

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 to  
4           certify to the secretary of the association that he or she  
5           has read the association's declarations of covenants and  
6           restrictions, articles of incorporation, bylaws, and  
7           current written policies and will work to uphold such  
8           documents and policies to the best of his or her ability;  
9           providing that a failure to timely file the statement  
10          automatically disqualifies the director from service on  
11          the association's board of directors; requiring the  
12          secretary of the association to retain a director's  
13          certification for inspection by the members for a  
14          specified period of years after a director's election;  
15          amending s. 720.303, F.S.; revising provisions relating to  
16          homeowners' association board meetings, inspection and  
17          copying of records, and reserve accounts of budgets;  
18          prohibiting a salary or compensation for certain  
19          association personnel; providing exceptions; amending s.  
20          720.305, F.S.; authorizing fines assessed against members  
21          which exceed a certain amount to become a lien against a  
22          parcel; amending s. 720.306, F.S.; providing requirements  
23          for secret ballots; requiring newly elected members of a  
24          board of directors to make certain certifications in  
25          writing to the association; providing for disqualification  
26          for failure to make such certifications; requiring an  
27          association to retain certifications for a specified time;  
28          amending s. 720.401, F.S.; requiring that the disclosure

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38 repealed provisions; creating part IV of ch. 720, F.S.,  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

57 | personal delivery; setting deadlines; requiring parties to  
 58 | share costs; requiring the selection of an arbitrator and  
 59 | times to meet; providing penalties for failure to  
 60 | arbitrate; creating s. 720.508, F.S.; providing for rules  
 61 | of procedure; providing for confidentiality; creating s.  
 62 | 720.509, F.S.; setting qualifications for mediators and  
 63 | arbitrators; creating s. 720.510, F.S.; providing for  
 64 | enforcement of mediation agreements and arbitration  
 65 | awards; providing effective dates.

66 |  
 67 | Be It Enacted by the Legislature of the State of Florida:  
 68 |

69 | Section 1. Paragraph (d) of subsection (2) of section  
 70 | 718.112, Florida Statutes, is amended to read:

71 | 718.112 Bylaws.--

72 | (2) REQUIRED PROVISIONS.--The bylaws shall provide for the  
 73 | following and, if they do not do so, shall be deemed to include  
 74 | the following:

75 | (d) Unit owner meetings.--

76 | 1. There shall be an annual meeting of the unit owners  
 77 | held at the location provided in the association bylaws and, if  
 78 | the bylaws are silent as to the location, the meeting shall be  
 79 | held within 45 miles of the condominium property. However, such  
 80 | distance requirement does not apply to an association governing  
 81 | a timeshare condominium. Unless the bylaws provide otherwise, a  
 82 | vacancy on the board caused by the expiration of a director's  
 83 | term shall be filled by electing a new board member, and the  
 84 | election shall be by secret ballot; however, if the number of

85 vacancies equals or exceeds the number of candidates, no  
86 election is required. The terms of all members of the board  
87 shall expire at the annual meeting and such board members may  
88 stand for reelection unless otherwise permitted by the bylaws.  
89 In the event that the bylaws permit staggered terms of no more  
90 than 2 years and upon approval of a majority of the total voting  
91 interests, the association board members may serve 2-year  
92 staggered terms. If no person is interested in or demonstrates  
93 an intention to run for the position of a board member whose  
94 term has expired according to the provisions of this  
95 subparagraph, such board member whose term has expired shall be  
96 automatically reappointed to the board of administration and  
97 need not stand for reelection. In a condominium association of  
98 more than 10 units, coowners of a unit may not serve as members  
99 of the board of directors at the same time. Any unit owner  
100 desiring to be a candidate for board membership shall comply  
101 with subparagraph 3. A person who has been suspended or removed  
102 by the division under this chapter, or who is delinquent in the  
103 payment of any fee or assessment as provided in paragraph (n),  
104 is not eligible for board membership. A person who has been  
105 convicted of any felony in this state or in a United States  
106 District or Territorial Court, or who has been convicted of any  
107 offense in another jurisdiction that would be considered a  
108 felony if committed in this state, is not eligible for board  
109 membership unless such felon's civil rights have been restored  
110 for a period of no less than 5 years as of the date on which  
111 such person seeks election to the board. The validity of an  
112 action by the board is not affected if it is later determined

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113 that a member of the board is ineligible for board membership  
114 due to having been convicted of a felony.

115 2. The bylaws shall provide the method of calling meetings  
116 of unit owners, including annual meetings. Written notice, which  
117 notice must include an agenda, shall be mailed, hand delivered,  
118 or electronically transmitted to each unit owner at least 14  
119 days prior to the annual meeting and shall be posted in a  
120 conspicuous place on the condominium property at least 14  
121 continuous days preceding the annual meeting. Upon notice to the  
122 unit owners, the board shall by duly adopted rule designate a  
123 specific location on the condominium property or association  
124 property upon which all notices of unit owner meetings shall be  
125 posted; however, if there is no condominium property or  
126 association property upon which notices can be posted, this  
127 requirement does not apply. In lieu of or in addition to the  
128 physical posting of notice of any meeting of the unit owners on  
129 the condominium property, the association may, by reasonable  
130 rule, adopt a procedure for conspicuously posting and repeatedly  
131 broadcasting the notice and the agenda on a closed-circuit cable  
132 television system serving the condominium association. However,  
133 if broadcast notice is used in lieu of a notice posted  
134 physically on the condominium property, the notice and agenda  
135 must be broadcast at least four times every broadcast hour of  
136 each day that a posted notice is otherwise required under this  
137 section. When broadcast notice is provided, the notice and  
138 agenda must be broadcast in a manner and for a sufficient  
139 continuous length of time so as to allow an average reader to  
140 observe the notice and read and comprehend the entire content of

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141 the notice and the agenda. Unless a unit owner waives in writing  
142 the right to receive notice of the annual meeting, such notice  
143 shall be hand delivered, mailed, or electronically transmitted  
144 to each unit owner. Notice for meetings and notice for all other  
145 purposes shall be mailed to each unit owner at the address last  
146 furnished to the association by the unit owner, or hand  
147 delivered to each unit owner. However, if a unit is owned by  
148 more than one person, the association shall provide notice, for  
149 meetings and all other purposes, to that one address which the  
150 developer initially identifies for that purpose and thereafter  
151 as one or more of the owners of the unit shall so advise the  
152 association in writing, or if no address is given or the owners  
153 of the unit do not agree, to the address provided on the deed of  
154 record. An officer of the association, or the manager or other  
155 person providing notice of the association meeting, shall  
156 provide an affidavit or United States Postal Service certificate  
157 of mailing, to be included in the official records of the  
158 association affirming that the notice was mailed or hand  
159 delivered, in accordance with this provision.

160 3. The members of the board shall be elected by written  
161 ballot or voting machine. Proxies shall in no event be used in  
162 electing the board, either in general elections or elections to  
163 fill vacancies caused by recall, resignation, or otherwise,  
164 unless otherwise provided in this chapter. Not less than 60 days  
165 before a scheduled election, the association shall mail,  
166 deliver, or electronically transmit, whether by separate  
167 association mailing or included in another association mailing,  
168 delivery, or transmission, including regularly published

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169 newsletters, to each unit owner entitled to a vote, a first  
170 notice of the date of the election along with a certification  
171 form provided by the division attesting that he or she has read  
172 and understands, to the best of his or her ability, the  
173 governing documents of the association and the provisions of  
174 this chapter and any applicable rules. Any unit owner or other  
175 eligible person desiring to be a candidate for the board must  
176 give written notice to the association not less than 40 days  
177 before a scheduled election. Together with the written notice  
178 and agenda as set forth in subparagraph 2., the association  
179 shall mail, deliver, or electronically transmit a second notice  
180 of the election to all unit owners entitled to vote therein,  
181 together with a ballot which shall list all candidates. Upon  
182 request of a candidate, the association shall include an  
183 information sheet, no larger than 8 1/2 inches by 11 inches,  
184 which must be furnished by the candidate not less than 35 days  
185 before the election, along with the signed certification form  
186 provided for in this subparagraph, to be included with the  
187 mailing, delivery, or transmission of the ballot, with the costs  
188 of mailing, delivery, or electronic transmission and copying to  
189 be borne by the association. The association is not liable for  
190 the contents of the information sheets prepared by the  
191 candidates. In order to reduce costs, the association may print  
192 or duplicate the information sheets on both sides of the paper.  
193 The division shall by rule establish voting procedures  
194 consistent with the provisions contained herein, including rules  
195 establishing procedures for giving notice by electronic  
196 transmission and rules providing for the secrecy of ballots.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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197 Elections shall be decided by a plurality of those ballots cast.  
198 There shall be no quorum requirement; however, at least 20  
199 percent of the eligible voters must cast a ballot in order to  
200 have a valid election of members of the board. No unit owner  
201 shall permit any other person to vote his or her ballot, and any  
202 such ballots improperly cast shall be deemed invalid, provided  
203 any unit owner who violates this provision may be fined by the  
204 association in accordance with s. 718.303. A unit owner who  
205 needs assistance in casting the ballot for the reasons stated in  
206 s. 101.051 may obtain assistance in casting the ballot. The  
207 regular election shall occur on the date of the annual meeting.  
208 The provisions of this subparagraph shall not apply to timeshare  
209 condominium associations. Notwithstanding the provisions of this  
210 subparagraph, an election is not required unless more candidates  
211 file notices of intent to run or are nominated than board  
212 vacancies exist.

213 4. Any approval by unit owners called for by this chapter  
214 or the applicable declaration or bylaws, including, but not  
215 limited to, the approval requirement in s. 718.111(8), shall be  
216 made at a duly noticed meeting of unit owners and shall be  
217 subject to all requirements of this chapter or the applicable  
218 condominium documents relating to unit owner decisionmaking,  
219 except that unit owners may take action by written agreement,  
220 without meetings, on matters for which action by written  
221 agreement without meetings is expressly allowed by the  
222 applicable bylaws or declaration or any statute that provides  
223 for such action.



224           5. Unit owners may waive notice of specific meetings if  
225 allowed by the applicable bylaws or declaration or any statute.  
226 If authorized by the bylaws, notice of meetings of the board of  
227 administration, unit owner meetings, except unit owner meetings  
228 called to recall board members under paragraph (j), and  
229 committee meetings may be given by electronic transmission to  
230 unit owners who consent to receive notice by electronic  
231 transmission.

232           6. Unit owners shall have the right to participate in  
233 meetings of unit owners with reference to all designated agenda  
234 items. However, the association may adopt reasonable rules  
235 governing the frequency, duration, and manner of unit owner  
236 participation.

237           7. Any unit owner may tape record or videotape a meeting  
238 of the unit owners subject to reasonable rules adopted by the  
239 division.

240           8. Unless otherwise provided in the bylaws, any vacancy  
241 occurring on the board before the expiration of a term may be  
242 filled by the affirmative vote of the majority of the remaining  
243 directors, even if the remaining directors constitute less than  
244 a quorum, or by the sole remaining director. In the alternative,  
245 a board may hold an election to fill the vacancy, in which case  
246 the election procedures must conform to the requirements of  
247 subparagraph 3. unless the association governs 10 units or less  
248 and has opted out of the statutory election process, in which  
249 case the bylaws of the association control. Unless otherwise  
250 provided in the bylaws, a board member appointed or elected  
251 under this section shall fill the vacancy for the unexpired term

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252 of the seat being filled. Filling vacancies created by recall is  
253 governed by paragraph (j) and rules adopted by the division.

254 9. Within 30 days after being elected to the board of  
255 directors, a new director shall certify in writing to the  
256 secretary of the association that he or she has read the  
257 association's declarations of covenants and restrictions,  
258 articles of incorporation, bylaws, and current written policies,  
259 that he or she will work to uphold such documents and policies  
260 to the best of his or her ability, and that he or she will  
261 faithfully discharge his or her fiduciary responsibility to the  
262 association's members. Failure to timely file the statement  
263 automatically disqualifies the director from service on the  
264 association's board of directors. The secretary shall cause the  
265 association to retain a director's certification for inspection  
266 by the members for 5 years after a director's election. Failure  
267 to have such certification on file does not affect the validity  
268 of any appropriate action.

269  
270 Notwithstanding subparagraphs (b)2. and (d)3., an association of  
271 10 or fewer units may, by the affirmative vote of a majority of  
272 the total voting interests, provide for different voting and  
273 election procedures in its bylaws, which vote may be by a proxy  
274 specifically delineating the different voting and election  
275 procedures. The different voting and election procedures may  
276 provide for elections to be conducted by limited or general  
277 proxy.

278 Section 2. Paragraph (b) of subsection (2), paragraphs (a)  
279 and (c) of subsection (5), paragraphs (b), (c), (d), (f), and

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280 (g) of subsection (6) of section 720.303, Florida Statutes, are  
 281 amended, and subsection (12) is added to that section, to read:

282 720.303 Association powers and duties; meetings of board;  
 283 official records; budgets; financial reporting; association  
 284 funds; recalls.--

285 (2) BOARD MEETINGS.--

286 (b) Members have the right to attend all meetings of the  
 287 board and to speak on any matter placed on the agenda by  
 288 petition of the voting interests for at least 3 minutes. The  
 289 association may adopt written reasonable rules expanding the  
 290 right of members to speak and governing the frequency, duration,  
 291 and other manner of member statements, which rules must be  
 292 consistent with this paragraph and may include a sign-up sheet  
 293 for members wishing to speak. Notwithstanding any other law, ~~the~~  
 294 ~~requirement that board meetings and committee meetings be open~~  
 295 ~~to the members is inapplicable to~~ meetings between the board or  
 296 a committee to discuss proposed or pending litigation with and  
 297 the association's attorney, or ~~with respect to~~ meetings of the  
 298 board held for the purpose of discussing personnel matters are  
 299 not required to be open to the members.

300 (5) INSPECTION AND COPYING OF RECORDS.--The official  
 301 records shall be maintained within the state and must be open to  
 302 inspection and available for photocopying by members or their  
 303 authorized agents at reasonable times and places within 10  
 304 business days after receipt of a written request for access.  
 305 This subsection may be complied with by having a copy of the  
 306 official records available for inspection or copying in the  
 307 community. If the association has a photocopy machine available

308 | where the records are maintained, it must provide parcel owners  
 309 | with copies on request during the inspection if the entire  
 310 | request is limited to no more than 25 pages.

311 |         (a) The failure of an association to provide access to the  
 312 | records within 10 business days after receipt of a written  
 313 | request submitted by certified mail, return receipt requested,  
 314 | creates a rebuttable presumption that the association willfully  
 315 | failed to comply with this subsection.

316 |         (c) The association may adopt reasonable written rules  
 317 | governing the frequency, time, location, notice, records to be  
 318 | inspected, and manner of inspections, but may not require ~~impose~~  
 319 | ~~a requirement that~~ a parcel owner to demonstrate any proper  
 320 | purpose for the inspection, state any reason for the inspection,  
 321 | or limit a parcel owner's right to inspect records to less than  
 322 | one 8-hour business day per month. The association may impose  
 323 | fees to cover the costs of providing copies of the official  
 324 | records, including, without limitation, the costs of copying.  
 325 | The association may charge up to 50 cents per page for copies  
 326 | made on the association's photocopier. If the association does  
 327 | not have a photocopy machine available where the records are  
 328 | kept, or if the records requested to be copied exceed 25 pages  
 329 | in length, the association may have copies made by an outside  
 330 | vendor or association management company personnel and may  
 331 | charge the actual cost of copying, including any reasonable  
 332 | costs involving personnel fees and charges at an hourly rate for  
 333 | employee time to cover administrative costs to the association.  
 334 | The association shall maintain an adequate number of copies of  
 335 | the recorded governing documents, to ensure their availability

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336 to members and prospective members. Notwithstanding the  
337 provisions of this paragraph, the following records are ~~shall~~  
338 not ~~be~~ accessible to members or parcel owners:

339 1. Any record protected by the lawyer-client privilege as  
340 described in s. 90.502 and any record protected by the work-  
341 product privilege, including, but not limited to, any record  
342 prepared by an association attorney or prepared at the  
343 attorney's express direction which reflects a mental impression,  
344 conclusion, litigation strategy, or legal theory of the attorney  
345 or the association and which was prepared exclusively for civil  
346 or criminal litigation or for adversarial administrative  
347 proceedings or which was prepared in anticipation of imminent  
348 civil or criminal litigation or imminent adversarial  
349 administrative proceedings until the conclusion of the  
350 litigation or ~~adversarial~~ administrative proceedings.

351 2. Information obtained by an association in connection  
352 with the approval of the lease, sale, or other transfer of a  
353 parcel.

354 3. Disciplinary, health, insurance, and personnel records  
355 of the association's employees.

356 4. Medical records of parcel owners or community  
357 residents.

358 (6) BUDGETS.--

359 (b) In addition to annual operating expenses, the budget  
360 may include reserve accounts for capital expenditures and  
361 deferred maintenance for which the association is responsible.  
362 If reserve accounts are not established pursuant to paragraph  
363 (d), funding of such reserves shall be limited to the extent

364 that the governing documents ~~do not~~ limit increases in  
 365 assessments, including reserves. If the budget of the  
 366 association includes reserve accounts established pursuant to  
 367 paragraph (d), such reserves shall be determined, maintained,  
 368 and waived in the manner provided in this subsection. Once an  
 369 association provides for reserve accounts pursuant to paragraph  
 370 (d) in the budget, the association shall thereafter determine,  
 371 maintain, and waive reserves in compliance with this subsection.  
 372 The provisions of this section do not preclude the termination  
 373 of a reserve account established pursuant to this paragraph upon  
 374 approval of a majority of the voting interests of the  
 375 association. Upon such approval, the terminating reserve account  
 376 shall be removed from the budget.

377 (c)1. If the budget of the association does not provide  
 378 for reserve accounts pursuant to paragraph (d) ~~governed by this~~  
 379 ~~subsection~~ and the association is responsible for the repair and  
 380 maintenance of capital improvements that may result in a special  
 381 assessment if reserves are not provided, each financial report  
 382 for the preceding fiscal year required by subsection (7) shall  
 383 contain the following statement in conspicuous type: THE BUDGET  
 384 OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR  
 385 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN  
 386 SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE  
 387 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
 388 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT LESS THAN A~~  
 389 MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY  
 390 VOTE OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

391        2. If the budget of the association does provide for  
392 funding accounts for deferred expenditures, including, but not  
393 limited to, funds for capital expenditures and deferred  
394 maintenance, but such accounts are not created or established  
395 pursuant to paragraph (d), each financial report for the  
396 preceding fiscal year required under subsection (7) must also  
397 contain the following statement in conspicuous type: THE BUDGET  
398 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
399 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND  
400 DEFERRED MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN  
401 OUR GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
402 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),  
403 FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE  
404 RESTRICTIONS ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR  
405 ARE RESERVES CALCULATED IN ACCORDANCE WITH THAT STATUTE.

406        (d) An association shall be deemed to have provided for  
407 reserve accounts if ~~when~~ reserve accounts have been initially  
408 established by the developer or if ~~when~~ the membership of the  
409 association affirmatively elects to provide for reserves. If  
410 reserve accounts are not initially provided for by the  
411 developer, the membership of the association may elect to do so  
412 upon the affirmative approval of ~~not less than~~ a majority of the  
413 total voting interests of the association. Such approval may be  
414 obtained ~~attained~~ by vote of the members at a duly called  
415 meeting of the membership or by the ~~upon a~~ written consent of  
416 ~~executed by not less than~~ a majority of the total voting  
417 interests in the community. The approval action of the  
418 membership shall state that reserve accounts shall be provided

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419 for in the budget and shall designate the components for which  
420 the reserve accounts are to be established. Upon approval by the  
421 membership, the board of directors shall include ~~provide for~~ the  
422 required reserve accounts ~~for inclusion~~ in the budget in the  
423 next fiscal year following the approval and ~~in~~ each year  
424 thereafter. Once established as provided in this subsection, the  
425 reserve accounts shall be funded or maintained or shall have  
426 their funding waived in the manner provided in paragraph (f).

427 (f) After one or more ~~Once a reserve account or~~ reserve  
428 accounts are established, the membership of the association,  
429 upon a majority vote at a meeting at which a quorum is present,  
430 may provide for no reserves or less reserves than required by  
431 this section. If a meeting of the unit owners has been called to  
432 determine whether to waive or reduce the funding of reserves and  
433 no such result is achieved or a quorum is not present, the  
434 reserves as included in the budget shall go into effect. After  
435 the turnover, the developer may vote its voting interest to  
436 waive or reduce the funding of reserves. Any vote taken pursuant  
437 to this subsection to waive or reduce reserves is ~~shall be~~  
438 applicable only to one budget year.

439 (g) Funding formulas for reserves authorized by this  
440 section shall be based on either a separate analysis of each of  
441 the required assets or a pooled analysis of two or more of the  
442 required assets.

443 1. If the association maintains separate reserve accounts  
444 for each of the required assets, the amount of the contribution  
445 to each reserve account is ~~shall be~~ the sum of the following two  
446 calculations:



447 a. The total amount necessary, if any, to bring a negative  
448 component balance to zero.

449 b. The total estimated deferred maintenance expense or  
450 estimated replacement cost of the reserve component less the  
451 estimated balance of the reserve component as of the beginning  
452 of the period ~~for which~~ the budget will be in effect. The  
453 remainder, if greater than zero, shall be divided by the  
454 estimated remaining useful life of the component.

455  
456 The formula may be adjusted each year for changes in estimates  
457 and deferred maintenance performed during the year and may  
458 include factors such as inflation and earnings on invested  
459 funds.

460 2. If the association maintains a pooled account of two or  
461 more of the required reserve assets, the amount of the  
462 contribution to the pooled reserve account as disclosed on the  
463 proposed budget may ~~shall~~ not be less than that required to  
464 ensure that the balance on hand at the beginning of the period  
465 ~~for which~~ the budget will go into effect plus the projected  
466 annual cash inflows over the remaining estimated useful life of  
467 all of the assets that make up the reserve pool are equal to or  
468 greater than the projected annual cash outflows over the  
469 remaining estimated useful lives of all ~~of~~ the assets that make  
470 up the reserve pool, based on the current reserve analysis. The  
471 projected annual cash inflows may include estimated earnings  
472 from investment of principal and accounts receivable minus the  
473 allowance for doubtful accounts. The reserve funding formula may  
474 ~~shall~~ not include any type of balloon payments.

475           (12) COMPENSATION PROHIBITED.--A director, officer, or  
 476 committee member of the association may not receive directly or  
 477 indirectly any salary or compensation from the association for  
 478 the performance of duties as a director, officer, or committee  
 479 member and may not in any other way benefit financially from  
 480 service to the association. This subsection does not preclude:

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

486           (b) Reimbursement for out-of-pocket expenses incurred by  
 487 such person on behalf of the association, subject to approval in  
 488 accordance with procedures established by the association's  
 489 governing documents or, in the absence of such procedures, in  
 490 accordance with an approval process established by the board.

491           (c) Any recovery of insurance proceeds derived from a  
 492 policy of insurance maintained by the association for the  
 493 benefit of its members.

494           (d) Any fee or compensation authorized in the governing  
 495 documents.

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

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

501           720.305 Obligations of members; remedies at law or in  
 502 equity; levy of fines and suspension of use rights.--

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503 (2) If the governing documents so provide, an association  
504 may suspend, for a reasonable period of time, the rights of a  
505 member or a member's tenants, guests, or invitees, or both, to  
506 use common areas and facilities and may levy reasonable fines of  
507 up to, ~~not to exceed~~ \$100 per violation, against any member or  
508 any tenant, guest, or invitee. A fine may be levied on the basis  
509 of each day of a continuing violation, with a single notice and  
510 opportunity for hearing, except that no ~~such~~ fine may ~~shall~~  
511 exceed \$1,000 in the aggregate unless otherwise provided in the  
512 governing documents. A fine of less than \$1,000 may ~~shall~~ not  
513 become a lien against a parcel. In any action to recover a fine,  
514 the prevailing party is entitled to collect its reasonable  
515 attorney's fees and costs from the nonprevailing party as  
516 determined by the court.

517 (a) A fine or suspension may not be imposed without ~~notice~~  
518 ~~of~~ at least 14 days' notice ~~days~~ to the person sought to be  
519 fined or suspended and an opportunity for a hearing before a  
520 committee of at least three members appointed by the board who  
521 are not officers, directors, or employees of the association, or  
522 the spouse, parent, child, brother, or sister of an officer,  
523 director, or employee. If the committee, by majority vote, does  
524 not approve a proposed fine or suspension, it may not be  
525 imposed.

526 (b) The requirements of this subsection do not apply to  
527 the imposition of suspensions or fines upon any member because  
528 of the failure of the member to pay assessments or other charges  
529 when due if such action is authorized by the governing  
530 documents.

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

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

537 720.306 Meetings of members; voting and election  
538 procedures; amendments.--

539 (8) PROXY VOTING.--The members have the right, unless  
540 otherwise provided in this subsection or in the governing  
541 documents, to vote in person or by proxy.

542 (a) To be valid, a proxy must be dated, must state the  
543 date, time, and place of the meeting for which it was given, and  
544 must be signed by the authorized person who executed the proxy.  
545 A proxy is effective only for the specific meeting for which it  
546 was originally given, as the meeting may lawfully be adjourned  
547 and reconvened from time to time, and automatically expires 90  
548 days after the date of the meeting for which it was originally  
549 given. A proxy is revocable at any time at the pleasure of the  
550 person who executes it. If the proxy form expressly so provides,  
551 any proxy holder may appoint, in writing, a substitute to act in  
552 his or her place.

553 (b) If the governing documents permit voting by secret  
554 ballot by members who are not in attendance at a meeting of the  
555 members for the election of directors, such ballots shall be  
556 placed in an inner envelope with no identifying markings and  
557 mailed or delivered to the association in an outer envelope  
558 bearing identifying information reflecting the name of the

559 member, the lot or parcel for which the vote is being cast, and  
 560 the signature of the lot or parcel owner casting that ballot.  
 561 After the eligibility of the member to vote and confirmation  
 562 that no other ballot has been submitted for that lot or parcel,  
 563 the inner envelope shall be removed from the outer envelope  
 564 bearing the identification information, placed with the ballots  
 565 which were personally cast, and opened when the ballots are  
 566 counted. If more than one ballot is submitted for a lot or  
 567 parcel, the ballots for that lot or parcel shall be  
 568 disqualified. Any vote by ballot received after the closing of  
 569 the balloting may not be considered.

570 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.--

571 (a) Elections of directors must be conducted in accordance  
 572 with the procedures set forth in the governing documents of the  
 573 association. All members of the association are ~~shall be~~  
 574 eligible to serve on the board of directors, and a member may  
 575 nominate himself or herself as a candidate for the board at a  
 576 meeting where the election is to be held or, if the election  
 577 process allows voting by absentee ballot, in advance of the  
 578 balloting. Except as otherwise provided in the governing  
 579 documents, boards of directors must be elected by a plurality of  
 580 the votes cast by eligible voters. Any election dispute between  
 581 a member and an association must be submitted to mandatory  
 582 binding arbitration with the division. Such proceedings shall be  
 583 conducted in the manner provided by s. 718.1255 and the  
 584 procedural rules adopted by the division.

585 (b) Within 30 days after being elected to the board of  
 586 directors, a new director shall certify in writing to the

587 secretary of the association that he or she has read the  
 588 association's declarations of covenants and restrictions,  
 589 articles of incorporation, bylaws, and current written policies  
 590 and that he or she will work to uphold each to the best of his  
 591 or her ability and will faithfully discharge his or her  
 592 fiduciary responsibility to the association's members. Failure  
 593 to timely file such statement shall automatically disqualify the  
 594 director from service on the association's board of directors.  
 595 The secretary shall cause the association to retain a director's  
 596 certification for inspection by the members for 5 years after a  
 597 director's election. Failure to have such certification on file  
 598 does not affect the validity of any appropriate action.

599 Section 5. Paragraph (a) of subsection (1) of section  
 600 720.401, Florida Statutes, is amended to read:

601 720.401 Prospective purchasers subject to association  
 602 membership requirement; disclosure required; covenants;  
 603 assessments; contract cancellation.--

604 (1) (a) A prospective parcel owner in a community must be  
 605 presented a disclosure summary before executing the contract for  
 606 sale. The disclosure summary must be in a form substantially  
 607 similar to the following form:

DISCLOSURE SUMMARY  
 FOR  
 (NAME OF COMMUNITY)

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

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

618           3.   YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
619 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
620 APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. YOU WILL  
621 ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
622 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
623 IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.  
624

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

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

631           6.   THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES  
632 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN  
633 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
634 APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.  
635

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

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

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642 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND  
 643 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 644 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE  
 645 OBTAINED FROM THE DEVELOPER.

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

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

654 DATE: PURCHASER:  
 655 PURCHASER:

657 The disclosure must be supplied by the developer, or by the  
 658 parcel owner if the sale is by an owner that is not the  
 659 developer. Any contract or agreement for sale shall refer to and  
 660 incorporate the disclosure summary and shall include, in  
 661 prominent language, a statement that the potential buyer should  
 662 not execute the contract or agreement until he or she has ~~they~~  
 663 ~~have~~ received and read the disclosure summary required by this  
 664 section.

665 Section 6. Effective July 1, 2010, paragraph (d) of  
 666 subsection (1) of section 34.01, Florida Statutes, is amended to  
 667 read:

668 34.01 Jurisdiction of county court.--

669 (1) County courts shall have original jurisdiction:



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

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

675 720.302 Purposes, scope, and application.--

676 (2) The Legislature recognizes that it is not in the best  
677 interest of homeowners' associations or the individual  
678 association members thereof to create or impose a bureau or  
679 other agency of state government to regulate the affairs of  
680 homeowners' associations. However, in accordance with part IV of  
681 this chapter s. 720.311, the Legislature finds that homeowners'  
682 associations and their individual members will benefit from an  
683 expedited alternative process for resolution of ~~election and~~  
684 ~~recall disputes and presuit mediation of other~~ disputes  
685 involving covenant enforcement in homeowner's associations and  
686 deed-restricted communities using the procedures provided in  
687 part IV of and ~~authorizes the department to hear, administer,~~  
688 ~~and determine these disputes as more fully set forth in this~~  
689 chapter. Further, the Legislature recognizes that certain  
690 contract rights have been created for the benefit of homeowners'  
691 associations and members thereof as well as deed-restricted  
692 communities before the effective date of this act and that part  
693 IV of this chapter is ss. 720.301-720.407 are not intended to  
694 impair such contract rights, including, but not limited to, the  
695 rights of the developer to complete the community as initially  
696 contemplated.

697           Section 8. Effective July 1, 2010, section 720.311,  
698 Florida Statutes, is repealed.

699           Section 9. Effective July 1, 2010, part IV of chapter 720,  
700 Florida Statutes, to be entitled "Dispute Resolution,"  
701 consisting of sections 720.501, 720.502, 720.503, 720.504,  
702 720.505, 720.506, 720.507, 720.508, 720.509, and 720.510, is  
703 created to read:

704           720.501 Short title.--This part may be cited as the "Home  
705 Court Advantage Dispute Resolution Act."

706           720.502 Legislative findings.--The Legislature finds that  
707 alternative dispute resolution has made progress in reducing  
708 court dockets and trials and in offering a more efficient, cost-  
709 effective option to litigation.

710           720.503 Applicability of this part.--

711           (1) Unless otherwise provided in this part, before a  
712 dispute described in this part between a homeowners' association  
713 and a parcel owner or owners, or a dispute between parcel owners  
714 within the same homeowners' association, may be filed in court,  
715 the dispute is subject to presuit mediation pursuant to s.  
716 720.505 or presuit arbitration pursuant to s. 720.507, at the  
717 option of the aggrieved party who initiates the first formal  
718 action of alternative dispute resolution under this part. The  
719 parties may mutually agree to participate in both presuit  
720 mediation and presuit arbitration prior to suit being filed by  
721 either party.

722           (2) Unless otherwise provided in this part, the mediation  
723 and arbitration provisions of this part are limited to disputes  
724 between an association and a parcel owner or owners or between

725 parcel owners regarding the use of or changes to the parcel or  
726 the common areas under the governing documents and other  
727 disputes involving violations of the recorded declaration of  
728 covenants or other governing documents, disputes arising  
729 concerning enforcement of the governing documents or any  
730 amendments thereto, and disputes involving access to the  
731 official records of the association. A dispute concerning title  
732 to any parcel or common area, interpretation or enforcement of  
733 any warranty, the levy of a fee or assessment, the collection of  
734 an assessment levied against a party, the eviction or other  
735 removal of a tenant from a parcel, alleged breaches of fiduciary  
736 duty by one or more directors, or any action to collect mortgage  
737 indebtedness or to foreclosure a mortgage shall not be subject  
738 to the provisions of this part.

739 (3) All disputes arising after the effective date of this  
740 part involving the election of the board of directors for an  
741 association or the recall of any member of the board or officer  
742 of the association shall not be eligible for presuit mediation  
743 under s. 720.505, but shall be subject to the provisions  
744 concerning presuit arbitration under s. 720.507.

745 (4) In any dispute subject to presuit mediation or presuit  
746 arbitration under this part for which emergency relief is  
747 required, a motion for temporary injunctive relief may be filed  
748 with the court without first complying with the presuit  
749 mediation or presuit arbitration requirements of this part.  
750 After any issues regarding emergency or temporary relief are  
751 resolved, the court may refer the parties to a mediation program

752 administered by the courts or require mediation or arbitration  
 753 under this part.

754 (5) The mailing of a statutory notice of presuit mediation  
 755 or presuit arbitration as provided in this part shall toll the  
 756 applicable statute of limitations during the pendency of the  
 757 mediation or arbitration and for a period of 30 days following  
 758 the conclusion of either proceeding. The 30-day period shall  
 759 start upon the filing of the mediator's notice of impasse or the  
 760 arbitrator's written arbitration award. If the parties mutually  
 761 agree to participate in both presuit mediation and presuit  
 762 arbitration under this part, the tolling of the applicable  
 763 statute of limitations for each such alternative dispute  
 764 resolution proceeding shall be consecutive.

765 720.504 Notice of dispute.--Prior to giving the statutory  
 766 notice to proceed under presuit medication or presuit  
 767 arbitration under this part, the aggrieved association or parcel  
 768 owner shall first provide written notice of the dispute to the  
 769 responding party in the manner provided by this section.

770 (1) The notice of dispute shall be delivered to the  
 771 responding party by certified mail, return receipt requested, or  
 772 the notice of dispute may be hand delivered, and the person  
 773 making delivery shall file with their notice of mediation either  
 774 the proof of receipt of mailing or an affidavit stating the date  
 775 and time of the delivery of the notice of dispute. If the notice  
 776 is delivered by certified mail, return receipt requested, and  
 777 the responding party fails or refuses to accept delivery, notice  
 778 shall be considered properly delivered for purposes of this  
 779 section on the date of the first attempted delivery.

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780       (2) The notice of dispute shall state with specificity the  
781 nature of the dispute, including the date, time, and location of  
782 each event that is the subject of the dispute and the action  
783 requested to resolve the dispute. The notice shall also include  
784 the text of any provision in the governing documents, including  
785 the rules and regulations, of the association which form the  
786 basis of the dispute.

787       (3) Unless the parties otherwise agree in writing to a  
788 longer time period, the party receiving the notice of dispute  
789 shall have 10 days following the date of receipt of notice to  
790 resolve the dispute. If the alleged dispute has not been  
791 resolved within the 10-day period, the aggrieved party may  
792 proceed under this part at any time thereafter within the  
793 applicable statute of limitations.

794       (4) A copy of the notice and the text of the provision in  
795 the governing documents, or the rules and regulations, of the  
796 association which are the basis of the dispute, along with proof  
797 of service of the notice of dispute and a copy of any written  
798 responses received from the responding party, shall be included  
799 as an exhibit to any demand for mediation or arbitration under  
800 this part.

801       720.505 Presuit mediation.--

802       (1) Disputes between an association and a parcel owner or  
803 owners and between parcel owners must be submitted to presuit  
804 mediation before the dispute may be filed in court; or, at the  
805 election of the party initiating the presuit procedures, such  
806 dispute may be submitted to presuit arbitration pursuant to s.  
807 720.507 before the dispute may be filed in court. An aggrieved

808 party who elects to use the presuit mediation procedure under  
 809 this section shall serve on the responding party a written  
 810 notice of presuit mediation in substantially the following form:

812 STATUTORY NOTICE OF PRESUIT MEDIATION

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

821 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION  
 822 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO  
 823 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF  
 824 A VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
 825 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING  
 826 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE  
 827 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
 828 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
 829 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

831 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
 832 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
 833 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
 834 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
 835 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT

836 MEDIATION WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER  
837 TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
838 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
839 PARTICIPATE IN THIS PROCESS. UNLESS YOU RESPOND TO  
840 THIS NOTICE BY FILING WITH THE AGGRIEVED PARTY A  
841 NOTICE OF OPTING OUT AND DEMAND FOR ARBITRATION UNDER  
842 S. 720.506, FLORIDA STATUTES, YOUR FAILURE TO  
843 PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A  
844 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT  
845 FURTHER NOTICE.

846  
847 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
848 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
849 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS  
850 THEM IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING  
851 PART OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE  
852 IN PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
853 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
854 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
855 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
856 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE  
857 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
858 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

859  
860 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
861 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
862 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
863 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE

864 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
 865 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
 866 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN  
 867 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
 868 PARTY MAY PROCEED TO FILE A LAWSUIT ON ALL  
 869 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
 870 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION  
 871 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER  
 872 ATTORNEY'S FEES IF YOU PREVAIL IN A SUBSEQUENT COURT  
 873 PROCEEDING INVOLVING THE SAME DISPUTE.

874  
 875 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
 876 ELIGIBLE, QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
 877 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
 878 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
 879 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE  
 880 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE  
 881 OF THE LISTED MEDIATORS DOES NOT MEAN THAT THE  
 882 MEDIATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
 883 FACILITATOR. THE NAMES OF THE MEDIATORS THAT THE  
 884 AGGRIEVED PARTY HEREBY SUBMITS TO YOU FROM WHOM YOU  
 885 MAY CHOOSE ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE  
 886 NUMBERS, AND HOURLY RATES ARE AS FOLLOWS:

887  
 888 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
 889 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
 890 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
 891 BE INCLUDED AS AN ATTACHMENT.)



892  
893 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
894 CONFIRM THAT EACH OF THE ABOVE-LISTED MEDIATORS WILL  
895 BE NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD  
896 EITHER PARTY. UNLESS OTHERWISE AGREED TO BY THE  
897 PARTIES, PART IV OF CHAPTER 720, FLORIDA STATUTES,  
898 REQUIRES THAT THE PARTIES SHARE THE COSTS OF PRESUIT  
899 MEDIATION EQUALLY, INCLUDING THE FEE CHARGED BY THE  
900 MEDIATOR. AN AVERAGE MEDIATION MAY REQUIRE 3 TO 4  
901 HOURS OF THE MEDIATOR'S TIME, INCLUDING SOME  
902 PREPARATION TIME, AND THE PARTIES WOULD NEED TO  
903 EQUALLY SHARE THE MEDIATOR'S FEES AS WELL AS BE  
904 RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES IF  
905 THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
906 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
907 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE  
908 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
909 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY  
910 HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE  
911 SELECTED MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS  
912 AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS AS  
913 THE MEDIATOR REQUIRES FOR THIS PURPOSE UPON THE  
914 SELECTION OF THE MEDIATOR. ANY FUNDS DEPOSITED WILL BE  
915 RETURNED TO YOU IF THESE FUNDS ARE IN EXCESS OF YOUR  
916 SHARE OF THE MEDIATOR FEES INCURRED.  
917  
918 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO  
919 TRY TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER

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920        LEGAL ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE  
921        WHICH MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE  
922        MEDIATORS LISTED BY THE AGGRIEVED PARTY ABOVE.  
923  
924        YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
925        OF PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE  
926        YOU MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
927        TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
928        MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
929        DATE OF THE MAILING OF THIS NOTICE OF PRESUIT  
930        MEDIATION OR WITHIN 90 DAYS AFTER THE DATE YOU WERE  
931        SERVED WITH A COPY OF THIS NOTICE. THE AGGRIEVED PARTY  
932        WILL THEN ASK THE MEDIATOR TO SCHEDULE A MUTUALLY  
933        CONVENIENT TIME AND PLACE FOR THE MEDIATION CONFERENCE  
934        TO BE HELD. IF YOU DO NOT PROVIDE A LIST OF AVAILABLE  
935        DATES AND TIMES, THE MEDIATOR IS AUTHORIZED TO  
936        SCHEDULE A MEDIATION CONFERENCE WITHOUT TAKING YOUR  
937        SCHEDULE AND CONVENIENCE INTO CONSIDERATION. IN NO  
938        EVENT SHALL THE MEDIATION CONFERENCE BE LATER THAN 90  
939        DAYS AFTER THE NOTICE OF PRESUIT MEDIATION WAS FIRST  
940        SERVED UNLESS ALL PARTIES MUTUALLY AGREE OTHERWISE. IN  
941        THE EVENT THAT YOU FAIL TO RESPOND WITHIN 20 DAYS  
942        AFTER THE DATE OF THIS NOTICE, FAIL TO PROVIDE THE  
943        MEDIATOR WITH DATES AND TIMES IN WHICH YOU ARE  
944        AVAILABLE FOR THE MEDIATION CONFERENCE, FAIL TO AGREE  
945        TO AT LEAST ONE OF THE MEDIATORS THAT THE AGGRIEVED  
946        PARTY HAS LISTED, FAIL TO PAY OR PREPAY TO THE  
947        MEDIATOR ONE-HALF OF THE COSTS INVOLVED, OR FAIL TO

948 APPEAR AND PARTICIPATE AT THE SCHEDULED MEDIATION, THE  
 949 AGGRIEVED PARTY WILL BE AUTHORIZED TO PROCEED WITH THE  
 950 FILING OF A LAWSUIT AGAINST YOU WITHOUT FURTHER  
 951 NOTICE. IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED  
 952 PARTY MAY SEEK AN AWARD OF REASONABLE ATTORNEY'S FEES  
 953 AND COSTS INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

954  
 955 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 956 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
 957 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
 958 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE  
 959 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
 960 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
 961 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
 962 OF THIS NOTICE.

963  
 964 \_\_\_\_\_  
 965 SIGNATURE OF AGGRIEVED PARTY

966  
 967 \_\_\_\_\_  
 968 PRINTED NAME OF AGGRIEVED PARTY

969  
 970 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 971 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

972  
 973 AGREEMENT TO MEDIATE  
 974

975 | THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
976 | PRESUIT MEDIATION AND AGREES TO ATTEND A MEDIATION  
977 | CONDUCTED BY THE FOLLOWING MEDIATOR(S) LISTED BELOW AS  
978 | ACCEPTABLE TO MEDIATE THIS DISPUTE:

979 |  
980 | (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE  
981 | AGGRIEVED PARTY.)

982 |  
983 | THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN  
984 | ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE  
985 | FOLLOWING DATES AND TIMES:

986 |  
987 | (LIST AT LEAST THREE AVAILABLE DATES AND TIMES WITHIN  
988 | THE 90-DAY TIME LIMIT DESCRIBED ABOVE.)

989 |  
990 | I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
991 | MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
992 | AS THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

993 |  
994 | \_\_\_\_\_  
995 | SIGNATURE OF RESPONDING PARTY #1

996 | \_\_\_\_\_  
997 | TELEPHONE CONTACT INFORMATION

998 |  
999 | \_\_\_\_\_  
1000 | SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
1001 | RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
1002 | OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,

1003 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
 1004 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

1006 (2) (a) Service of the notice of presuit mediation shall be  
 1007 effected either by personal service, as provided in chapter 48,  
 1008 or by certified mail, return receipt requested, in a letter in  
 1009 substantial conformity with the form provided in subsection (1),  
 1010 with an additional copy being sent by regular first-class mail,  
 1011 to the address of the responding party as it last appears on the  
 1012 books and records of the association or, if not available, then  
 1013 as it last appears in the official records of the county  
 1014 property appraiser where the parcel in dispute is located. The  
 1015 responding party has either 20 days after the postmarked date of  
 1016 the mailing of the statutory notice or 20 days after the date  
 1017 the responding party is served with a copy of the notice to  
 1018 serve a written response to the aggrieved party. The response  
 1019 shall be served by certified mail, return receipt requested,  
 1020 with an additional copy being sent by regular first-class mail,  
 1021 to the address shown on the statutory notice. The date of the  
 1022 postmark on the envelope for the response shall constitute the  
 1023 date that the response is served. Once the parties have agreed  
 1024 on a mediator, the mediator may schedule or reschedule the  
 1025 mediation for a date and time mutually convenient to the parties  
 1026 within 90 days after the date of service of the statutory  
 1027 notice. After such 90-day period, the mediator may reschedule  
 1028 the mediation only upon the mutual written agreement of all the  
 1029 parties.

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1030        (b) The parties shall share the costs of presuit mediation  
1031 equally, including the fee charged by the mediator, if any,  
1032 unless the parties agree otherwise, and the mediator may require  
1033 advance payment of his or her reasonable fees and costs. Each  
1034 party shall be responsible for that party's own attorney's fees  
1035 if a party chooses to be represented by an attorney at the  
1036 mediation.

1037        (c) The party responding to the aggrieved party may  
1038 provide a notice of opting out under s. 720.506 and demand  
1039 arbitration or may sign the agreement to mediate included in the  
1040 notice of presuit mediation. A responding party signing the  
1041 agreement to mediate must clearly indicate the name of the  
1042 mediator who is acceptable from the five names provided by the  
1043 aggrieved party and must provide a list of dates and times in  
1044 which the responding party is available to participate in the  
1045 mediation within 90 days after the date the responding party was  
1046 served, either by process server or by certified mail, with the  
1047 statutory notice of presuit mediation.

1048        (d) The mediator who has been selected and agreed to  
1049 mediate must schedule the mediation conference at a mutually  
1050 convenient time and place within that 90-day period; but, if the  
1051 responding party does not provide a list of available dates and  
1052 times, the mediator is authorized to schedule a mediation  
1053 conference without taking the responding party's schedule and  
1054 convenience into consideration. Within 10 days after the  
1055 designation of the mediator, the mediator shall coordinate with  
1056 the parties and notify the parties in writing of the date, time,  
1057 and place of the mediation conference.

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1058        (e) The mediation conference must be held on the scheduled  
1059 date and may be rescheduled if a rescheduled date is approved by  
1060 the mediator. However, in no event shall the mediation be held  
1061 later than 90 days after the notice of presuit mediation was  
1062 first served, unless all parties mutually agree in writing  
1063 otherwise. If the presuit mediation is not completed within the  
1064 required time limits, the mediator shall declare an impasse  
1065 unless the mediation date is extended by mutual written  
1066 agreement by all parties and approved by the mediator.

1067        (f) If the responding party fails to respond within 30  
1068 days after the date of service of the statutory notice of  
1069 presuit mediation, fails to agree to at least one of the  
1070 mediators listed by the aggrieved party in the notice, fails to  
1071 pay or prepay to the mediator one-half of the costs of the  
1072 mediator, or fails to appear and participate at the scheduled  
1073 mediation, the aggrieved party shall be authorized to proceed  
1074 with the filing of a lawsuit without further notice.

1075        (g)1. The failure of any party to respond to the statutory  
1076 notice of presuit mediation within 20 days, the failure to agree  
1077 upon a mediator, the failure to provide a listing of dates and  
1078 times in which the responding party is available to participate  
1079 in the mediation within 90 days after the date the responding  
1080 party was served with the statutory notice of presuit mediation,  
1081 the failure to make payment of fees and costs within the time  
1082 established by the mediator, or the failure to appear for a  
1083 scheduled mediation session without the approval of the  
1084 mediator, shall in each instance constitute a failure or refusal  
1085 to participate in the mediation process and shall operate as an

1086 impasse in the presuit mediation by such party, entitling the  
1087 other party to file a lawsuit in court and to seek an award of  
1088 the costs and attorney's fees associated with the mediation.

1089 2. Persons who fail or refuse to participate in the entire  
1090 mediation process may not recover attorney's fees and costs in  
1091 subsequent litigation relating to the same dispute between the  
1092 same parties. If any presuit mediation session cannot be  
1093 scheduled and conducted within 90 days after the offer to  
1094 participate in mediation was filed, through no fault of either  
1095 party, then an impasse shall be deemed to have occurred unless  
1096 the parties mutually agree in writing to extend this deadline.  
1097 In the event of such impasse, each party shall be responsible  
1098 for its own costs and attorney's fees and one-half of any  
1099 mediator fees and filing fees, and either party may file a  
1100 lawsuit in court regarding the dispute.

1101 720.506 Opt-out of presuit mediation.--A party served with  
1102 a notice of presuit mediation under s. 720.505 may opt out of  
1103 presuit mediation and demand that the dispute proceed under  
1104 nonbinding arbitration as follows:

1105 (1) In lieu of a response to the notice of presuit  
1106 mediation as required under s. 720.505, the responding party may  
1107 serve upon the aggrieved party, in the same manner as the  
1108 response to a notice for presuit mediation under s. 720.505, a  
1109 notice of opting out of mediation and demand that the dispute  
1110 instead proceed to presuit arbitration under s. 720.507.

1111 (2) The aggrieved party shall be relieved from having to  
1112 satisfy the requirements of s. 720.504 as a condition precedent  
1113 to filing the demand for presuit arbitration.



1114 (3) Except as otherwise provided in this part, the choice  
 1115 of which presuit alternative dispute resolution procedure is  
 1116 used shall be at the election of the aggrieved party who first  
 1117 initiated such proceeding after complying with the provisions of  
 1118 s. 720.504.

1119 720.507 Presuit arbitration.--

1120 (1) Disputes between an association and a parcel owner or  
 1121 owners and disputes between parcel owners are subject to a  
 1122 demand for presuit arbitration pursuant to this section before  
 1123 the dispute may be filed in court. A party who elects to use the  
 1124 presuit arbitration procedure under this part shall serve on the  
 1125 responding party a written notice of presuit arbitration in  
 1126 substantially the following form:

1127  
 1128 STATUTORY NOTICE OF PRESUIT ARBITRATION

1129  
 1130 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
 1131 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
 1132 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
 1133 ARBITRATION IN CONNECTION WITH THE FOLLOWING  
 1134 DISPUTE(S) WITH YOU, WHICH BY STATUTE ARE OF A TYPE  
 1135 THAT ARE SUBJECT TO PRESUIT ARBITRATION:

1136  
 1137 (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
 1138 ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
 1139 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
 1140 LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING

1141 DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
 1142 PARTIES.)

1143  
 1144 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
 1145 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
 1146 ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
 1147 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
 1148 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
 1149 ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
 1150 ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
 1151 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
 1152 PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO  
 1153 PARTICIPATE IN THE ARBITRATION PROCESS, A LAWSUIT MAY  
 1154 BE BROUGHT AGAINST YOU IN COURT WITHOUT FURTHER  
 1155 WARNING.

1156  
 1157 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
 1158 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY  
 1159 THE PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
 1160 "ARBITRATION AWARD." PURSUANT TO S. 720.507, FLORIDA  
 1161 STATUTES, THE ARBITRATION AWARD SHALL BE FINAL UNLESS  
 1162 A LAWSUIT IS FILED IN A COURT OF COMPETENT  
 1163 JURISDICTION FOR THE JUDICIAL CIRCUIT IN WHICH THE  
 1164 PARCEL(S) GOVERNED BY THE HOMEOWNERS' ASSOCIATION  
 1165 IS/ARE LOCATED WITHIN 30 DAYS AFTER THE DATE OF THE  
 1166 ARBITRATION AWARD.

1167

1168 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
 1169 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
 1170 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
 1171 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
 1172 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR  
 1173 TO LITIGATE THESE ISSUES IN COURT AND SHALL BE THE  
 1174 SAME AS A SETTLEMENT AGREEMENT REACHED BETWEEN THE  
 1175 PARTIES UNDER S. 720.505, FLORIDA STATUTES. THE  
 1176 FAILURE OF A PARTY TO PARTICIPATE IN THE ARBITRATION  
 1177 PROCESS MAY RESULT IN THE ARBITRATOR ISSUING AN  
 1178 ARBITRATION AWARD BY DEFAULT IN THE ARBITRATION. IF  
 1179 YOU HAVE FAILED OR REFUSED TO PARTICIPATE IN THE  
 1180 ENTIRE ARBITRATION PROCESS, YOU WILL NOT BE ENTITLED  
 1181 TO RECOVER ATTORNEY'S FEES, EVEN IF YOU PREVAIL IN A  
 1182 SUBSEQUENT COURT PROCEEDING INVOLVING THE SAME DISPUTE  
 1183 BETWEEN THE SAME PARTIES.

1184  
 1185 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE  
 1186 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
 1187 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
 1188 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
 1189 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
 1190 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
 1191 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
 1192 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
 1193 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
 1194 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
 1195 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT

1196 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,  
 1197 AND HOURLY RATES, ARE AS FOLLOWS:  
 1198  
 1199 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
 1200 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.  
 1201  
 1202 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
 1203 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL  
 1204 AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.  
 1205  
 1206 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF  
 1207 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
 1208 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION  
 1209 EQUALLY, INCLUDING THE FEE CHARGED BY THE ARBITRATOR.  
 1210 THE PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN  
 1211 ATTORNEY'S FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY  
 1212 IN CONNECTION WITH THE ARBITRATION. HOWEVER, USE OF AN  
 1213 ATTORNEY TO REPRESENT YOU FOR THE ARBITRATION IS NOT  
 1214 REQUIRED. THE ARBITRATOR SELECTED MAY REQUIRE THE  
 1215 ADVANCE PAYMENT OF SOME OR ALL OF THE ANTICIPATED  
 1216 FEES. THE AGGRIEVED PARTY HEREBY AGREES TO PAY OR  
 1217 PREPAY ONE-HALF OF THE SELECTED ARBITRATOR'S ESTIMATED  
 1218 FEES AND TO FORWARD THIS AMOUNT OR SUCH OTHER  
 1219 REASONABLE ADVANCE DEPOSITS AS THE ARBITRATOR WHO IS  
 1220 SELECTED REQUIRES FOR THIS PURPOSE. ANY FUNDS  
 1221 DEPOSITED WILL BE RETURNED TO YOU IF THESE FUNDS ARE  
 1222 IN EXCESS OF YOUR SHARE OF THE FEES INCURRED.  
 1223

1224 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND  
 1225 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS  
 1226 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE  
 1227 AGGRIEVED PARTY.

1228

1229 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
 1230 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF  
 1231 PRESUIT ARBITRATION WAS EITHER PERSONALLY SERVED ON  
 1232 YOU OR 20 DAYS AFTER THE POSTMARKED DATE THAT THIS  
 1233 NOTICE OF PRESUIT ARBITRATION WAS SENT TO YOU BY  
 1234 CERTIFIED MAIL. YOU MUST ALSO PROVIDE A LIST OF AT  
 1235 LEAST THREE DATES AND TIMES IN WHICH YOU ARE AVAILABLE  
 1236 TO PARTICIPATE IN THE ARBITRATION THAT ARE WITHIN 90  
 1237 DAYS AFTER THE DATE YOU WERE PERSONALLY SERVED OR  
 1238 WITHIN 90 DAYS AFTER THE POSTMARKED DATE OF THE  
 1239 CERTIFIED MAILING OF THIS STATUTORY NOTICE OF PRESUIT  
 1240 ARBITRATION. A COPY OF THIS NOTICE AND YOUR RESPONSE  
 1241 WILL BE PROVIDED BY THE AGGRIEVED PARTY TO THE  
 1242 ARBITRATOR SELECTED, AND THE ARBITRATOR WILL SCHEDULE  
 1243 A MUTUALLY CONVENIENT TIME AND PLACE FOR THE  
 1244 ARBITRATION CONFERENCE TO BE HELD. IF YOU DO NOT  
 1245 PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
 1246 ARBITRATOR IS AUTHORIZED TO SCHEDULE AN ARBITRATION  
 1247 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND  
 1248 CONVENIENCE INTO CONSIDERATION. THE ARBITRATION  
 1249 CONFERENCE MUST BE HELD ON THE SCHEDULED DATE, OR ANY  
 1250 RESCHEDULED DATE APPROVED BY THE ARBITRATOR. IN NO  
 1251 EVENT SHALL THE ARBITRATION CONFERENCE BE LATER THAN

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1252 90 DAYS AFTER NOTICE OF THE PRESUIT ARBITRATION WAS  
1253 FIRST SERVED, UNLESS ALL PARTIES MUTUALLY AGREE IN  
1254 WRITING OTHERWISE. IF THE ARBITRATION IS NOT COMPLETED  
1255 WITHIN THE REQUIRED TIME LIMITS, THE ARBITRATOR SHALL  
1256 ISSUE AN ARBITRATION AWARD, UNLESS THE HEARING IS  
1257 EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES  
1258 AND APPROVED BY THE ARBITRATOR. IN THE EVENT THAT YOU  
1259 FAIL TO RESPOND WITHIN 20 DAYS AFTER THE DATE YOU WERE  
1260 SERVED WITH A COPY OF THIS NOTICE, FAIL TO PROVIDE THE  
1261 ARBITRATOR WITH DATES AND TIMES IN WHICH YOU ARE  
1262 AVAILABLE FOR THE ARBITRATION CONFERENCE, FAIL TO  
1263 AGREE EITHER TO ONE OF THE ARBITRATORS THAT THE  
1264 AGGRIEVED PARTY HAS NAMED, FAIL TO PAY OR PREPAY TO  
1265 THE ARBITRATOR ONE-HALF OF THE COSTS INVOLVED AS  
1266 REQUIRED, OR FAIL TO APPEAR AND PARTICIPATE AT THE  
1267 SCHEDULED ARBITRATION CONFERENCE, THE AGGRIEVED PARTY  
1268 MAY REQUEST THE ARBITRATOR TO ISSUE AN ARBITRATION  
1269 AWARD. IN THE SUBSEQUENT COURT ACTION, THE AGGRIEVED  
1270 PARTY SHALL BE ENTITLED TO RECOVER AN AWARD OF  
1271 REASONABLE ATTORNEY'S FEES AND COSTS, INCLUDING ANY  
1272 FEES PAID TO THE ARBITRATOR, INCURRED IN OBTAINING AN  
1273 ARBITRATION AWARD PURSUANT TO S. 720.507, FLORIDA  
1274 STATUTES.

1275

1276 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
1277 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
1278 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,

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1279 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
 1280 ARBITRATION.

1281  
 1282 \_\_\_\_\_  
 1283 SIGNATURE OF AGGRIEVED PARTY

1284  
 1285 \_\_\_\_\_  
 1286 PRINTED NAME OF AGGRIEVED PARTY

1287  
 1288 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 1289 ACCEPTANCE OF THE AGREEMENT TO ARBITRATE.

1290  
 1291 AGREEMENT TO ARBITRATE

1292  
 1293 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
 1294 PRESUIT ARBITRATION AND AGREES TO ATTEND AN  
 1295 ARBITRATION CONDUCTED BY THE FOLLOWING ARBITRATOR  
 1296 LISTED BELOW AS SOMEONE WHO WOULD BE ACCEPTABLE TO  
 1297 ARBITRATE THIS DISPUTE:

1298  
 1299 (IN YOUR RESPONSE, SELECT THE NAME OF ONE ARBITRATOR  
 1300 THAT IS ACCEPTABLE TO YOU FROM THOSE ARBITRATORS  
 1301 LISTED BY THE AGGRIEVED PARTY.)

1302  
 1303 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
 1304 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE  
 1305 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
 1306 AND TIMES:

1307  
 1308 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
 1309 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
 1310 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
 1311 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
 1312 ARBITRATION.)

1313  
 1314 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
 1315 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
 1316 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

1317  
 1318 \_\_\_\_\_  
 1319 SIGNATURE OF RESPONDING PARTY #1

1320 \_\_\_\_\_  
 1321 TELEPHONE CONTACT INFORMATION

1322  
 1323 \_\_\_\_\_  
 1324 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
 1325 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
 1326 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,  
 1327 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
 1328 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

1329  
 1330 (2) (a) Service of the statutory notice of presuit  
 1331 arbitration shall be effected either by personal service, as  
 1332 provided in chapter 48, or by certified mail, return receipt  
 1333 requested, in a letter in substantial conformity with the form  
 1334 provided in subsection (1), with an additional copy being sent



1335 by regular first-class mail, to the address of the responding  
1336 party as it last appears on the books and records of the  
1337 association, or if not available, the last address as it appears  
1338 on the official records of the county property appraiser for the  
1339 county in which the property is situated that is subject to the  
1340 association documents. The responding party has 20 days after  
1341 the postmarked date of the certified mailing of the statutory  
1342 notice of presuit arbitration or 20 days after the date the  
1343 responding party is personally served with the statutory notice  
1344 of presuit arbitration by to serve a written response to the  
1345 aggrieved party. The response shall be served by certified mail,  
1346 return receipt requested, with an additional copy being sent by  
1347 regular first-class mail, to the address shown on the statutory  
1348 notice of presuit arbitration. The postmarked date on the  
1349 envelope of the response shall constitute the date the response  
1350 was served.

1351 (b) The parties shall share the costs of presuit  
1352 arbitration equally, including the fee charged by the  
1353 arbitrator, if any, unless the parties agree otherwise, and the  
1354 arbitrator may require advance payment of his or her reasonable  
1355 fees and costs. Each party shall be responsible for all of their  
1356 own attorney's fees if a party chooses to be represented by an  
1357 attorney for the arbitration proceedings.

1358 (c)1. The party responding to the aggrieved party must  
1359 sign the agreement to arbitrate included in the notice of  
1360 presuit arbitration and clearly indicate the name of the  
1361 arbitrator who is acceptable of those arbitrators listed by the  
1362 aggrieved party. The responding party must provide a list of at

1363 least three dates and times in which the responding party is  
1364 available to participate in the arbitration conference within 90  
1365 days after the date the responding party was served with the  
1366 statutory notice of presuit arbitration.

1367 2. The arbitrator must schedule the arbitration conference  
1368 at a mutually convenient time and place, but if the responding  
1369 party does not provide a list of available dates and times, the  
1370 arbitrator is authorized to schedule an arbitration conference  
1371 without taking the responding party's schedule and convenience  
1372 into consideration. Within 10 days after the designation of the  
1373 arbitrator, the arbitrator shall notify the parties in writing  
1374 of the date, time, and place of the arbitration conference.

1375 3. The arbitration conference must be held on the  
1376 scheduled date and may be rescheduled if approved by the  
1377 arbitrator. However, in no event shall the arbitration hearing  
1378 be later than 90 days after the notice of presuit arbitration  
1379 was first served, unless all parties mutually agree in writing  
1380 otherwise. If the arbitration hearing is not completed within  
1381 the required time limits, the arbitrator may issue an  
1382 arbitration award unless the time for the hearing is extended as  
1383 provided herein. If the responding party fails to respond within  
1384 20 days after the date of statutory notice of presuit  
1385 arbitration, fails to agree to at least one of the arbitrators  
1386 that have been listed by the aggrieved party in the presuit  
1387 notice of arbitration, fails to pay or prepay to the arbitrator  
1388 one-half of the costs involved, or fails to appear and  
1389 participate at the scheduled arbitration, the aggrieved party is

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1390 authorized to proceed with a request that the arbitrator issue  
1391 an arbitration award.

1392 (d)1. The failure of any party to respond to the statutory  
1393 notice of presuit arbitration within 20 days, the failure to  
1394 either select one of the five arbitrators listed by the  
1395 aggrieved party, the failure to provide a listing of dates and  
1396 times in which the responding party is available to participate  
1397 in the arbitration conference within 90 days after the date of  
1398 the responding party being served with the statutory notice of  
1399 presuit arbitration, the failure to make payment of fees and  
1400 costs as required within the time established by the arbitrator,  
1401 or the failure to appear for an arbitration conference without  
1402 the approval of the arbitrator, shall entitle the other party to  
1403 request the arbitrator to enter an arbitration award, including  
1404 an award of the reasonable costs and attorney's fees associated  
1405 with the arbitration.

1406 2. Persons who fail or refuse to participate in the entire  
1407 arbitration process may not recover attorney's fees and costs in  
1408 any subsequent litigation proceeding relating to the same  
1409 dispute involving the same parties.

1410 (3) (a) In an arbitration proceeding, the arbitrator may  
1411 not consider any unsuccessful mediation of the dispute.

1412 (b) An arbitrator in a proceeding initiated pursuant to  
1413 the provisions of this part may shorten the time for discovery  
1414 or otherwise limit discovery in a manner consistent with the  
1415 policy goals of this part to reduce the time and expense of  
1416 litigating homeowners' association disputes initiated pursuant

1417 to this chapter and promoting an expeditious alternative dispute  
1418 resolution procedure for parties to such actions.

1419 (4) At the request of any party to the arbitration, the  
1420 arbitrator may issue subpoenas for the attendance of witnesses  
1421 and the production of books, records, documents, and other  
1422 evidence, and any party on whose behalf a subpoena is issued may  
1423 apply to the court for orders compelling such attendance and  
1424 production. Subpoenas shall be served and are enforceable in the  
1425 manner provided by the Florida Rules of Civil Procedure.  
1426 Discovery may, at the discretion of the arbitrator, be permitted  
1427 in the manner provided by the Florida Rules of Civil Procedure.

1428 (5) The final arbitration award shall be sent to the  
1429 parties in writing no later than 30 days after the date of the  
1430 arbitration hearing, absent extraordinary circumstances  
1431 necessitating a later filing the reasons for which shall be  
1432 stated in the final award if filed more than 30 days after the  
1433 date of the final session of the arbitration conference. An  
1434 agreed arbitration award is final in those disputes in which the  
1435 parties have mutually agreed to be bound. An arbitration award  
1436 decided by the arbitrator is final unless a lawsuit seeking a  
1437 trial de novo is filed in a court of competent jurisdiction  
1438 within 30 days after the date of the arbitration award. The  
1439 right to file for a trial de novo entitles the parties to file a  
1440 complaint in the appropriate trial court for a judicial  
1441 resolution of the dispute. The prevailing party in an  
1442 arbitration proceeding shall be awarded the costs of the  
1443 arbitration and reasonable attorney's fees in an amount  
1444 determined by the arbitrator.

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1445       (6) The party filing a motion for a trial de novo shall be  
1446 assessed the other party's arbitration costs, court costs, and  
1447 other reasonable costs, including attorney's fees, investigation  
1448 expenses, and expenses for expert or other testimony or evidence  
1449 incurred after the arbitration hearing, if the judgment upon the  
1450 trial de novo is not more favorable than the final arbitration  
1451 award.

1452       720.508 Rules of procedure.--

1453       (1) Presuit mediation and presuit arbitration proceedings  
1454 under this part must be conducted in accordance with the  
1455 applicable Florida Rules of Civil Procedure and rules governing  
1456 mediations and arbitrations under chapter 44, except that this  
1457 part shall be controlling to the extent of any conflict with  
1458 other applicable rules or statutes. The arbitrator may shorten  
1459 any applicable time period and otherwise limit the scope of  
1460 discovery on request of the parties or within the discretion of  
1461 the arbitrator exercised consistent with the purpose and  
1462 objective of reducing the expense and expeditiously concluding  
1463 proceedings under this part.

1464       (2) Presuit mediation proceedings under s. 720.505 are  
1465 privileged and confidential to the same extent as court-ordered  
1466 mediation under chapter 44. An arbitrator or judge may not  
1467 consider any information or evidence arising from the presuit  
1468 mediation proceeding except in a proceeding to impose sanctions  
1469 for failure to attend a presuit mediation session or to enforce  
1470 a mediated settlement agreement.

1471       (3) Persons who are not parties to the dispute may not  
1472 attend the presuit mediation conference without consent of all

1473 parties, with the exception of counsel for the parties and a  
 1474 corporate representative designated by the association. Presuit  
 1475 mediations under this part are not a board meeting for purposes  
 1476 of notice and participation set forth in this chapter.

1477 (4) Attendance at a mediation conference by the board of  
 1478 directors shall not require notice or participation by nonboard  
 1479 members as otherwise required by this chapter for meetings of  
 1480 the board.

1481 (5) Settlement agreements resulting from a mediation or  
 1482 arbitration proceeding do not have precedential value in  
 1483 proceedings involving parties other than those participating in  
 1484 the mediation or arbitration.

1485 (6) Arbitration awards by an arbitrator shall have  
 1486 precedential value in other proceedings involving the same  
 1487 association or with respect to the same parcel owner.

1488 720.509 Mediators and arbitrators; qualifications and  
 1489 registration.--A person is authorized to conduct mediation or  
 1490 arbitration under this part if he or she has been certified as a  
 1491 circuit court civil mediator under the requirements adopted  
 1492 pursuant to s. 44.106, is a member in good standing with The  
 1493 Florida Bar, and otherwise meets all other requirements imposed  
 1494 by chapter 44.

1495 720.510 Enforcement of mediation agreement or arbitration  
 1496 award.--

1497 (1) A mediation settlement may be enforced through the  
 1498 county or circuit court, as applicable, and any costs and  
 1499 attorney's fees incurred in the enforcement of a settlement

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1500 agreement reached at mediation shall be awarded to the  
1501 prevailing party in any enforcement action.

1502 (2) Any party to an arbitration proceeding may enforce an  
1503 arbitration award by filing a petition in a court of competent  
1504 jurisdiction in which the homeowners' association is located.  
1505 The prevailing party in such proceeding shall be awarded  
1506 reasonable attorney's fees and costs incurred in such  
1507 proceeding.

1508 (3) If a complaint is filed seeking a trial de novo, the  
1509 arbitration award shall be stayed and a petition to enforce the  
1510 award may not be granted. Such award, however, shall be  
1511 admissible in the court proceeding seeking a trial de novo.

1512 Section 10. Except as otherwise expressly provided in this  
1513 act, this act shall take effect July 1, 2009.