

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, reserve accounts of budgets, and
18 recall of directors; prohibiting a salary or compensation
19 for certain association personnel; providing exceptions;
20 amending s. 720.305, F.S.; authorizing fines assessed
21 against members which exceed a certain amount to become a
22 lien against a parcel; amending s. 720.306, F.S.;
23 providing requirements for secret ballots; requiring newly
24 elected members of a board of directors to make certain
25 certifications in writing to the association; providing
26 for disqualification for failure to make such
27 certifications; requiring an association to retain
28 certifications for a specified time; amending s. 720.401,

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 38 will continue under the repealed provisions; creating part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

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

67

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

69

70 Section 1. Paragraph (d) of subsection (2) of section
 71 718.112, Florida Statutes, is amended to read:

72 718.112 Bylaws.--

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

76 (d) Unit owner meetings.--

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

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

113 action by the board is not affected if it is later determined
114 that a member of the board is ineligible for board membership
115 due to having been convicted of a felony.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

281 (g) of subsection (6), and paragraph (d) of subsection (10) of
 282 section 720.303, Florida Statutes, are amended, and subsection
 283 (12) is added to that section, to read:

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

287 (2) BOARD MEETINGS.--

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

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

309 community. If the association has a photocopy machine available
 310 where the records are maintained, it must provide parcel owners
 311 with copies on request during the inspection if the entire
 312 request is limited to no more than 25 pages.

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

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

337 the recorded governing documents, to ensure their availability
338 to members and prospective members. Notwithstanding the
339 provisions of this paragraph, the following records are ~~shall~~
340 not ~~be~~ accessible to members or parcel owners:

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

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

356 3. Disciplinary, health, insurance, and personnel records
357 of the association's employees.

358 4. Medical records of parcel owners or community
359 residents.

360 (6) BUDGETS.--

361 (b) In addition to annual operating expenses, the budget
362 may include reserve accounts for capital expenditures and
363 deferred maintenance for which the association is responsible.
364 If reserve accounts are not established pursuant to paragraph

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

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

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

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

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

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

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

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

449 a. The total amount necessary, if any, to bring a negative
450 component balance to zero.

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

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

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

477 (10) RECALL OF DIRECTORS.--
 478 (d) If the board determines not to certify the written
 479 agreement or written ballots to recall a director or directors
 480 of the board or does not certify the recall by a vote at a
 481 meeting, the board shall, within 5 full business days after the
 482 meeting, initiate ~~file with the department a petition for~~
 483 ~~binding arbitration pursuant to the applicable procedures in s.~~
 484 ~~720.507 ss. 718.112(2)(j) and 718.1255 and the rules adopted~~
 485 ~~thereunder~~. For the purposes of this section, the members who
 486 voted at the meeting or who executed the agreement in writing
 487 shall constitute one party under the petition for arbitration.
 488 If the arbitrator certifies the recall as to any director or
 489 directors of the board, the recall will be effective upon
 490 mailing of the final order of arbitration to the association.
 491 The director or directors so recalled shall deliver to the board
 492 any and all records of the association in their possession
 493 within 5 full business days after the effective date of the
 494 recall.

495 (12) COMPENSATION PROHIBITED.--A director, officer, or
 496 committee member of the association may not receive directly or
 497 indirectly any salary or compensation from the association for
 498 the performance of duties as a director, officer, or committee
 499 member and may not in any other way benefit financially from
 500 service to the association. This subsection does not preclude:

501 (a) Participation by such person in a financial benefit
 502 accruing to all or a significant number of members as a result
 503 of actions lawfully taken by the board or a committee of which

504 he or she is a member, including, but not limited to, routine
 505 maintenance, repair, or replacement of community assets.

506 (b) Reimbursement for out-of-pocket expenses incurred by
 507 such person on behalf of the association, subject to approval in
 508 accordance with procedures established by the association's
 509 governing documents or, in the absence of such procedures, in
 510 accordance with an approval process established by the board.

511 (c) Any recovery of insurance proceeds derived from a
 512 policy of insurance maintained by the association for the
 513 benefit of its members.

514 (d) Any fee or compensation authorized in the governing
 515 documents.

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

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

521 720.305 Obligations of members; remedies at law or in
 522 equity; levy of fines and suspension of use rights.--

523 (2) If the governing documents so provide, an association
 524 may suspend, for a reasonable period of time, the rights of a
 525 member or a member's tenants, guests, or invitees, or both, to
 526 use common areas and facilities and may levy reasonable fines of
 527 up to, ~~not to exceed~~ \$100 per violation, against any member or
 528 any tenant, guest, or invitee. A fine may be levied on the basis
 529 of each day of a continuing violation, with a single notice and
 530 opportunity for hearing, except that no ~~such~~ fine may ~~shall~~
 531 exceed \$1,000 in the aggregate unless otherwise provided in the

532 governing documents. A fine of less than \$1,000 may ~~shall~~ not
533 become a lien against a parcel. In any action to recover a fine,
534 the prevailing party is entitled to collect its reasonable
535 attorney's fees and costs from the nonprevailing party as
536 determined by the court.

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

546 (b) The requirements of this subsection do not apply to
547 the imposition of suspensions or fines upon any member because
548 of the failure of the member to pay assessments or other charges
549 when due if such action is authorized by the governing
550 documents.

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

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

557 720.306 Meetings of members; voting and election
558 procedures; amendments.--

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

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

573 (b) If the governing documents permit voting by secret
574 ballot by members who are not in attendance at a meeting of the
575 members for the election of directors, such ballots shall be
576 placed in an inner envelope with no identifying markings and
577 mailed or delivered to the association in an outer envelope
578 bearing identifying information reflecting the name of the
579 member, the lot or parcel for which the vote is being cast, and
580 the signature of the lot or parcel owner casting that ballot.
581 After the eligibility of the member to vote and confirmation
582 that no other ballot has been submitted for that lot or parcel,
583 the inner envelope shall be removed from the outer envelope
584 bearing the identification information, placed with the ballots
585 which were personally cast, and opened when the ballots are
586 counted. If more than one ballot is submitted for a lot or

587 parcel, the ballots for that lot or parcel shall be
 588 disqualified. Any vote by ballot received after the closing of
 589 the balloting may not be considered.

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

591 (a) Elections of directors must be conducted in accordance
 592 with the procedures set forth in the governing documents of the
 593 association. All members of the association are ~~shall be~~
 594 eligible to serve on the board of directors, and a member may
 595 nominate himself or herself as a candidate for the board at a
 596 meeting where the election is to be held or, if the election
 597 process allows voting by absentee ballot, in advance of the
 598 balloting. Except as otherwise provided in the governing
 599 documents, boards of directors must be elected by a plurality of
 600 the votes cast by eligible voters. Any election dispute between
 601 a member and an association must be submitted to mandatory
 602 binding arbitration with the division. Such proceedings shall be
 603 conducted in the manner provided by s. 720.507 ~~718.1255~~ and the
 604 ~~procedural rules adopted by the division.~~

605 (b) Within 30 days after being elected to the board of
 606 directors, a new director shall certify in writing to the
 607 secretary of the association that he or she has read the
 608 association's declarations of covenants and restrictions,
 609 articles of incorporation, bylaws, and current written policies
 610 and that he or she will work to uphold each to the best of his
 611 or her ability and will faithfully discharge his or her
 612 fiduciary responsibility to the association's members. Failure
 613 to timely file such statement shall automatically disqualify the
 614 director from service on the association's board of directors.

615 The secretary shall cause the association to retain a director's
 616 certification for inspection by the members for 5 years after a
 617 director's election. Failure to have such certification on file
 618 does not affect the validity of any appropriate action.

619 Section 5. Paragraph (a) of subsection (1) of section
 620 720.401, Florida Statutes, is amended to read:

621 720.401 Prospective purchasers subject to association
 622 membership requirement; disclosure required; covenants;
 623 assessments; contract cancellation.--

624 (1) (a) A prospective parcel owner in a community must be
 625 presented a disclosure summary before executing the contract for
 626 sale. The disclosure summary must be in a form substantially
 627 similar to the following form:

628
 629 DISCLOSURE SUMMARY
 630 FOR
 631 (NAME OF COMMUNITY)
 632

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

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

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

642 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.
 643 IF APPLICABLE, THE CURRENT AMOUNT IS \$_____ PER _____.

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

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

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

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

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

662 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND
 663 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE
 664 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE
 665 OBTAINED FROM THE DEVELOPER.

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

698 other agency of state government to regulate the affairs of
 699 homeowners' associations. However, in accordance with part IV of
 700 this chapter s. ~~720.311~~, the Legislature finds that homeowners'
 701 associations and their individual members will benefit from an
 702 expedited alternative process for resolution of ~~election and~~
 703 ~~recall disputes and presuit mediation of other~~ disputes
 704 involving covenant enforcement in homeowner's associations and
 705 deed-restricted communities using the procedures provided in
 706 part IV of and ~~authorizes the department to hear, administer,~~
 707 ~~and determine these disputes as more fully set forth in this~~
 708 chapter. Further, the Legislature recognizes that certain
 709 contract rights have been created for the benefit of homeowners'
 710 associations and members thereof as well as deed-restricted
 711 communities before the effective date of this act and that part
 712 IV of this chapter is ss. ~~720.301-720.407~~ are not intended to
 713 impair such contract rights, including, but not limited to, the
 714 rights of the developer to complete the community as initially
 715 contemplated.

716 Section 8. Section 720.311, Florida Statutes, is repealed.

717 Section 9. Part IV of chapter 720, Florida Statutes, to be
 718 entitled "Dispute Resolution," consisting of sections 720.501,
 719 720.502, 720.503, 720.504, 720.505, 720.506, 720.507, 720.508,
 720 720.509, and 720.510, is created to read:

721 720.501 Short title.--This part may be cited as the "Home
 722 Court Advantage Dispute Resolution Act."

723 720.502 Legislative findings.--The Legislature finds that
 724 alternative dispute resolution has made progress in reducing

725 court dockets and trials and in offering a more efficient, cost-
726 effective option to litigation.

727 720.503 Applicability of this part.--

728 (1) Unless otherwise provided in this part, before a
729 dispute described in this part between a homeowners' association
730 and a parcel owner or owners, or a dispute between parcel owners
731 within the same homeowners' association, may be filed in court,
732 the dispute is subject to presuit mediation pursuant to s.
733 720.505 or presuit arbitration pursuant to s. 720.507, at the
734 option of the aggrieved party who initiates the first formal
735 action of alternative dispute resolution under this part. The
736 parties may mutually agree to participate in both presuit
737 mediation and presuit arbitration prior to suit being filed by
738 either party.

739 (2) Unless otherwise provided in this part, the mediation
740 and arbitration provisions of this part are limited to disputes
741 between an association and a parcel owner or owners or between
742 parcel owners regarding the use of or changes to the parcel or
743 the common areas under the governing documents and other
744 disputes involving violations of the recorded declaration of
745 covenants or other governing documents, disputes arising
746 concerning enforcement of the governing documents or any
747 amendments thereto, and disputes involving access to the
748 official records of the association. A dispute concerning title
749 to any parcel or common area, interpretation or enforcement of
750 any warranty, the levy of a fee or assessment, the collection of
751 an assessment levied against a party, the eviction or other
752 removal of a tenant from a parcel, alleged breaches of fiduciary

753 duty by one or more directors, or any action to collect mortgage
754 indebtedness or to foreclosure a mortgage shall not be subject
755 to the provisions of this part.

756 (3) All disputes arising after the effective date of this
757 part involving the election of the board of directors for an
758 association or the recall of any member of the board or officer
759 of the association shall not be eligible for presuit mediation
760 under s. 720.505, but shall be subject to the provisions
761 concerning presuit arbitration under s. 720.507.

762 (4) In any dispute subject to presuit mediation or presuit
763 arbitration under this part for which emergency relief is
764 required, a motion for temporary injunctive relief may be filed
765 with the court without first complying with the presuit
766 mediation or presuit arbitration requirements of this part.
767 After any issues regarding emergency or temporary relief are
768 resolved, the court may refer the parties to a mediation program
769 administered by the courts or require mediation or arbitration
770 under this part.

771 (5) The mailing of a statutory notice of presuit mediation
772 or presuit arbitration as provided in this part shall toll the
773 applicable statute of limitations during the pendency of the
774 mediation or arbitration and for a period of 30 days following
775 the conclusion of either proceeding. The 30-day period shall
776 start upon the filing of the mediator's notice of impasse or the
777 arbitrator's written arbitration award. If the parties mutually
778 agree to participate in both presuit mediation and presuit
779 arbitration under this part, the tolling of the applicable

780 statute of limitations for each such alternative dispute
781 resolution proceeding shall be consecutive.

782 720.504 Notice of dispute.--Prior to giving the statutory
783 notice to proceed under presuit mediation or presuit arbitration
784 under this part, the aggrieved association or parcel owner shall
785 first provide written notice of the dispute to the responding
786 party in the manner provided by this section.

787 (1) The notice of dispute shall be delivered to the
788 responding party by certified mail, return receipt requested, or
789 the notice of dispute may be hand delivered, and the person
790 making delivery shall file with their notice of mediation either
791 the proof of receipt of mailing or an affidavit stating the date
792 and time of the delivery of the notice of dispute. If the notice
793 is delivered by certified mail, return receipt requested, and
794 the responding party fails or refuses to accept delivery, notice
795 shall be considered properly delivered for purposes of this
796 section on the date of the first attempted delivery.

797 (2) The notice of dispute shall state with specificity the
798 nature of the dispute, including the date, time, and location of
799 each event that is the subject of the dispute and the action
800 requested to resolve the dispute. The notice shall also include
801 the text of any provision in the governing documents, including
802 the rules and regulations, of the association which form the
803 basis of the dispute.

804 (3) Unless the parties otherwise agree in writing to a
805 longer time period, the party receiving the notice of dispute
806 shall have 10 days following the date of receipt of notice to
807 resolve the dispute. If the alleged dispute has not been

808 resolved within the 10-day period, the aggrieved party may
 809 proceed under this part at any time thereafter within the
 810 applicable statute of limitations.

811 (4) A copy of the notice and the text of the provision in
 812 the governing documents, or the rules and regulations, of the
 813 association which are the basis of the dispute, along with proof
 814 of service of the notice of dispute and a copy of any written
 815 responses received from the responding party, shall be included
 816 as an exhibit to any demand for mediation or arbitration under
 817 this part.

818 720.505 Presuit mediation.--

819 (1) Disputes between an association and a parcel owner or
 820 owners and between parcel owners must be submitted to presuit
 821 mediation before the dispute may be filed in court; or, at the
 822 election of the party initiating the presuit procedures, such
 823 dispute may be submitted to presuit arbitration pursuant to s.
 824 720.507 before the dispute may be filed in court. An aggrieved
 825 party who elects to use the presuit mediation procedure under
 826 this section shall serve on the responding party a written
 827 notice of presuit mediation in substantially the following form:

828
 829 STATUTORY NOTICE OF PRESUIT MEDIATION

830
 831 THE ALLEGED AGGRIEVED PARTY, _____,
 832 HEREBY DEMANDS THAT _____, AS THE
 833 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT
 834 MEDIATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)

835 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE
836 SUBJECT TO PRESUIT MEDIATION:
837
838 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION
839 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO
840 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF
841 A VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT
842 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING
843 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE
844 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE
845 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN
846 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.
847
848 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,
849 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT
850 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED
851 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,
852 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT
853 MEDIATION WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER
854 TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT
855 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU
856 PARTICIPATE IN THIS PROCESS. UNLESS YOU RESPOND TO
857 THIS NOTICE BY FILING WITH THE AGGRIEVED PARTY A
858 NOTICE OF OPTING OUT AND DEMAND FOR ARBITRATION UNDER
859 S. 720.506, FLORIDA STATUTES, YOUR FAILURE TO
860 PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A
861 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT
862 FURTHER NOTICE.

863
864 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED
865 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-
866 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS
867 THEM IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING
868 PART OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE
869 IN PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO
870 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO
871 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO
872 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A
873 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE
874 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR
875 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

876
877 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO
878 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT
879 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE
880 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE
881 THESE ISSUES IN COURT. THE FAILURE TO REACH AN
882 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN
883 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN
884 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED
885 PARTY MAY PROCEED TO FILE A LAWSUIT ON ALL
886 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR
887 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION
888 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER
889 ATTORNEY'S FEES IF YOU PREVAIL IN A SUBSEQUENT COURT
890 PROCEEDING INVOLVING THE SAME DISPUTE.

891
892 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF
893 ELIGIBLE, QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED
894 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE
895 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE
896 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE
897 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE
898 OF THE LISTED MEDIATORS DOES NOT MEAN THAT THE
899 MEDIATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL
900 FACILITATOR. THE NAMES OF THE MEDIATORS THAT THE
901 AGGRIEVED PARTY HEREBY SUBMITS TO YOU FROM WHOM YOU
902 MAY CHOOSE ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE
903 NUMBERS, AND HOURLY RATES ARE AS FOLLOWS:

904
905 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND
906 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT
907 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY
908 BE INCLUDED AS AN ATTACHMENT.)

909
910 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO
911 CONFIRM THAT EACH OF THE ABOVE-LISTED MEDIATORS WILL
912 BE NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD
913 EITHER PARTY. UNLESS OTHERWISE AGREED TO BY THE
914 PARTIES, PART IV OF CHAPTER 720, FLORIDA STATUTES,
915 REQUIRES THAT THE PARTIES SHARE THE COSTS OF PRESUIT
916 MEDIATION EQUALLY, INCLUDING THE FEE CHARGED BY THE
917 MEDIATOR. AN AVERAGE MEDIATION MAY REQUIRE 3 TO 4
918 HOURS OF THE MEDIATOR'S TIME, INCLUDING SOME

919 PREPARATION TIME, AND THE PARTIES WOULD NEED TO
 920 EQUALLY SHARE THE MEDIATOR'S FEES AS WELL AS BE
 921 RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES IF
 922 THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH
 923 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT
 924 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE
 925 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR
 926 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY
 927 HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE
 928 SELECTED MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS
 929 AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS AS
 930 THE MEDIATOR REQUIRES FOR THIS PURPOSE UPON THE
 931 SELECTION OF THE MEDIATOR. ANY FUNDS DEPOSITED WILL BE
 932 RETURNED TO YOU IF THESE FUNDS ARE IN EXCESS OF YOUR
 933 SHARE OF THE MEDIATOR FEES INCURRED.

934
 935 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO
 936 TRY TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER
 937 LEGAL ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE
 938 WHICH MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE
 939 MEDIATORS LISTED BY THE AGGRIEVED PARTY ABOVE.

940
 941 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE
 942 OF PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE
 943 YOU MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND
 944 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE
 945 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED
 946 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT

947 MEDIATION OR WITHIN 90 DAYS AFTER THE DATE YOU WERE
948 SERVED WITH A COPY OF THIS NOTICE. THE AGGRIEVED PARTY
949 WILL THEN ASK THE MEDIATOR TO SCHEDULE A MUTUALLY
950 CONVENIENT TIME AND PLACE FOR THE MEDIATION CONFERENCE
951 TO BE HELD. IF YOU DO NOT PROVIDE A LIST OF AVAILABLE
952 DATES AND TIMES, THE MEDIATOR IS AUTHORIZED TO
953 SCHEDULE A MEDIATION CONFERENCE WITHOUT TAKING YOUR
954 SCHEDULE AND CONVENIENCE INTO CONSIDERATION. IN NO
955 EVENT SHALL THE MEDIATION CONFERENCE BE LATER THAN 90
956 DAYS AFTER THE NOTICE OF PRESUIT MEDIATION WAS FIRST
957 SERVED UNLESS ALL PARTIES MUTUALLY AGREE OTHERWISE. IN
958 THE EVENT THAT YOU FAIL TO RESPOND WITHIN 20 DAYS
959 AFTER THE DATE OF THIS NOTICE, FAIL TO PROVIDE THE
960 MEDIATOR WITH DATES AND TIMES IN WHICH YOU ARE
961 AVAILABLE FOR THE MEDIATION CONFERENCE, FAIL TO AGREE
962 TO AT LEAST ONE OF THE MEDIATORS THAT THE AGGRIEVED
963 PARTY HAS LISTED, FAIL TO PAY OR PREPAY TO THE
964 MEDIATOR ONE-HALF OF THE COSTS INVOLVED, OR FAIL TO
965 APPEAR AND PARTICIPATE AT THE SCHEDULED MEDIATION, THE
966 AGGRIEVED PARTY WILL BE AUTHORIZED TO PROCEED WITH THE
967 FILING OF A LAWSUIT AGAINST YOU WITHOUT FURTHER
968 NOTICE. IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED
969 PARTY MAY SEEK AN AWARD OF REASONABLE ATTORNEY'S FEES
970 AND COSTS INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.
971
972 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY
973 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-
974 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED

CS/CS/CS/HB 27

2009

975 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE
 976 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF
 977 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS
 978 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY
 979 OF THIS NOTICE.

980
 981 _____
 982 SIGNATURE OF AGGRIEVED PARTY

983
 984 _____
 985 PRINTED NAME OF AGGRIEVED PARTY

986
 987 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR
 988 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

989
 990 AGREEMENT TO MEDIATE

991
 992 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN
 993 PRESUIT MEDIATION AND AGREES TO ATTEND A MEDIATION
 994 CONDUCTED BY THE FOLLOWING MEDIATOR(S) LISTED BELOW AS
 995 ACCEPTABLE TO MEDIATE THIS DISPUTE:

996
 997 (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE
 998 AGGRIEVED PARTY.)

999
 1000 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN
 1001 ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE
 1002 FOLLOWING DATES AND TIMES:

1003
1004
1005
1006
1007
1008
1009
1010
1011
1012
1013
1014
1015
1016
1017
1018
1019
1020
1021
1022
1023
1024
1025
1026
1027
1028
1029
1030

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

I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE
MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS
AS THE MEDIATOR 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 notice of presuit mediation shall be
effected either by personal service, as provided in chapter 48,
or by certified mail, return receipt requested, in a letter in
substantial conformity with the form provided in subsection (1),
with an additional copy being sent by regular first-class mail,
to the address of the responding party as it last appears on the
books and records of the association or, if not available, then
as it last appears in the official records of the county

1031 property appraiser where the parcel in dispute is located. The
1032 responding party has either 20 days after the postmarked date of
1033 the mailing of the statutory notice or 20 days after the date
1034 the responding party is served with a copy of the notice to
1035 serve a written response to the aggrieved party. The response
1036 shall be served by certified mail, return receipt requested,
1037 with an additional copy being sent by regular first-class mail,
1038 to the address shown on the statutory notice. The date of the
1039 postmark on the envelope for the response shall constitute the
1040 date that the response is served. Once the parties have agreed
1041 on a mediator, the mediator may schedule or reschedule the
1042 mediation for a date and time mutually convenient to the parties
1043 within 90 days after the date of service of the statutory
1044 notice. After such 90-day period, the mediator may reschedule
1045 the mediation only upon the mutual written agreement of all the
1046 parties.

1047 (b) The parties shall share the costs of presuit mediation
1048 equally, including the fee charged by the mediator, if any,
1049 unless the parties agree otherwise, and the mediator may require
1050 advance payment of his or her reasonable fees and costs. Each
1051 party shall be responsible for that party's own attorney's fees
1052 if a party chooses to be represented by an attorney at the
1053 mediation.

1054 (c) The party responding to the aggrieved party may
1055 provide a notice of opting out under s. 720.506 and demand
1056 arbitration or may sign the agreement to mediate included in the
1057 notice of presuit mediation. A responding party signing the
1058 agreement to mediate must clearly indicate the name of the

1059 mediator who is acceptable from the five names provided by the
1060 aggrieved party and must provide a list of dates and times in
1061 which the responding party is available to participate in the
1062 mediation within 90 days after the date the responding party was
1063 served, either by process server or by certified mail, with the
1064 statutory notice of presuit mediation.

1065 (d) The mediator who has been selected and agreed to
1066 mediate must schedule the mediation conference at a mutually
1067 convenient time and place within that 90-day period; but, if the
1068 responding party does not provide a list of available dates and
1069 times, the mediator is authorized to schedule a mediation
1070 conference without taking the responding party's schedule and
1071 convenience into consideration. Within 10 days after the
1072 designation of the mediator, the mediator shall coordinate with
1073 the parties and notify the parties in writing of the date, time,
1074 and place of the mediation conference.

1075 (e) The mediation conference must be held on the scheduled
1076 date and may be rescheduled if a rescheduled date is approved by
1077 the mediator. However, in no event shall the mediation be held
1078 later than 90 days after the notice of presuit mediation was
1079 first served, unless all parties mutually agree in writing
1080 otherwise. If the presuit mediation is not completed within the
1081 required time limits, the mediator shall declare an impasse
1082 unless the mediation date is extended by mutual written
1083 agreement by all parties and approved by the mediator.

1084 (f) If the responding party fails to respond within 30
1085 days after the date of service of the statutory notice of
1086 presuit mediation, fails to agree to at least one of the

1087 mediators listed by the aggrieved party in the notice, fails to
1088 pay or prepay to the mediator one-half of the costs of the
1089 mediator, or fails to appear and participate at the scheduled
1090 mediation, the aggrieved party shall be authorized to proceed
1091 with the filing of a lawsuit without further notice.

1092 (g)1. The failure of any party to respond to the statutory
1093 notice of presuit mediation within 20 days, the failure to agree
1094 upon a mediator, the failure to provide a listing of dates and
1095 times in which the responding party is available to participate
1096 in the mediation within 90 days after the date the responding
1097 party was served with the statutory notice of presuit mediation,
1098 the failure to make payment of fees and costs within the time
1099 established by the mediator, or the failure to appear for a
1100 scheduled mediation session without the approval of the
1101 mediator, shall in each instance constitute a failure or refusal
1102 to participate in the mediation process and shall operate as an
1103 impasse in the presuit mediation by such party, entitling the
1104 other party to file a lawsuit in court and to seek an award of
1105 the costs and attorney's fees associated with the mediation.

1106 2. Persons who fail or refuse to participate in the entire
1107 mediation process may not recover attorney's fees and costs in
1108 subsequent litigation relating to the same dispute between the
1109 same parties. If any presuit mediation session cannot be
1110 scheduled and conducted within 90 days after the offer to
1111 participate in mediation was filed, through no fault of either
1112 party, then an impasse shall be deemed to have occurred unless
1113 the parties mutually agree in writing to extend this deadline.
1114 In the event of such impasse, each party shall be responsible

1115 for its own costs and attorney's fees and one-half of any
1116 mediator fees and filing fees, and either party may file a
1117 lawsuit in court regarding the dispute.

1118 720.506 Opt-out of presuit mediation.--A party served with
1119 a notice of presuit mediation under s. 720.505 may opt out of
1120 presuit mediation and demand that the dispute proceed under
1121 nonbinding arbitration as follows:

1122 (1) In lieu of a response to the notice of presuit
1123 mediation as required under s. 720.505, the responding party may
1124 serve upon the aggrieved party, in the same manner as the
1125 response to a notice for presuit mediation under s. 720.505, a
1126 notice of opting out of mediation and demand that the dispute
1127 instead proceed to presuit arbitration under s. 720.507.

1128 (2) The aggrieved party shall be relieved from having to
1129 satisfy the requirements of s. 720.504 as a condition precedent
1130 to filing the demand for presuit arbitration.

1131 (3) Except as otherwise provided in this part, the choice
1132 of which presuit alternative dispute resolution procedure is
1133 used shall be at the election of the aggrieved party who first
1134 initiated such proceeding after complying with the provisions of
1135 s. 720.504.

1136 720.507 Presuit arbitration.--

1137 (1) Disputes between an association and a parcel owner or
1138 owners and disputes between parcel owners are subject to a
1139 demand for presuit arbitration pursuant to this section before
1140 the dispute may be filed in court. A party who elects to use the
1141 presuit arbitration procedure under this part shall serve on the

1142 responding party a written notice of presuit arbitration in
 1143 substantially the following form:

1145 STATUTORY NOTICE OF PRESUIT ARBITRATION

1147 THE ALLEGED AGGRIEVED PARTY, _____,
 1148 HEREBY DEMANDS THAT _____, AS THE
 1149 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT
 1150 ARBITRATION IN CONNECTION WITH THE FOLLOWING
 1151 DISPUTE(S) WITH YOU, WHICH BY STATUTE ARE OF A TYPE
 1152 THAT ARE SUBJECT TO PRESUIT ARBITRATION:

1154 (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE
 1155 ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A
 1156 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT
 1157 LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING
 1158 DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE
 1159 PARTIES.)

1161 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,
 1162 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT
 1163 ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED
 1164 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,
 1165 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT
 1166 ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN
 1167 ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT
 1168 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU
 1169 PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO

1170 PARTICIPATE IN THE ARBITRATION PROCESS, A LAWSUIT MAY
 1171 BE BROUGHT AGAINST YOU IN COURT WITHOUT FURTHER
 1172 WARNING.

1173
 1174 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD
 1175 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY
 1176 THE PARTIES AND RENDERS A WRITTEN DECISION CALLED AN
 1177 "ARBITRATION AWARD." PURSUANT TO S. 720.507, FLORIDA
 1178 STATUTES, THE ARBITRATION AWARD SHALL BE FINAL UNLESS
 1179 A LAWSUIT IS FILED IN A COURT OF COMPETENT
 1180 JURISDICTION FOR THE JUDICIAL CIRCUIT IN WHICH THE
 1181 PARCEL(S) GOVERNED BY THE HOMEOWNERS' ASSOCIATION
 1182 IS/ARE LOCATED WITHIN 30 DAYS AFTER THE DATE OF THE
 1183 ARBITRATION AWARD.

1184
 1185 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE
 1186 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND
 1187 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE
 1188 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS
 1189 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR
 1190 TO LITIGATE THESE ISSUES IN COURT AND SHALL BE THE
 1191 SAME AS A SETTLEMENT AGREEMENT REACHED BETWEEN THE
 1192 PARTIES UNDER S. 720.505, FLORIDA STATUTES. THE
 1193 FAILURE OF A PARTY TO PARTICIPATE IN THE ARBITRATION
 1194 PROCESS MAY RESULT IN THE ARBITRATOR ISSUING AN
 1195 ARBITRATION AWARD BY DEFAULT IN THE ARBITRATION. IF
 1196 YOU HAVE FAILED OR REFUSED TO PARTICIPATE IN THE
 1197 ENTIRE ARBITRATION PROCESS, YOU WILL NOT BE ENTITLED

1198 TO RECOVER ATTORNEY'S FEES, EVEN IF YOU PREVAIL IN A
 1199 SUBSEQUENT COURT PROCEEDING INVOLVING THE SAME DISPUTE
 1200 BETWEEN THE SAME PARTIES.

1201
 1202 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE
 1203 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE
 1204 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU
 1205 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.
 1206 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR
 1207 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE
 1208 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL
 1209 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS
 1210 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT
 1211 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE
 1212 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT
 1213 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,
 1214 AND HOURLY RATES, ARE AS FOLLOWS:

1215
 1216 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND
 1217 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.

1218
 1219 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO
 1220 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL
 1221 AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.

1222
 1223 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF
 1224 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE
 1225 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION

1226 EQUALLY, INCLUDING THE FEE CHARGED BY THE ARBITRATOR.
1227 THE PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN
1228 ATTORNEY'S FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY
1229 IN CONNECTION WITH THE ARBITRATION. HOWEVER, USE OF AN
1230 ATTORNEY TO REPRESENT YOU FOR THE ARBITRATION IS NOT
1231 REQUIRED. THE ARBITRATOR SELECTED MAY REQUIRE THE
1232 ADVANCE PAYMENT OF SOME OR ALL OF THE ANTICIPATED
1233 FEES. THE AGGRIEVED PARTY HEREBY AGREES TO PAY OR
1234 PREPAY ONE-HALF OF THE SELECTED ARBITRATOR'S ESTIMATED
1235 FEES AND TO FORWARD THIS AMOUNT OR SUCH OTHER
1236 REASONABLE ADVANCE DEPOSITS AS THE ARBITRATOR WHO IS
1237 SELECTED REQUIRES FOR THIS PURPOSE. ANY FUNDS
1238 DEPOSITED WILL BE RETURNED TO YOU IF THESE FUNDS ARE
1239 IN EXCESS OF YOUR SHARE OF THE FEES INCURRED.

1240
1241 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND
1242 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS
1243 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE
1244 AGGRIEVED PARTY.

1245
1246 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE
1247 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF
1248 PRESUIT ARBITRATION WAS EITHER PERSONALLY SERVED ON
1249 YOU OR 20 DAYS AFTER THE POSTMARKED DATE THAT THIS
1250 NOTICE OF PRESUIT ARBITRATION WAS SENT TO YOU BY
1251 CERTIFIED MAIL. YOU MUST ALSO PROVIDE A LIST OF AT
1252 LEAST THREE DATES AND TIMES IN WHICH YOU ARE AVAILABLE
1253 TO PARTICIPATE IN THE ARBITRATION THAT ARE WITHIN 90

1254 DAYS AFTER THE DATE YOU WERE PERSONALLY SERVED OR
 1255 WITHIN 90 DAYS AFTER THE POSTMARKED DATE OF THE
 1256 CERTIFIED MAILING OF THIS STATUTORY NOTICE OF PRESUIT
 1257 ARBITRATION. A COPY OF THIS NOTICE AND YOUR RESPONSE
 1258 WILL BE PROVIDED BY THE AGGRIEVED PARTY TO THE
 1259 ARBITRATOR SELECTED, AND THE ARBITRATOR WILL SCHEDULE
 1260 A MUTUALLY CONVENIENT TIME AND PLACE FOR THE
 1261 ARBITRATION CONFERENCE TO BE HELD. IF YOU DO NOT
 1262 PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE
 1263 ARBITRATOR IS AUTHORIZED TO SCHEDULE AN ARBITRATION
 1264 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND
 1265 CONVENIENCE INTO CONSIDERATION. THE ARBITRATION
 1266 CONFERENCE MUST BE HELD ON THE SCHEDULED DATE, OR ANY
 1267 RESCHEDULED DATE APPROVED BY THE ARBITRATOR. IN NO
 1268 EVENT SHALL THE ARBITRATION CONFERENCE BE LATER THAN
 1269 90 DAYS AFTER NOTICE OF THE PRESUIT ARBITRATION WAS
 1270 FIRST SERVED, UNLESS ALL PARTIES MUTUALLY AGREE IN
 1271 WRITING OTHERWISE. IF THE ARBITRATION IS NOT COMPLETED
 1272 WITHIN THE REQUIRED TIME LIMITS, THE ARBITRATOR SHALL
 1273 ISSUE AN ARBITRATION AWARD, UNLESS THE HEARING IS
 1274 EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES
 1275 AND APPROVED BY THE ARBITRATOR. IN THE EVENT THAT YOU
 1276 FAIL TO RESPOND WITHIN 20 DAYS AFTER THE DATE YOU WERE
 1277 SERVED WITH A COPY OF THIS NOTICE, FAIL TO PROVIDE THE
 1278 ARBITRATOR WITH DATES AND TIMES IN WHICH YOU ARE
 1279 AVAILABLE FOR THE ARBITRATION CONFERENCE, FAIL TO
 1280 AGREE EITHER TO ONE OF THE ARBITRATORS THAT THE
 1281 AGGRIEVED PARTY HAS NAMED, FAIL TO PAY OR PREPAY TO

1282 THE ARBITRATOR ONE-HALF OF THE COSTS INVOLVED AS
 1283 REQUIRED, OR FAIL TO APPEAR AND PARTICIPATE AT THE
 1284 SCHEDULED ARBITRATION CONFERENCE, THE AGGRIEVED PARTY
 1285 MAY REQUEST THE ARBITRATOR TO ISSUE AN ARBITRATION
 1286 AWARD. IN THE SUBSEQUENT COURT ACTION, THE AGGRIEVED
 1287 PARTY SHALL BE ENTITLED TO RECOVER AN AWARD OF
 1288 REASONABLE ATTORNEY'S FEES AND COSTS, INCLUDING ANY
 1289 FEES PAID TO THE ARBITRATOR, INCURRED IN OBTAINING AN
 1290 ARBITRATION AWARD PURSUANT TO S. 720.507, FLORIDA
 1291 STATUTES.

1292
 1293 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY
 1294 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY
 1295 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,
 1296 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT
 1297 ARBITRATION.

1298
 1299 _____
 1300 SIGNATURE OF AGGRIEVED PARTY

1301
 1302 _____
 1303 PRINTED NAME OF AGGRIEVED PARTY

1304
 1305 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR
 1306 ACCEPTANCE OF THE AGREEMENT TO ARBITRATE.

1307
 1308 AGREEMENT TO ARBITRATE

1309

1310 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN
 1311 PRESUIT ARBITRATION AND AGREES TO ATTEND AN
 1312 ARBITRATION CONDUCTED BY THE FOLLOWING ARBITRATOR
 1313 LISTED BELOW AS SOMEONE WHO WOULD BE ACCEPTABLE TO
 1314 ARBITRATE THIS DISPUTE:

1315
 1316 (IN YOUR RESPONSE, SELECT THE NAME OF ONE ARBITRATOR
 1317 THAT IS ACCEPTABLE TO YOU FROM THOSE ARBITRATORS
 1318 LISTED BY THE AGGRIEVED PARTY.)

1319
 1320 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS
 1321 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE
 1322 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES
 1323 AND TIMES:

1324
 1325 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE
 1326 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE
 1327 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR
 1328 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT
 1329 ARBITRATION.)

1330
 1331 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE
 1332 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS
 1333 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

1334
 1335 _____
 1336 SIGNATURE OF RESPONDING PARTY #1
 1337 _____

1338 TELEPHONE CONTACT INFORMATION

1339

1340

1341 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF
 1342 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS
 1343 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,
 1344 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF
 1345 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

1346

1347 (2) (a) Service of the statutory notice of presuit
 1348 arbitration shall be effected either by personal service, as
 1349 provided in chapter 48, or by certified mail, return receipt
 1350 requested, in a letter in substantial conformity with the form
 1351 provided in subsection (1), with an additional copy being sent
 1352 by regular first-class mail, to the address of the responding
 1353 party as it last appears on the books and records of the
 1354 association, or if not available, the last address as it appears
 1355 on the official records of the county property appraiser for the
 1356 county in which the property is situated that is subject to the
 1357 association documents. The responding party has 20 days after
 1358 the postmarked date of the certified mailing of the statutory
 1359 notice of presuit arbitration or 20 days after the date the
 1360 responding party is personally served with the statutory notice
 1361 of presuit arbitration by to serve a written response to the
 1362 aggrieved party. The response shall be served by certified mail,
 1363 return receipt requested, with an additional copy being sent by
 1364 regular first-class mail, to the address shown on the statutory
 1365 notice of presuit arbitration. The postmarked date on the

1366 envelope of the response shall constitute the date the response
1367 was served.

1368 (b) The parties shall share the costs of presuit
1369 arbitration equally, including the fee charged by the
1370 arbitrator, if any, unless the parties agree otherwise, and the
1371 arbitrator may require advance payment of his or her reasonable
1372 fees and costs. Each party shall be responsible for all of their
1373 own attorney's fees if a party chooses to be represented by an
1374 attorney for the arbitration proceedings.

1375 (c)1. The party responding to the aggrieved party must
1376 sign the agreement to arbitrate included in the notice of
1377 presuit arbitration and clearly indicate the name of the
1378 arbitrator who is acceptable of those arbitrators listed by the
1379 aggrieved party. The responding party must provide a list of at
1380 least three dates and times in which the responding party is
1381 available to participate in the arbitration conference within 90
1382 days after the date the responding party was served with the
1383 statutory notice of presuit arbitration.

1384 2. The arbitrator must schedule the arbitration conference
1385 at a mutually convenient time and place, but if the responding
1386 party does not provide a list of available dates and times, the
1387 arbitrator is authorized to schedule an arbitration conference
1388 without taking the responding party's schedule and convenience
1389 into consideration. Within 10 days after the designation of the
1390 arbitrator, the arbitrator shall notify the parties in writing
1391 of the date, time, and place of the arbitration conference.

1392 3. The arbitration conference must be held on the
1393 scheduled date and may be rescheduled if approved by the

1394 arbitrator. However, in no event shall the arbitration hearing
 1395 be later than 90 days after the notice of presuit arbitration
 1396 was first served, unless all parties mutually agree in writing
 1397 otherwise. If the arbitration hearing is not completed within
 1398 the required time limits, the arbitrator may issue an
 1399 arbitration award unless the time for the hearing is extended as
 1400 provided herein. If the responding party fails to respond within
 1401 20 days after the date of statutory notice of presuit
 1402 arbitration, fails to agree to at least one of the arbitrators
 1403 that have been listed by the aggrieved party in the presuit
 1404 notice of arbitration, fails to pay or prepay to the arbitrator
 1405 one-half of the costs involved, or fails to appear and
 1406 participate at the scheduled arbitration, the aggrieved party is
 1407 authorized to proceed with a request that the arbitrator issue
 1408 an arbitration award.

1409 (d)1. The failure of any party to respond to the statutory
 1410 notice of presuit arbitration within 20 days, the failure to
 1411 either select one of the five arbitrators listed by the
 1412 aggrieved party, the failure to provide a listing of dates and
 1413 times in which the responding party is available to participate
 1414 in the arbitration conference within 90 days after the date of
 1415 the responding party being served with the statutory notice of
 1416 presuit arbitration, the failure to make payment of fees and
 1417 costs as required within the time established by the arbitrator,
 1418 or the failure to appear for an arbitration conference without
 1419 the approval of the arbitrator, shall entitle the other party to
 1420 request the arbitrator to enter an arbitration award, including

1421 an award of the reasonable costs and attorney's fees associated
1422 with the arbitration.

1423 2. Persons who fail or refuse to participate in the entire
1424 arbitration process may not recover attorney's fees and costs in
1425 any subsequent litigation proceeding relating to the same
1426 dispute involving the same parties.

1427 (3) (a) In an arbitration proceeding, the arbitrator may
1428 not consider any unsuccessful mediation of the dispute.

1429 (b) An arbitrator in a proceeding initiated pursuant to
1430 the provisions of this part may shorten the time for discovery
1431 or otherwise limit discovery in a manner consistent with the
1432 policy goals of this part to reduce the time and expense of
1433 litigating homeowners' association disputes initiated pursuant
1434 to this chapter and promoting an expeditious alternative dispute
1435 resolution procedure for parties to such actions.

1436 (4) At the request of any party to the arbitration, the
1437 arbitrator may issue subpoenas for the attendance of witnesses
1438 and the production of books, records, documents, and other
1439 evidence, and any party on whose behalf a subpoena is issued may
1440 apply to the court for orders compelling such attendance and
1441 production. Subpoenas shall be served and are enforceable in the
1442 manner provided by the Florida Rules of Civil Procedure.
1443 Discovery may, at the discretion of the arbitrator, be permitted
1444 in the manner provided by the Florida Rules of Civil Procedure.

1445 (5) The final arbitration award shall be sent to the
1446 parties in writing no later than 30 days after the date of the
1447 arbitration hearing, absent extraordinary circumstances
1448 necessitating a later filing the reasons for which shall be

1449 stated in the final award if filed more than 30 days after the
1450 date of the final session of the arbitration conference. An
1451 agreed arbitration award is final in those disputes in which the
1452 parties have mutually agreed to be bound. An arbitration award
1453 decided by the arbitrator is final unless a lawsuit seeking a
1454 trial de novo is filed in a court of competent jurisdiction
1455 within 30 days after the date of the arbitration award. The
1456 right to file for a trial de novo entitles the parties to file a
1457 complaint in the appropriate trial court for a judicial
1458 resolution of the dispute. The prevailing party in an
1459 arbitration proceeding shall be awarded the costs of the
1460 arbitration and reasonable attorney's fees in an amount
1461 determined by the arbitrator.

1462 (6) The party filing a motion for a trial de novo shall be
1463 assessed the other party's arbitration costs, court costs, and
1464 other reasonable costs, including attorney's fees, investigation
1465 expenses, and expenses for expert or other testimony or evidence
1466 incurred after the arbitration hearing, if the judgment upon the
1467 trial de novo is not more favorable than the final arbitration
1468 award.

1469 720.508 Rules of procedure.--

1470 (1) Presuit mediation and presuit arbitration proceedings
1471 under this part must be conducted in accordance with the
1472 applicable Florida Rules of Civil Procedure and rules governing
1473 mediations and arbitrations under chapter 44, except that this
1474 part shall be controlling to the extent of any conflict with
1475 other applicable rules or statutes. The arbitrator may shorten
1476 any applicable time period and otherwise limit the scope of

1477 discovery on request of the parties or within the discretion of
1478 the arbitrator exercised consistent with the purpose and
1479 objective of reducing the expense and expeditiously concluding
1480 proceedings under this part.

1481 (2) Presuit mediation proceedings under s. 720.505 are
1482 privileged and confidential to the same extent as court-ordered
1483 mediation under chapter 44. An arbitrator or judge may not
1484 consider any information or evidence arising from the presuit
1485 mediation proceeding except in a proceeding to impose sanctions
1486 for failure to attend a presuit mediation session or to enforce
1487 a mediated settlement agreement.

1488 (3) Persons who are not parties to the dispute may not
1489 attend the presuit mediation conference without consent of all
1490 parties, with the exception of counsel for the parties and a
1491 corporate representative designated by the association. Presuit
1492 mediations under this part are not a board meeting for purposes
1493 of notice and participation set forth in this chapter.

1494 (4) Attendance at a mediation conference by the board of
1495 directors shall not require notice or participation by nonboard
1496 members as otherwise required by this chapter for meetings of
1497 the board.

1498 (5) Settlement agreements resulting from a mediation or
1499 arbitration proceeding do not have precedential value in
1500 proceedings involving parties other than those participating in
1501 the mediation or arbitration.

1502 (6) Arbitration awards by an arbitrator shall have
1503 precedential value in other proceedings involving the same
1504 association or with respect to the same parcel owner.

1505 720.509 Mediators and arbitrators; qualifications and
1506 registration.--A person is authorized to conduct mediation or
1507 arbitration under this part if he or she has been certified as a
1508 circuit court civil mediator under the requirements adopted
1509 pursuant to s. 44.106, is a member in good standing with The
1510 Florida Bar, and otherwise meets all other requirements imposed
1511 by chapter 44.

1512 720.510 Enforcement of mediation agreement or arbitration
1513 award.--

1514 (1) A mediation settlement may be enforced through the
1515 county or circuit court, as applicable, and any costs and
1516 attorney's fees incurred in the enforcement of a settlement
1517 agreement reached at mediation shall be awarded to the
1518 prevailing party in any enforcement action.

1519 (2) Any party to an arbitration proceeding may enforce an
1520 arbitration award by filing a petition in a court of competent
1521 jurisdiction in which the homeowners' association is located.
1522 The prevailing party in such proceeding shall be awarded
1523 reasonable attorney's fees and costs incurred in such
1524 proceeding.

1525 (3) If a complaint is filed seeking a trial de novo, the
1526 arbitration award shall be stayed and a petition to enforce the
1527 award may not be granted. Such award, however, shall be
1528 admissible in the court proceeding seeking a trial de novo.

1529 Section 10. This act shall take effect July 1, 2009.