially provided for by the  
438 developer, the membership of the association may elect to do so  
439 upon the affirmative approval of ~~not less than~~ a majority of the  
440 total voting interests of the association. Such approval may be  
441 obtained ~~attained~~ by vote of the members at a duly called  
442 meeting of the membership or by the ~~upon a~~ written consent of of  
443 ~~executed by not less than~~ a majority of the total voting  
444 interests in the community. The approval action of the  
445 membership shall state that reserve accounts shall be provided  
446 for in the budget and shall designate the components for which  
447 the reserve accounts are to be established. Upon approval by the  
448 membership, the board of directors shall include ~~provide for~~ the  
449 required reserve accounts ~~for inclusion~~ in the budget in the  
450 next fiscal year following the approval and ~~in~~ each year  
451 thereafter. Once established as provided in this subsection, the  
452 reserve accounts shall be funded or maintained or shall have  
453 their funding waived in the manner provided in paragraph (f).

454 (f) After one or more ~~Once a reserve account or~~ reserve  
455 accounts are established, the membership of the association,  
456 upon a majority vote at a meeting at which a quorum is present,  
457 may provide for no reserves or less reserves than required by  
458 this section. If a meeting of the unit owners has been called to  
459 determine whether to waive or reduce the funding of reserves and  
460 no such result is achieved or a quorum is not present, the  
461 reserves as included in the budget shall go into effect. After  
462 the turnover, the developer may vote its voting interest to  
463 waive or reduce the funding of reserves. Any vote taken pursuant  
464 to this subsection to waive or reduce reserves is ~~shall be~~



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465 applicable only to one budget year.

466 (g) Funding formulas for reserves authorized by this  
467 section shall be based on either a separate analysis of each of  
468 the required assets or a pooled analysis of two or more of the  
469 required assets.

470 1. If the association maintains separate reserve accounts  
471 for each of the required assets, the amount of the contribution  
472 to each reserve account is ~~shall be~~ the sum of the following two  
473 calculations:

474 a. The total amount necessary, if any, to bring a negative  
475 component balance to zero.

476 b. The total estimated deferred maintenance expense or  
477 estimated replacement cost of the reserve component less the  
478 estimated balance of the reserve component as of the beginning  
479 of the period ~~for which~~ the budget will be in effect. The  
480 remainder, if greater than zero, shall be divided by the  
481 estimated remaining useful life of the component.

482

483 The formula may be adjusted each year for changes in estimates  
484 and deferred maintenance performed during the year and may  
485 include factors such as inflation and earnings on invested  
486 funds.

487 2. If the association maintains a pooled account of two or  
488 more of the required reserve assets, the amount of the  
489 contribution to the pooled reserve account as disclosed on the  
490 proposed budget may ~~shall~~ not be less than that required to  
491 ensure that the balance on hand at the beginning of the period  
492 ~~for which~~ the budget will go into effect plus the projected  
493 annual cash inflows over the remaining estimated useful life of

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494 all of the assets that make up the reserve pool are equal to or  
495 greater than the projected annual cash outflows over the  
496 remaining estimated useful lives of all ~~of~~ the assets that make  
497 up the reserve pool, based on the current reserve analysis. The  
498 projected annual cash inflows may include estimated earnings  
499 from investment of principal and accounts receivable minus the  
500 allowance for doubtful accounts. The reserve funding formula may  
501 ~~shall~~ not include any type of balloon payments.

502 (12) COMPENSATION PROHIBITED.—A director, officer, or  
503 committee member of the association may not receive directly or  
504 indirectly any salary or compensation from the association for  
505 the performance of duties as a director, officer, or committee  
506 member and may not in any other way benefit financially from  
507 service to the association. This subsection does not preclude:

508 (a) Participation by such person in a financial benefit  
509 accruing to all or a significant number of members as a result  
510 of actions lawfully taken by the board or a committee of which  
511 he or she is a member, including, but not limited to, routine  
512 maintenance, repair, or replacement of community assets.

513 (b) Reimbursement for out-of-pocket expenses incurred by  
514 such person on behalf of the association, subject to approval in  
515 accordance with procedures established by the association's  
516 governing documents or, in the absence of such procedures, in  
517 accordance with an approval process established by the board.

518 (c) Any recovery of insurance proceeds derived from a  
519 policy of insurance maintained by the association for the  
520 benefit of its members.

521 (d) Any fee or compensation authorized in the governing  
522 documents.

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523       (e) Any fee or compensation authorized in advance by a vote  
524 of a majority of the voting interests voting in person or by  
525 proxy at a meeting of the members.

526       Section 3. Subsection (2) of section 720.305, Florida  
527 Statutes, is amended to read:

528       720.305 Obligations of members; remedies at law or in  
529 equity; levy of fines and suspension of use rights.—

530       (2) If the governing documents so provide, an association  
531 may suspend, for a reasonable period of time, the rights of a  
532 member or a member's tenants, guests, or invitees, or both, to  
533 use common areas and facilities and may levy reasonable fines of  
534 up to, ~~not to exceed~~ \$100 per violation, against any member or  
535 any tenant, guest, or invitee. A fine may be levied on the basis  
536 of each day of a continuing violation, with a single notice and  
537 opportunity for hearing, except that no ~~such~~ fine may ~~shall~~  
538 exceed \$1,000 in the aggregate unless otherwise provided in the  
539 governing documents. A fine of less than \$1,000 may ~~shall~~ not  
540 become a lien against a parcel. In any action to recover a fine,  
541 the prevailing party is entitled to collect its reasonable  
542 attorney's fees and costs from the nonprevailing party as  
543 determined by the court.

544       (a) A fine or suspension may not be imposed without ~~notice~~  
545 ~~of~~ at least 14 days' notice ~~days~~ to the person sought to be  
546 fined or suspended and an opportunity for a hearing before a  
547 committee of at least three members appointed by the board who  
548 are not officers, directors, or employees of the association, or  
549 the spouse, parent, child, brother, or sister of an officer,  
550 director, or employee. If the committee, by majority vote, does  
551 not approve a proposed fine or suspension, it may not be

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552 imposed.

553 (b) The requirements of this subsection do not apply to the  
554 imposition of suspensions or fines upon any member because of  
555 the failure of the member to pay assessments or other charges  
556 when due if such action is authorized by the governing  
557 documents.

558 (c) Suspension of common-area-use rights do ~~shall~~ not  
559 impair the right of an owner or tenant of a parcel to have  
560 vehicular and pedestrian ingress to and egress from the parcel,  
561 including, but not limited to, the right to park.

562 Section 4. Subsections (8) and (9) of section 720.306,  
563 Florida Statutes, are amended to read:

564 720.306 Meetings of members; voting and election  
565 procedures; amendments.—

566 (8) PROXY VOTING.—The members have the right, unless  
567 otherwise provided in this subsection or in the governing  
568 documents, to vote in person or by proxy.

569 (a) To be valid, a proxy must be dated, must state the  
570 date, time, and place of the meeting for which it was given, and  
571 must be signed by the authorized person who executed the proxy.  
572 A proxy is effective only for the specific meeting for which it  
573 was originally given, as the meeting may lawfully be adjourned  
574 and reconvened from time to time, and automatically expires 90  
575 days after the date of the meeting for which it was originally  
576 given. A proxy is revocable at any time at the pleasure of the  
577 person who executes it. If the proxy form expressly so provides,  
578 any proxy holder may appoint, in writing, a substitute to act in  
579 his or her place.

580 (b) If the governing documents permit voting by secret

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581 ballot by members who are not in attendance at a meeting of the  
582 members for the election of directors, such ballots shall be  
583 placed in an inner envelope with no identifying markings and  
584 mailed or delivered to the association in an outer envelope  
585 bearing identifying information reflecting the name of the  
586 member, the lot or parcel for which the vote is being cast, and  
587 the signature of the lot or parcel owner casting that ballot.  
588 After the eligibility of the member to vote and confirmation  
589 that no other ballot has been submitted for that lot or parcel,  
590 the inner envelope shall be removed from the outer envelope  
591 bearing the identification information, placed with the ballots  
592 which were personally cast, and opened when the ballots are  
593 counted. If more than one ballot is submitted for a lot or  
594 parcel, the ballots for that lot or parcel shall be  
595 disqualified. Any vote by ballot received after the closing of  
596 the balloting may not be considered.

597 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.—

598 (a) Elections of directors must be conducted in accordance  
599 with the procedures set forth in the governing documents of the  
600 association. All members of the association are ~~shall be~~  
601 eligible to serve on the board of directors, and a member may  
602 nominate himself or herself as a candidate for the board at a  
603 meeting where the election is to be held or, if the election  
604 process allows voting by absentee ballot, in advance of the  
605 balloting. Except as otherwise provided in the governing  
606 documents, boards of directors must be elected by a plurality of  
607 the votes cast by eligible voters. Any election dispute between  
608 a member and an association must be submitted to mandatory  
609 binding arbitration with the division. Such proceedings shall be

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610 conducted in the manner provided by s. 718.1255 and the  
 611 procedural rules adopted by the division.

612 (b) Within 30 days after being elected to the board of  
 613 directors, a new director shall certify in writing to the  
 614 secretary of the association that he or she has read the  
 615 association's declarations of covenants and restrictions,  
 616 articles of incorporation, bylaws, and current written policies  
 617 and that he or she will work to uphold each to the best of his  
 618 or her ability and will faithfully discharge his or her  
 619 fiduciary responsibility to the association's members. Failure  
 620 to timely file such statement shall automatically disqualify the  
 621 director from service on the association's board of directors.  
 622 The secretary shall cause the association to retain a director's  
 623 certification for inspection by the members for 5 years after a  
 624 director's election. Failure to have such certification on file  
 625 does not affect the validity of any appropriate action.

626 Section 5. Paragraph (a) of subsection (1) of section  
 627 720.401, Florida Statutes, is amended to read:

628 720.401 Prospective purchasers subject to association  
 629 membership requirement; disclosure required; covenants;  
 630 assessments; contract cancellation.-

631 (1) (a) A prospective parcel owner in a community must be  
 632 presented a disclosure summary before executing the contract for  
 633 sale. The disclosure summary must be in a form substantially  
 634 similar to the following form:

635  
 636 DISCLOSURE SUMMARY  
 637 FOR  
 638 (NAME OF COMMUNITY)

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1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS COMMUNITY.

3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. YOU WILL ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION MAY ~~COULD~~ RESULT IN A LIEN ON YOUR PROPERTY.

6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING

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668 DOCUMENTS BEFORE PURCHASING PROPERTY.

669 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND  
 670 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 671 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE  
 672 OBTAINED FROM THE DEVELOPER.

673 10. THERE MAY BE AN OBLIGATION TO PAY ASSESSMENTS (TAXES OR  
 674 FEES) TO A RESIDENTIAL COMMUNITY DEVELOPMENT DISTRICT FOR THE  
 675 PURPOSE OF RETIRING BOND OBLIGATIONS USED TO CONSTRUCT  
 676 INFRASTRUCTURE OR OTHER IMPROVEMENTS.

677 11. YOU ARE JOINTLY AND SEVERALLY LIABLE WITH THE PREVIOUS  
 678 OWNER OF YOUR PROPERTY FOR ALL UNPAID ASSESSMENTS THAT CAME DUE  
 679 UP TO THE TIME OF TRANSFER OF TITLE.

681 DATE: PURCHASER:  
 682 PURCHASER:

683  
 684 The disclosure must be supplied by the developer, or by the  
 685 parcel owner if the sale is by an owner that is not the  
 686 developer. Any contract or agreement for sale shall refer to and  
 687 incorporate the disclosure summary and shall include, in  
 688 prominent language, a statement that the potential buyer should  
 689 not execute the contract or agreement until he or she has ~~they~~  
 690 ~~have~~ received and read the disclosure summary required by this  
 691 section.

692 Section 6. Effective July 1, 2010, subsection (1) of  
 693 section 34.01, Florida Statutes, is amended to read:

694 34.01 Jurisdiction of county court.—

695 (1) County courts shall have original jurisdiction:

696 (a) In all misdemeanor cases not cognizable by the circuit



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697 courts;

698 (b) Of all violations of municipal and county ordinances;

699 (c) Of all actions at law in which the matter in  
 700 controversy does not exceed the sum of \$15,000, exclusive of  
 701 interest, costs, and attorney's fees, except those within the  
 702 exclusive jurisdiction of the circuit courts; and

703 (d) Of disputes occurring in the homeowners' associations  
 704 as described in part IV of chapter 720 s. 720.311(2)(a), which  
 705 shall be concurrent with jurisdiction of the circuit courts.

706 Section 7. Effective July 1, 2010, subsection (2) of  
 707 section 720.302, Florida Statutes, is amended to read:

708 720.302 Purposes, scope, and application.—

709 (2) The Legislature recognizes that it is not in the best  
 710 interest of homeowners' associations or the individual  
 711 association members thereof to create or impose a bureau or  
 712 other agency of state government to regulate the affairs of  
 713 homeowners' associations. However, in accordance with part IV of  
 714 this chapter s. 720.311, the Legislature finds that homeowners'  
 715 associations and their individual members will benefit from an  
 716 expedited alternative process for resolution of ~~election and~~  
 717 ~~recall disputes and presuit mediation of other~~ disputes  
 718 involving covenant enforcement in homeowner's associations and  
 719 deed-restricted communities using the procedures provided in  
 720 part IV of and ~~authorizes the department to hear, administer,~~  
 721 ~~and determine these disputes as more fully set forth in this~~  
 722 chapter. Further, the Legislature recognizes that certain  
 723 contract rights have been created for the benefit of homeowners'  
 724 associations and members thereof as well as deed-restricted  
 725 communities before the effective date of this act and that part

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726 IV of this chapter is ~~ss. 720.301-720.407~~ are not intended to  
727 impair such contract rights, including, but not limited to, the  
728 rights of the developer to complete the community as initially  
729 contemplated.

730 Section 8. Effective July 1, 2010, section 720.311, Florida  
731 Statutes, is repealed.

732 Section 9. Effective July 1, 2010, part IV of chapter 720,  
733 Florida Statutes, to be entitled "Dispute Resolution,"  
734 consisting of sections 720.501, 720.502, 720.503, 720.504,  
735 720.505, 720.506, 720.507, 720.508, 720.509, and 720.510, is  
736 created to read:

737 720.501 Short title.—This part may be cited as the "Home  
738 Court Advantage Dispute Resolution Act."

739 720.502 Legislative findings.—The Legislature finds that  
740 alternative dispute resolution has made progress in reducing  
741 court dockets and trials and in offering a more efficient, cost-  
742 effective option to litigation.

743 720.503 Applicability of this part.—

744 (1) Unless otherwise provided in this part, before a  
745 dispute described in this part between a homeowners' association  
746 and a parcel owner or owners, or a dispute between parcel owners  
747 within the same homeowners' association, may be filed in court,  
748 the dispute is subject to presuit mediation pursuant to s.  
749 720.505 or presuit arbitration pursuant to s. 720.507, at the  
750 option of the aggrieved party who initiates the first formal  
751 action of alternative dispute resolution under this part. The  
752 parties may mutually agree to participate in both presuit  
753 mediation and presuit arbitration prior to suit being filed by  
754 either party.

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755       (2) Unless otherwise provided in this part, the mediation  
756 and arbitration provisions of this part are limited to disputes  
757 between an association and a parcel owner or owners or between  
758 parcel owners regarding the use of or changes to the parcel or  
759 the common areas under the governing documents and other  
760 disputes involving violations of the recorded declaration of  
761 covenants or other governing documents, disputes arising  
762 concerning enforcement of the governing documents or any  
763 amendments thereto, and disputes involving access to the  
764 official records of the association. A dispute concerning title  
765 to any parcel or common area, interpretation or enforcement of  
766 any warranty, the levy of a fee or assessment, the collection of  
767 an assessment levied against a party, the eviction or other  
768 removal of a tenant from a parcel, alleged breaches of fiduciary  
769 duty by one or more directors, or any action to collect mortgage  
770 indebtedness or to foreclose on a mortgage shall not be subject  
771 to the provisions of this part.

772       (3) All disputes arising after the effective date of this  
773 part involving the election of the board of directors for an  
774 association or the recall of any member of the board or officer  
775 of the association shall not be eligible for presuit mediation  
776 under s. 720.505, but shall be subject to the provisions  
777 concerning presuit arbitration under s. 720.507.

778       (4) In any dispute subject to presuit mediation or presuit  
779 arbitration under this part for which emergency relief is  
780 required, a motion for temporary injunctive relief may be filed  
781 with the court without first complying with the presuit  
782 mediation or presuit arbitration requirements of this part.  
783 After any issues regarding emergency or temporary relief are

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784 resolved, the court may refer the parties to a mediation program  
785 administered by the courts or require mediation or arbitration  
786 under this part.

787 (5) The mailing of a statutory notice of presuit mediation  
788 or presuit arbitration as provided in this part shall toll the  
789 applicable statute of limitations during the pendency of the  
790 mediation or arbitration and for a period of 30 days following  
791 the conclusion of either proceeding. The 30-day period shall  
792 start upon the filing of the mediator's notice of impasse or the  
793 arbitrator's written arbitration award. If the parties mutually  
794 agree to participate in both presuit mediation and presuit  
795 arbitration under this part, the tolling of the applicable  
796 statute of limitations for each such alternative dispute  
797 resolution proceeding shall be consecutive.

798 720.504 Notice of dispute.—Prior to giving the statutory  
799 notice to proceed under presuit medication or presuit  
800 arbitration under this part, the aggrieved association or parcel  
801 owner shall first provide written notice of the dispute to the  
802 responding party in the manner provided by this section.

803 (1) The notice of dispute shall be delivered to the  
804 responding party by certified mail, return receipt requested, or  
805 the notice of dispute may be hand delivered, and the person  
806 making delivery shall file with their notice of mediation either  
807 the proof of receipt of mailing or an affidavit stating the date  
808 and time of the delivery of the notice of dispute. If the notice  
809 is delivered by certified mail, return receipt requested, and  
810 the responding party fails or refuses to accept delivery, notice  
811 shall be considered properly delivered for purposes of this  
812 section on the date of the first attempted delivery.

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813       (2) The notice of dispute shall state with specificity the  
814 nature of the dispute, including the date, time, and location of  
815 each event that is the subject of the dispute and the action  
816 requested to resolve the dispute. The notice shall also include  
817 the text of any provision in the governing documents, including  
818 the rules and regulations, of the association which form the  
819 basis of the dispute.

820       (3) Unless the parties otherwise agree in writing to a  
821 longer time period, the party receiving the notice of dispute  
822 shall have 10 days following the date of receipt of notice to  
823 resolve the dispute. If the alleged dispute has not been  
824 resolved within the 10-day period, the aggrieved party may  
825 proceed under this part at any time thereafter within the  
826 applicable statute of limitations.

827       (4) A copy of the notice and the text of the provision in  
828 the governing documents, or the rules and regulations, of the  
829 association which are the basis of the dispute, along with proof  
830 of service of the notice of dispute and a copy of any written  
831 responses received from the responding party, shall be included  
832 as an exhibit to any demand for mediation or arbitration under  
833 this part.

834       720.505 Presuit mediation.-

835       (1) Disputes between an association and a parcel owner or  
836 owners and between parcel owners must be submitted to presuit  
837 mediation before the dispute may be filed in court; or, at the  
838 election of the party initiating the presuit procedures, such  
839 dispute may be submitted to presuit arbitration pursuant to s.  
840 720.507 before the dispute may be filed in court. An aggrieved  
841 party who elects to use the presuit mediation procedure under

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842 this section shall serve on the responding party a written  
 843 notice of presuit mediation in substantially the following form:

845 STATUTORY NOTICE OF PRESUIT MEDIATION

847 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
 848 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
 849 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
 850 MEDIATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)  
 851 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE  
 852 SUBJECT TO PRESUIT MEDIATION:

854 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION  
 855 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO  
 856 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF  
 857 A VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
 858 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING  
 859 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE  
 860 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
 861 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
 862 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

864 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
 865 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
 866 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
 867 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
 868 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
 869 MEDIATION WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER  
 870 TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT

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871 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
872 PARTICIPATE IN THIS PROCESS. UNLESS YOU RESPOND TO  
873 THIS NOTICE BY FILING WITH THE AGGRIEVED PARTY A  
874 NOTICE OF OPTING OUT AND DEMAND FOR ARBITRATION UNDER  
875 S. 720.506, FLORIDA STATUTES, YOUR FAILURE TO  
876 PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A  
877 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT  
878 FURTHER NOTICE.

879  
880 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
881 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
882 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS  
883 THEM IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING  
884 PART OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE  
885 IN PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
886 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
887 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
888 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
889 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE  
890 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
891 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

892  
893 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
894 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
895 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
896 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE  
897 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
898 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
899 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN

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900 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
901 PARTY MAY PROCEED TO FILE A LAWSUIT ON ALL  
902 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
903 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION  
904 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER  
905 ATTORNEY'S FEES IF YOU PREVAIL IN A SUBSEQUENT COURT  
906 PROCEEDING INVOLVING THE SAME DISPUTE.

907  
908 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
909 ELIGIBLE, QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
910 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
911 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
912 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE  
913 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE  
914 OF THE LISTED MEDIATORS DOES NOT MEAN THAT THE  
915 MEDIATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
916 FACILITATOR. THE NAMES OF THE MEDIATORS THAT THE  
917 AGGRIEVED PARTY HEREBY SUBMITS TO YOU FROM WHOM YOU  
918 MAY CHOOSE ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE  
919 NUMBERS, AND HOURLY RATES ARE AS FOLLOWS:

920  
921 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
922 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
923 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
924 BE INCLUDED AS AN ATTACHMENT.)

925  
926 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
927 CONFIRM THAT EACH OF THE ABOVE-LISTED MEDIATORS WILL  
928 BE NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD



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929 EITHER PARTY. UNLESS OTHERWISE AGREED TO BY THE  
930 PARTIES, PART IV OF CHAPTER 720, FLORIDA STATUTES,  
931 REQUIRES THAT THE PARTIES SHARE THE COSTS OF PRESUIT  
932 MEDIATION EQUALLY, INCLUDING THE FEE CHARGED BY THE  
933 MEDIATOR. AN AVERAGE MEDIATION MAY REQUIRE 3 TO 4  
934 HOURS OF THE MEDIATOR'S TIME, INCLUDING SOME  
935 PREPARATION TIME, AND THE PARTIES WOULD NEED TO  
936 EQUALLY SHARE THE MEDIATOR'S FEES AS WELL AS BE  
937 RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES IF  
938 THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
939 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
940 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE  
941 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
942 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY  
943 HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE  
944 SELECTED MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS  
945 AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS AS  
946 THE MEDIATOR REQUIRES FOR THIS PURPOSE UPON THE  
947 SELECTION OF THE MEDIATOR. ANY FUNDS DEPOSITED WILL BE  
948 RETURNED TO YOU IF THESE FUNDS ARE IN EXCESS OF YOUR  
949 SHARE OF THE MEDIATOR FEES INCURRED.

950  
951 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO  
952 TRY TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER  
953 LEGAL ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE  
954 WHICH MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE  
955 MEDIATORS LISTED BY THE AGGRIEVED PARTY ABOVE.

956  
957 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE

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958 OF PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE  
959 YOU MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
960 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
961 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
962 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT  
963 MEDIATION OR WITHIN 90 DAYS AFTER THE DATE YOU WERE  
964 SERVED WITH A COPY OF THIS NOTICE. THE AGGRIEVED PARTY  
965 WILL THEN ASK THE MEDIATOR TO SCHEDULE A MUTUALLY  
966 CONVENIENT TIME AND PLACE FOR THE MEDIATION CONFERENCE  
967 TO BE HELD. IF YOU DO NOT PROVIDE A LIST OF AVAILABLE  
968 DATES AND TIMES, THE MEDIATOR IS AUTHORIZED TO  
969 SCHEDULE A MEDIATION CONFERENCE WITHOUT TAKING YOUR  
970 SCHEDULE AND CONVENIENCE INTO CONSIDERATION. IN NO  
971 EVENT SHALL THE MEDIATION CONFERENCE BE LATER THAN 90  
972 DAYS AFTER THE NOTICE OF PRESUIT MEDIATION WAS FIRST  
973 SERVED UNLESS ALL PARTIES MUTUALLY AGREE OTHERWISE. IN  
974 THE EVENT THAT YOU FAIL TO RESPOND WITHIN 20 DAYS  
975 AFTER THE DATE OF THIS NOTICE, FAIL TO PROVIDE THE  
976 MEDIATOR WITH DATES AND TIMES IN WHICH YOU ARE  
977 AVAILABLE FOR THE MEDIATION CONFERENCE, FAIL TO AGREE  
978 TO AT LEAST ONE OF THE MEDIATORS THAT THE AGGRIEVED  
979 PARTY HAS LISTED, FAIL TO PAY OR PREPAY TO THE  
980 MEDIATOR ONE-HALF OF THE COSTS INVOLVED, OR FAIL TO  
981 APPEAR AND PARTICIPATE AT THE SCHEDULED MEDIATION, THE  
982 AGGRIEVED PARTY WILL BE AUTHORIZED TO PROCEED WITH THE  
983 FILING OF A LAWSUIT AGAINST YOU WITHOUT FURTHER  
984 NOTICE. IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED  
985 PARTY MAY SEEK AN AWARD OF REASONABLE ATTORNEY'S FEES  
986 AND COSTS INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

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987  
 988 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 989 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
 990 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
 991 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE  
 992 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
 993 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
 994 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
 995 OF THIS NOTICE.

996  
 997 \_\_\_\_\_  
 998 SIGNATURE OF AGGRIEVED PARTY

999  
 1000 \_\_\_\_\_  
 1001 PRINTED NAME OF AGGRIEVED PARTY

1002  
 1003 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 1004 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

1005  
 1006 AGREEMENT TO MEDIATE

1007  
 1008 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
 1009 PRESUIT MEDIATION AND AGREES TO ATTEND A MEDIATION  
 1010 CONDUCTED BY THE FOLLOWING MEDIATOR(S) LISTED BELOW AS  
 1011 ACCEPTABLE TO MEDIATE THIS DISPUTE:

1012  
 1013 (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE  
 1014 AGGRIEVED PARTY.)

1015

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1016 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN  
1017 ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE  
1018 FOLLOWING DATES AND TIMES:

1019  
1020 (LIST AT LEAST THREE AVAILABLE DATES AND TIMES WITHIN  
1021 THE 90-DAY TIME LIMIT DESCRIBED ABOVE.)

1022  
1023 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
1024 MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
1025 AS THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

1026  
1027 \_\_\_\_\_  
1028 SIGNATURE OF RESPONDING PARTY #1

1029 \_\_\_\_\_  
1030 TELEPHONE CONTACT INFORMATION

1031  
1032 \_\_\_\_\_  
1033 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
1034 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
1035 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,  
1036 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
1037 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

1038  
1039 (2) (a) Service of the notice of presuit mediation shall be  
1040 effected either by personal service, as provided in chapter 48,  
1041 or by certified mail, return receipt requested, in a letter in  
1042 substantial conformity with the form provided in subsection (1),  
1043 with an additional copy being sent by regular first-class mail,  
1044 to the address of the responding party as it last appears on the

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1045 books and records of the association or, if not available, then  
1046 as it last appears in the official records of the county  
1047 property appraiser where the parcel in dispute is located. The  
1048 responding party has either 20 days after the postmarked date of  
1049 the mailing of the statutory notice or 20 days after the date  
1050 the responding party is served with a copy of the notice to  
1051 serve a written response to the aggrieved party. The response  
1052 shall be served by certified mail, return receipt requested,  
1053 with an additional copy being sent by regular first-class mail,  
1054 to the address shown on the statutory notice. The date of the  
1055 postmark on the envelope for the response shall constitute the  
1056 date that the response is served. Once the parties have agreed  
1057 on a mediator, the mediator may schedule or reschedule the  
1058 mediation for a date and time mutually convenient to the parties  
1059 within 90 days after the date of service of the statutory  
1060 notice. After such 90-day period, the mediator may reschedule  
1061 the mediation only upon the mutual written agreement of all the  
1062 parties.

1063 (b) The parties shall share the costs of presuit mediation  
1064 equally, including the fee charged by the mediator, if any,  
1065 unless the parties agree otherwise, and the mediator may require  
1066 advance payment of his or her reasonable fees and costs. Each  
1067 party shall be responsible for that party's own attorney's fees  
1068 if a party chooses to be represented by an attorney at the  
1069 mediation.

1070 (c) The party responding to the aggrieved party may provide  
1071 a notice of opting out under s. 720.506 and demand arbitration  
1072 or may sign the agreement to mediate included in the notice of  
1073 presuit mediation. A responding party signing the agreement to

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1074 mediate must clearly indicate the name of the mediator who is  
1075 acceptable from the five names provided by the aggrieved party  
1076 and must provide a list of dates and times in which the  
1077 responding party is available to participate in the mediation  
1078 within 90 days after the date the responding party was served,  
1079 either by process server or by certified mail, with the  
1080 statutory notice of presuit mediation.

1081 (d) The mediator who has been selected and agreed to  
1082 mediate must schedule the mediation conference at a mutually  
1083 convenient time and place within that 90-day period; but, if the  
1084 responding party does not provide a list of available dates and  
1085 times, the mediator is authorized to schedule a mediation  
1086 conference without taking the responding party's schedule and  
1087 convenience into consideration. Within 10 days after the  
1088 designation of the mediator, the mediator shall coordinate with  
1089 the parties and notify the parties in writing of the date, time,  
1090 and place of the mediation conference.

1091 (e) The mediation conference must be held on the scheduled  
1092 date and may be rescheduled if a rescheduled date is approved by  
1093 the mediator. However, in no event shall the mediation be held  
1094 later than 90 days after the notice of presuit mediation was  
1095 first served, unless all parties mutually agree in writing  
1096 otherwise. If the presuit mediation is not completed within the  
1097 required time limits, the mediator shall declare an impasse  
1098 unless the mediation date is extended by mutual written  
1099 agreement by all parties and approved by the mediator.

1100 (f) If the responding party fails to respond within 30 days  
1101 after the date of service of the statutory notice of presuit  
1102 mediation, fails to agree to at least one of the mediators

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1103 listed by the aggrieved party in the notice, fails to pay or  
1104 prepay to the mediator one-half of the costs of the mediator, or  
1105 fails to appear and participate at the scheduled mediation, the  
1106 aggrieved party shall be authorized to proceed with the filing  
1107 of a lawsuit without further notice.

1108 (g)1. The failure of any party to respond to the statutory  
1109 notice of presuit mediation within 20 days, the failure to agree  
1110 upon a mediator, the failure to provide a listing of dates and  
1111 times in which the responding party is available to participate  
1112 in the mediation within 90 days after the date the responding  
1113 party was served with the statutory notice of presuit mediation,  
1114 the failure to make payment of fees and costs within the time  
1115 established by the mediator, or the failure to appear for a  
1116 scheduled mediation session without the approval of the  
1117 mediator, shall in each instance constitute a failure or refusal  
1118 to participate in the mediation process and shall operate as an  
1119 impasse in the presuit mediation by such party, entitling the  
1120 other party to file a lawsuit in court and to seek an award of  
1121 the costs and attorney's fees associated with the mediation.

1122 2. Persons who fail or refuse to participate in the entire  
1123 mediation process may not recover attorney's fees and costs in  
1124 subsequent litigation relating to the same dispute between the  
1125 same parties. If any presuit mediation session cannot be  
1126 scheduled and conducted within 90 days after the offer to  
1127 participate in mediation was filed, through no fault of either  
1128 party, then an impasse shall be deemed to have occurred unless  
1129 the parties mutually agree in writing to extend this deadline.  
1130 In the event of such impasse, each party shall be responsible  
1131 for its own costs and attorney's fees and one-half of any

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1132 mediator fees and filing fees, and either party may file a  
1133 lawsuit in court regarding the dispute.

1134 720.506 Opt-out of presuit mediation.—A party served with a  
1135 notice of presuit mediation under s. 720.505 may opt out of  
1136 presuit mediation and demand that the dispute proceed under  
1137 nonbinding arbitration as follows:

1138 (1) In lieu of a response to the notice of presuit  
1139 mediation as required under s. 720.505, the responding party may  
1140 serve upon the aggrieved party, in the same manner as the  
1141 response to a notice for presuit mediation under s. 720.505, a  
1142 notice of opting out of mediation and demand that the dispute  
1143 instead proceed to presuit arbitration under s. 720.507.

1144 (2) The aggrieved party shall be relieved from having to  
1145 satisfy the requirements of s. 720.504 as a condition precedent  
1146 to filing the demand for presuit arbitration.

1147 (3) Except as otherwise provided in this part, the choice  
1148 of which presuit alternative dispute resolution procedure is  
1149 used shall be at the election of the aggrieved party who first  
1150 initiated such proceeding after complying with the provisions of  
1151 s. 720.504.

1152 720.507 Presuit arbitration.—

1153 (1) Disputes between an association and a parcel owner or  
1154 owners and disputes between parcel owners are subject to a  
1155 demand for presuit arbitration pursuant to this section before  
1156 the dispute may be filed in court. A party who elects to use the  
1157 presuit arbitration procedure under this part shall serve on the  
1158 responding party a written notice of presuit arbitration in  
1159 substantially the following form:



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STATUTORY NOTICE OF PRESUIT ARBITRATION

THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
ARBITRATION IN CONNECTION WITH THE FOLLOWING  
DISPUTE(S) WITH YOU, WHICH BY STATUTE ARE OF A TYPE  
THAT ARE SUBJECT TO PRESUIT ARBITRATION:

(LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING  
DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
PARTIES.)

PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO  
PARTICIPATE IN THE ARBITRATION PROCESS, A LAWSUIT MAY  
BE BROUGHT AGAINST YOU IN COURT WITHOUT FURTHER  
WARNING.

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1190 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
1191 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY  
1192 THE PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
1193 "ARBITRATION AWARD." PURSUANT TO S. 720.507, FLORIDA  
1194 STATUTES, THE ARBITRATION AWARD SHALL BE FINAL UNLESS  
1195 A LAWSUIT IS FILED IN A COURT OF COMPETENT  
1196 JURISDICTION FOR THE JUDICIAL CIRCUIT IN WHICH THE  
1197 PARCEL(S) GOVERNED BY THE HOMEOWNERS' ASSOCIATION  
1198 IS/ARE LOCATED WITHIN 30 DAYS AFTER THE DATE OF THE  
1199 ARBITRATION AWARD.

1200

1201 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
1202 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
1203 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
1204 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
1205 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR  
1206 TO LITIGATE THESE ISSUES IN COURT AND SHALL BE THE  
1207 SAME AS A SETTLEMENT AGREEMENT REACHED BETWEEN THE  
1208 PARTIES UNDER S. 720.505, FLORIDA STATUTES. THE  
1209 FAILURE OF A PARTY TO PARTICIPATE IN THE ARBITRATION  
1210 PROCESS MAY RESULT IN THE ARBITRATOR ISSUING AN  
1211 ARBITRATION AWARD BY DEFAULT IN THE ARBITRATION. IF  
1212 YOU HAVE FAILED OR REFUSED TO PARTICIPATE IN THE  
1213 ENTIRE ARBITRATION PROCESS, YOU WILL NOT BE ENTITLED  
1214 TO RECOVER ATTORNEY'S FEES, EVEN IF YOU PREVAIL IN A  
1215 SUBSEQUENT COURT PROCEEDING INVOLVING THE SAME DISPUTE  
1216 BETWEEN THE SAME PARTIES.

1217

1218 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE

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1219 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
1220 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
1221 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
1222 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
1223 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
1224 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
1225 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
1226 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
1227 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
1228 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT  
1229 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,  
1230 AND HOURLY RATES, ARE AS FOLLOWS:

1231  
1232 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
1233 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.

1234  
1235 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
1236 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL  
1237 AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.

1238  
1239 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF  
1240 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
1241 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION  
1242 EQUALLY, INCLUDING THE FEE CHARGED BY THE ARBITRATOR.  
1243 THE PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN  
1244 ATTORNEY'S FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY  
1245 IN CONNECTION WITH THE ARBITRATION. HOWEVER, USE OF AN  
1246 ATTORNEY TO REPRESENT YOU FOR THE ARBITRATION IS NOT  
1247 REQUIRED. THE ARBITRATOR SELECTED MAY REQUIRE THE

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1248 ADVANCE PAYMENT OF SOME OR ALL OF THE ANTICIPATED  
 1249 FEES. THE AGGRIEVED PARTY HEREBY AGREES TO PAY OR  
 1250 PREPAY ONE-HALF OF THE SELECTED ARBITRATOR'S ESTIMATED  
 1251 FEES AND TO FORWARD THIS AMOUNT OR SUCH OTHER  
 1252 REASONABLE ADVANCE DEPOSITS AS THE ARBITRATOR WHO IS  
 1253 SELECTED REQUIRES FOR THIS PURPOSE. ANY FUNDS  
 1254 DEPOSITED WILL BE RETURNED TO YOU IF THESE FUNDS ARE  
 1255 IN EXCESS OF YOUR SHARE OF THE FEES INCURRED.

1256  
 1257 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND  
 1258 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS  
 1259 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE  
 1260 AGGRIEVED PARTY.

1261  
 1262 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
 1263 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF  
 1264 PRESUIT ARBITRATION WAS EITHER PERSONALLY SERVED ON  
 1265 YOU OR 20 DAYS AFTER THE POSTMARKED DATE THAT THIS  
 1266 NOTICE OF PRESUIT ARBITRATION WAS SENT TO YOU BY  
 1267 CERTIFIED MAIL. YOU MUST ALSO PROVIDE A LIST OF AT  
 1268 LEAST THREE DATES AND TIMES IN WHICH YOU ARE AVAILABLE  
 1269 TO PARTICIPATE IN THE ARBITRATION THAT ARE WITHIN 90  
 1270 DAYS AFTER THE DATE YOU WERE PERSONALLY SERVED OR  
 1271 WITHIN 90 DAYS AFTER THE POSTMARKED DATE OF THE  
 1272 CERTIFIED MAILING OF THIS STATUTORY NOTICE OF PRESUIT  
 1273 ARBITRATION. A COPY OF THIS NOTICE AND YOUR RESPONSE  
 1274 WILL BE PROVIDED BY THE AGGRIEVED PARTY TO THE  
 1275 ARBITRATOR SELECTED, AND THE ARBITRATOR WILL SCHEDULE  
 1276 A MUTUALLY CONVENIENT TIME AND PLACE FOR THE

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1277 ARBITRATION CONFERENCE TO BE HELD. IF YOU DO NOT  
1278 PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
1279 ARBITRATOR IS AUTHORIZED TO SCHEDULE AN ARBITRATION  
1280 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND  
1281 CONVENIENCE INTO CONSIDERATION. THE ARBITRATION  
1282 CONFERENCE MUST BE HELD ON THE SCHEDULED DATE, OR ANY  
1283 RESCHEDULED DATE APPROVED BY THE ARBITRATOR. IN NO  
1284 EVENT SHALL THE ARBITRATION CONFERENCE BE LATER THAN  
1285 90 DAYS AFTER NOTICE OF THE PRESUIT ARBITRATION WAS  
1286 FIRST SERVED, UNLESS ALL PARTIES MUTUALLY AGREE IN  
1287 WRITING OTHERWISE. IF THE ARBITRATION IS NOT COMPLETED  
1288 WITHIN THE REQUIRED TIME LIMITS, THE ARBITRATOR SHALL  
1289 ISSUE AN ARBITRATION AWARD, UNLESS THE HEARING IS  
1290 EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES  
1291 AND APPROVED BY THE ARBITRATOR. IN THE EVENT THAT YOU  
1292 FAIL TO RESPOND WITHIN 20 DAYS AFTER THE DATE YOU WERE  
1293 SERVED WITH A COPY OF THIS NOTICE, FAIL TO PROVIDE THE  
1294 ARBITRATOR WITH DATES AND TIMES IN WHICH YOU ARE  
1295 AVAILABLE FOR THE ARBITRATION CONFERENCE, FAIL TO  
1296 AGREE EITHER TO ONE OF THE ARBITRATORS THAT THE  
1297 AGGRIEVED PARTY HAS NAMED, FAIL TO PAY OR PREPAY TO  
1298 THE ARBITRATOR ONE-HALF OF THE COSTS INVOLVED AS  
1299 REQUIRED, OR FAIL TO APPEAR AND PARTICIPATE AT THE  
1300 SCHEDULED ARBITRATION CONFERENCE, THE AGGRIEVED PARTY  
1301 MAY REQUEST THE ARBITRATOR TO ISSUE AN ARBITRATION  
1302 AWARD. IN THE SUBSEQUENT COURT ACTION, THE AGGRIEVED  
1303 PARTY SHALL BE ENTITLED TO RECOVER AN AWARD OF  
1304 REASONABLE ATTORNEY'S FEES AND COSTS, INCLUDING ANY  
1305 FEES PAID TO THE ARBITRATOR, INCURRED IN OBTAINING AN

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1306       ARBITRATION AWARD PURSUANT TO S. 720.507, FLORIDA  
 1307       STATUTES.  
 1308  
 1309       PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 1310       LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
 1311       CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,  
 1312       TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
 1313       ARBITRATION.

1314  
 1315  
 1316       \_\_\_\_\_  
Signature of aggrieved party

1317  
 1318       \_\_\_\_\_  
 1319       PRINTED NAME OF AGGRIEVED PARTY

1320  
 1321       RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 1322       ACCEPTANCE OF THE AGREEMENT TO ARBITRATE.

1323  
 1324                               AGREEMENT TO ARBITRATE

1325  
 1326       THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
 1327       PRESUIT ARBITRATION AND AGREES TO ATTEND AN  
 1328       ARBITRATION CONDUCTED BY THE FOLLOWING ARBITRATOR  
 1329       LISTED BELOW AS SOMEONE WHO WOULD BE ACCEPTABLE TO  
 1330       ARBITRATE THIS DISPUTE:

1331  
 1332       (IN YOUR RESPONSE, SELECT THE NAME OF ONE ARBITRATOR  
 1333       THAT IS ACCEPTABLE TO YOU FROM THOSE ARBITRATORS  
 1334       LISTED BY THE AGGRIEVED PARTY.)

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THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE  
PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
AND TIMES:

(LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
ARBITRATION.)

I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

\_\_\_\_\_  
SIGNATURE OF RESPONDING PARTY #1

\_\_\_\_\_  
TELEPHONE CONTACT INFORMATION

\_\_\_\_\_  
SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,  
OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

(2) (a) Service of the statutory notice of presuit

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1364 arbitration shall be effected either by personal service, as  
1365 provided in chapter 48, or by certified mail, return receipt  
1366 requested, in a letter in substantial conformity with the form  
1367 provided in subsection (1), with an additional copy being sent  
1368 by regular first-class mail, to the address of the responding  
1369 party as it last appears on the books and records of the  
1370 association, or if not available, the last address as it appears  
1371 on the official records of the county property appraiser for the  
1372 county in which the property is situated that is subject to the  
1373 association documents. The responding party has 20 days after  
1374 the postmarked date of the certified mailing of the statutory  
1375 notice of presuit arbitration or 20 days after the date the  
1376 responding party is personally served with the statutory notice  
1377 of presuit arbitration to serve a written response to the  
1378 aggrieved party. The response shall be served by certified mail,  
1379 return receipt requested, with an additional copy being sent by  
1380 regular first-class mail, to the address shown on the statutory  
1381 notice of presuit arbitration. The postmarked date on the  
1382 envelope of the response shall constitute the date the response  
1383 was served.

1384 (b) The parties shall share the costs of presuit  
1385 arbitration equally, including the fee charged by the  
1386 arbitrator, if any, unless the parties agree otherwise, and the  
1387 arbitrator may require advance payment of his or her reasonable  
1388 fees and costs. Each party shall be responsible for all of their  
1389 own attorney's fees if a party chooses to be represented by an  
1390 attorney for the arbitration proceedings.

1391 (c)1. The party responding to the aggrieved party must sign  
1392 the agreement to arbitrate included in the notice of presuit



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1393 arbitration and clearly indicate the name of the arbitrator who  
1394 is acceptable of those arbitrators listed by the aggrieved  
1395 party. The responding party must provide a list of at least  
1396 three dates and times in which the responding party is available  
1397 to participate in the arbitration conference within 90 days  
1398 after the date the responding party was served with the  
1399 statutory notice of presuit arbitration.

1400 2. The arbitrator must schedule the arbitration conference  
1401 at a mutually convenient time and place, but if the responding  
1402 party does not provide a list of available dates and times, the  
1403 arbitrator is authorized to schedule an arbitration conference  
1404 without taking the responding party's schedule and convenience  
1405 into consideration. Within 10 days after the designation of the  
1406 arbitrator, the arbitrator shall notify the parties in writing  
1407 of the date, time, and place of the arbitration conference.

1408 3. The arbitration conference must be held on the scheduled  
1409 date and may be rescheduled if approved by the arbitrator.  
1410 However, in no event shall the arbitration hearing be later than  
1411 90 days after the notice of presuit arbitration was first  
1412 served, unless all parties mutually agree in writing otherwise.  
1413 If the arbitration hearing is not completed within the required  
1414 time limits, the arbitrator may issue an arbitration award  
1415 unless the time for the hearing is extended as provided herein.  
1416 If the responding party fails to respond within 20 days after  
1417 the date of statutory notice of presuit arbitration, fails to  
1418 agree to at least one of the arbitrators that have been listed  
1419 by the aggrieved party in the presuit notice of arbitration,  
1420 fails to pay or prepay to the arbitrator one-half of the costs  
1421 involved, or fails to appear and participate at the scheduled

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1422 arbitration, the aggrieved party is authorized to proceed with a  
1423 request that the arbitrator issue an arbitration award.

1424 (d)1. The failure of any party to respond to the statutory  
1425 notice of presuit arbitration within 20 days, the failure to  
1426 either select one of the five arbitrators listed by the  
1427 aggrieved party, the failure to provide a listing of dates and  
1428 times in which the responding party is available to participate  
1429 in the arbitration conference within 90 days after the date of  
1430 the responding party being served with the statutory notice of  
1431 presuit arbitration, the failure to make payment of fees and  
1432 costs as required within the time established by the arbitrator,  
1433 or the failure to appear for an arbitration conference without  
1434 the approval of the arbitrator, shall entitle the other party to  
1435 request the arbitrator to enter an arbitration award, including  
1436 an award of the reasonable costs and attorney's fees associated  
1437 with the arbitration.

1438 2. Persons who fail or refuse to participate in the entire  
1439 arbitration process may not recover attorney's fees and costs in  
1440 any subsequent litigation proceeding relating to the same  
1441 dispute involving the same parties.

1442 (3) (a) In an arbitration proceeding, the arbitrator may not  
1443 consider any unsuccessful mediation of the dispute.

1444 (b) An arbitrator in a proceeding initiated pursuant to the  
1445 provisions of this part may shorten the time for discovery or  
1446 otherwise limit discovery in a manner consistent with the policy  
1447 goals of this part to reduce the time and expense of litigating  
1448 homeowners' association disputes initiated pursuant to this  
1449 chapter and promoting an expeditious alternative dispute  
1450 resolution procedure for parties to such actions.

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1451 (4) At the request of any party to the arbitration, the  
1452 arbitrator may issue subpoenas for the attendance of witnesses  
1453 and the production of books, records, documents, and other  
1454 evidence, and any party on whose behalf a subpoena is issued may  
1455 apply to the court for orders compelling such attendance and  
1456 production. Subpoenas shall be served and are enforceable in the  
1457 manner provided by the Florida Rules of Civil Procedure.  
1458 Discovery may, at the discretion of the arbitrator, be permitted  
1459 in the manner provided by the Florida Rules of Civil Procedure.

1460 (5) The final arbitration award shall be sent to the  
1461 parties in writing no later than 30 days after the date of the  
1462 arbitration hearing, absent extraordinary circumstances  
1463 necessitating a later filing the reasons for which shall be  
1464 stated in the final award if filed more than 30 days after the  
1465 date of the final session of the arbitration conference. An  
1466 agreed arbitration award is final in those disputes in which the  
1467 parties have mutually agreed to be bound. An arbitration award  
1468 decided by the arbitrator is final unless a lawsuit seeking a  
1469 trial de novo is filed in a court of competent jurisdiction  
1470 within 30 days after the date of the arbitration award. The  
1471 right to file for a trial de novo entitles the parties to file a  
1472 complaint in the appropriate trial court for a judicial  
1473 resolution of the dispute. The prevailing party in an  
1474 arbitration proceeding shall be awarded the costs of the  
1475 arbitration and reasonable attorney's fees in an amount  
1476 determined by the arbitrator.

1477 (6) The party filing a motion for a trial de novo shall be  
1478 assessed the other party's arbitration costs, court costs, and  
1479 other reasonable costs, including attorney's fees, investigation

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1480 expenses, and expenses for expert or other testimony or evidence  
1481 incurred after the arbitration hearing, if the judgment upon the  
1482 trial de novo is not more favorable than the final arbitration  
1483 award.

1484 720.508 Rules of procedure.-

1485 (1) Presuit mediation and presuit arbitration proceedings  
1486 under this part must be conducted in accordance with the  
1487 applicable Florida Rules of Civil Procedure and rules governing  
1488 mediations and arbitrations under chapter 44, except that this  
1489 part shall be controlling to the extent of any conflict with  
1490 other applicable rules or statutes. The arbitrator may shorten  
1491 any applicable time period and otherwise limit the scope of  
1492 discovery on request of the parties or within the discretion of  
1493 the arbitrator exercised consistent with the purpose and  
1494 objective of reducing the expense and expeditiously concluding  
1495 proceedings under this part.

1496 (2) Presuit mediation proceedings under s. 720.505 are  
1497 privileged and confidential to the same extent as court-ordered  
1498 mediation under chapter 44. An arbitrator or judge may not  
1499 consider any information or evidence arising from the presuit  
1500 mediation proceeding except in a proceeding to impose sanctions  
1501 for failure to attend a presuit mediation session or to enforce  
1502 a mediated settlement agreement.

1503 (3) Persons who are not parties to the dispute may not  
1504 attend the presuit mediation conference without consent of all  
1505 parties, with the exception of counsel for the parties and a  
1506 corporate representative designated by the association. Presuit  
1507 mediations under this part are not a board meeting for purposes  
1508 of notice and participation set forth in this chapter.

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1509 (4) Attendance at a mediation conference by the board of  
1510 directors shall not require notice or participation by nonboard  
1511 members as otherwise required by this chapter for meetings of  
1512 the board.

1513 (5) Settlement agreements resulting from a mediation or  
1514 arbitration proceeding do not have precedential value in  
1515 proceedings involving parties other than those participating in  
1516 the mediation or arbitration.

1517 (6) Arbitration awards by an arbitrator shall have  
1518 precedential value in other proceedings involving the same  
1519 association or with respect to the same parcel owner.

1520 720.509 Mediators and arbitrators; qualifications and  
1521 registration.—A person is authorized to conduct mediation or  
1522 arbitration under this part if he or she has been certified as a  
1523 circuit court civil mediator under the requirements adopted  
1524 pursuant to s. 44.106, is a member in good standing with The  
1525 Florida Bar, and otherwise meets all other requirements imposed  
1526 by chapter 44.

1527 720.510 Enforcement of mediation agreement or arbitration  
1528 award.—

1529 (1) A mediation settlement may be enforced through the  
1530 county or circuit court, as applicable, and any costs and  
1531 attorney's fees incurred in the enforcement of a settlement  
1532 agreement reached at mediation shall be awarded to the  
1533 prevailing party in any enforcement action.

1534 (2) Any party to an arbitration proceeding may enforce an  
1535 arbitration award by filing a petition in a court of competent  
1536 jurisdiction in which the homeowners' association is located.  
1537 The prevailing party in such proceeding shall be awarded

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1538 reasonable attorney's fees and costs incurred in such  
1539 proceeding.

1540 (3) If a complaint is filed seeking a trial de novo, the  
1541 arbitration award shall be stayed and a petition to enforce the  
1542 award may not be granted. Such award, however, shall be  
1543 admissible in the court proceeding seeking a trial de novo.

1544 Section 10. (1) Notwithstanding any other provisions of  
1545 law, any three or more condominium associations may form a self-  
1546 insurance fund for the purposes of pooling and spreading the  
1547 liabilities of its participant associations arising from the  
1548 deductible provisions of the commercial lines residential  
1549 property insurance policies of the participants applicable to  
1550 hurricane losses, if:

1551 (a) Such fund is a not-for-profit corporation pursuant to  
1552 chapter 617, Florida Statutes.

1553 (b) The fund is implemented through contracts among the  
1554 participating associations, or through contracts between the  
1555 participating associations and another legal entity established  
1556 for and limited to establishing and implementing the program.

1557 (c) The liability of the fund for claims is limited to  
1558 funds available for the payment of claims.

1559 (d) The contract provided to a participating association  
1560 clearly discloses the obligations of the participants in the  
1561 fund and the obligations of the fund, including the limited  
1562 liability of the fund as defined in paragraph (c). The contract  
1563 must specify a reasonable date for the payment of claims which  
1564 provides the fund with adequate time to verify and account for  
1565 all claims for a given year so that claims payments can be  
1566 properly calculated after consideration of the funds available.

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1567 Before execution of the contract, the association or its  
1568 representative must be provided a separate disclosure form  
1569 specifying the limited liability of the fund and all  
1570 administrative fees and estimated expenses, and provide examples  
1571 of the manner in which available funds will be allocated among  
1572 claimants if claims exceed the funds available for the payment  
1573 thereof. Such disclosure must be signed by a representative of  
1574 the participating association before or at the time of execution  
1575 of the contract.

1576 (e) The contributions charged for participating in the fund  
1577 are established by the fund and calculated as a percentage of  
1578 the participant's hurricane deductible dollar amount. The fund  
1579 may determine the method and timing of payment of contributions.

1580 (f) All members of the governing board of the fund are  
1581 participating associations in the fund, and the governing body  
1582 has all powers necessary to establish and administer the fund as  
1583 authorized by the participants in the fund. All decisions of the  
1584 fund shall be based upon a vote of the majority of the board.  
1585 The board may contract with individual professionals to  
1586 administer the fund.

1587 (g) The fund uses and contracts with knowledgeable persons  
1588 or business entities to administer and service the fund,  
1589 including marketing, policy, contract administration, claims  
1590 administration, accounting services, and legal services.

1591 (h) The fund uses a properly licensed general lines  
1592 insurance agent who is a Florida resident for solicitation of  
1593 participation in the fund and does not prevent, impede, or  
1594 restrict any applicant or participant in the fund from  
1595 maintaining or selecting an agent of choice. The fund may not

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1596 favor one or more agents over another agent. The organizational  
1597 documents, the contract, and notices of disclosure must be filed  
1598 with the Office of Insurance Regulation not less than 45 days  
1599 prior to solicitation by the fund.

1600 (i) The fund is audited by an independent auditor no less  
1601 frequently than every 2 years.

1602 (2) The fund may accumulate funds or periodically  
1603 distribute excess funds to its participants on a pro rata basis,  
1604 reflecting loss experience of individual participants and  
1605 proportionate contributions paid by participants.

1606 (3) Participants in the fund must have a deductible no  
1607 greater than as provided in s. 627.701(8), Florida Statutes.  
1608 Self-insurance funds or pools established pursuant to this  
1609 section are not subject to licensure requirements or regulation  
1610 pursuant to the Florida Insurance Code, except for part IX of  
1611 chapter 626, Florida Statutes, which may be enforced by the  
1612 Office of Insurance Regulation or the Department of Financial  
1613 Services, as applicable, and are not subject to any fees, taxes,  
1614 or assessments related to the writing or transaction of  
1615 insurance in this state.

1616 Section 11. Except as otherwise expressly provided in this  
1617 act, this act shall take effect July 1, 2009.