

1 A bill to be entitled  
2 An act relating to residential properties; amending s.  
3 34.01, F.S.; correcting a cross-reference to conform to  
4 changes made by the act; amending s. 468.436, F.S.;  
5 revising a ground for disciplinary action relating to  
6 misconduct or negligence; requiring the Department of  
7 Business and Professional Regulation to enter an order  
8 permanently revoking the license of a community  
9 association manager under certain circumstances; amending  
10 s. 718.103, F.S.; revising the definition of the term  
11 "developer" to exclude a bulk assignee or bulk buyer;  
12 amending s. 718.111, F.S.; providing requirements for an  
13 association to borrow funds or commit to a line of credit,  
14 including a meeting of the board of administration and  
15 prior notice; providing requirements for association  
16 access to a unit, including prior notice; providing an  
17 exception for emergencies; amending s. 718.112, F.S.;  
18 revising notice requirements for board of administration  
19 meetings; revising requirements for the reappointment of  
20 certain board members; providing an exception to the  
21 expiration of the terms of members of certain boards;  
22 revising board eligibility requirements; revising notice  
23 requirements for board candidates; establishing  
24 requirements for newly elected board members; providing  
25 requirements for bylaw amendments by a board of  
26 administration; amending s. 718.115, F.S.; requiring that  
27 certain services obtained pursuant to a bulk contract as  
28 provided in the declaration be deemed a common expense;

29 requiring that such contracts contain certain provisions;  
30 authorizing the cancellation of certain contracts;  
31 amending s. 718.116, F.S.; authorizing association demands  
32 for assessment payments from tenants of delinquent owners  
33 during pendency of a foreclosure action of a condominium  
34 unit; providing for notice; providing for credits against  
35 rent for assessment payments by tenants; providing for  
36 eviction proceedings for nonpayment; providing for effect  
37 of provisions on rights and duties of the tenant and  
38 association; amending s. 718.1265, F.S.; limiting the  
39 exercise of specified special powers under a declared  
40 state of emergency unless a certain number of units are  
41 rendered uninhabitable by the emergency; amending s.  
42 718.301, F.S.; revising conditions under which unit owners  
43 other than the developer may elect not less than a  
44 majority of the members of the board of administration of  
45 an association; amending s. 718.303, F.S.; revising  
46 provisions relating to levy of fines; providing for  
47 suspension of certain rights of access and voting rights  
48 under certain circumstances relating to nonpayment of  
49 assessments, fines, or other charges payable to the  
50 association; amending s. 718.501, F.S.; providing for  
51 jurisdiction of the Division of Florida Condominiums,  
52 Timeshares, and Mobile Homes of the department to  
53 investigate complaints concerning failure to maintain  
54 common elements; prohibiting an officer or director from  
55 acting as such for a specified period after having been  
56 found to have committed specified violations; providing

57 | for payment of restitution and costs of investigation and  
58 | prosecution in certain circumstances; amending s.  
59 | 718.5012, F.S.; providing a responsibility of the  
60 | ombudsman to prepare and adopt a "Florida Condominium  
61 | Handbook"; requiring the publishing and updating of the  
62 | handbook to be done in conjunction with the division;  
63 | providing the purpose of the handbook; requiring the  
64 | handbook to be published on the ombudsman's Internet  
65 | website; creating part VII of ch. 718, F.S., relating to  
66 | distressed condominium relief; creating s. 718.701, F.S.;  
67 | providing a short title; creating s. 718.702, F.S.;  
68 | providing legislative findings and intent; creating s.  
69 | 718.703, F.S.; defining the terms "bulk assignee" and  
70 | "bulk buyer"; creating s. 718.704, F.S.; providing for the  
71 | assignment of developer rights to and the assumption of  
72 | developer rights by a bulk assignee; specifying  
73 | liabilities of bulk assignees and bulk buyers; providing  
74 | exceptions; providing additional responsibilities of bulk  
75 | assignees and bulk buyers; authorizing certain entities to  
76 | assign developer rights to a bulk assignee; limiting the  
77 | number of bulk assignees at any given time; creating s.  
78 | 718.705, F.S.; providing for the transfer of control of a  
79 | board of administration; providing effects of such  
80 | transfer on parcels acquired by a bulk assignee; providing  
81 | obligations of a bulk assignee upon the transfer of  
82 | control of a board of administration; requiring that a  
83 | bulk assignee certify certain information in writing;  
84 | providing for the resolution of a conflict between

85 | specified provisions of state law; providing that the  
86 | failure of a bulk assignee or bulk buyer to comply with  
87 | specified provisions of state law results in the loss of  
88 | certain protections and exemptions; creating s. 718.706,  
89 | F.S.; requiring that a bulk assignee or bulk buyer file  
90 | certain information with the division before offering any  
91 | units for sale or lease in excess of a specified term;  
92 | requiring that a copy of such information be provided to a  
93 | prospective purchaser; requiring that certain contracts  
94 | and disclosure statements contain specified statements;  
95 | requiring that a bulk assignee or bulk buyer comply with  
96 | certain disclosure requirements; prohibiting a bulk  
97 | assignee from taking certain actions on behalf of an  
98 | association while the bulk assignee is in control of the  
99 | board of administration of the association and requiring  
100 | that such bulk assignee comply with certain requirements;  
101 | requiring that a bulk assignee or bulk buyer comply with  
102 | certain requirements regarding certain contracts;  
103 | providing unit owners with specified protections regarding  
104 | certain contracts; requiring that a bulk buyer comply with  
105 | certain requirements regarding the transfer of a unit;  
106 | creating s. 718.707, F.S.; prohibiting a person from being  
107 | classified as a bulk assignee or bulk buyer unless  
108 | condominium parcels were acquired before a specified date;  
109 | providing for the determination of the date of acquisition  
110 | of a parcel; creating s. 718.708, F.S.; providing that the  
111 | assignment of developer rights to a bulk assignee or bulk  
112 | buyer does not release a developer from certain

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113 liabilities; preserving certain liabilities for certain  
114 parties; amending s. 720.302, F.S.; correcting a cross-  
115 reference to conform to changes made by the act;  
116 establishing legislative intent; amending s. 720.303,  
117 F.S.; revising provisions relating to homeowners'  
118 association board meetings, inspection and copying of  
119 records, reserve accounts of budgets, and recall of  
120 directors; prohibiting a salary or compensation for  
121 certain association personnel; providing exceptions;  
122 providing requirements for the borrowing of funds or  
123 committing to a line of credit by the board; providing  
124 requirements relating to transfer fees; amending s.  
125 720.304, F.S.; revising requirements with respect to the  
126 display of flags; amending s. 720.305, F.S.; authorizing  
127 fines assessed against members which exceed a certain  
128 amount to become a lien against a parcel; amending s.  
129 720.306, F.S.; providing requirements for secret ballots;  
130 requiring newly elected members of a board of directors to  
131 make certain certifications in writing to the association;  
132 providing for disqualification for failure to make such  
133 certifications; requiring an association to retain  
134 certifications for a specified time; amending s. 720.3085,  
135 F.S.; requiring a tenant in a unit in which the regular  
136 assessments are delinquent to pay future regular  
137 assessments to the association; requiring notice;  
138 providing for eviction by the association; specifying  
139 rights of the tenant; creating s. 720.3095, F.S.;

140 providing requirements of maintenance and management

141 contracts of a homeowners' association; requiring  
142 disclosures; providing a penalty; providing exceptions;  
143 creating s. 720.3096, F.S.; limiting contracts entered  
144 into by a homeowners' association; providing requirements  
145 for such contracts; repealing s. 720.311, F.S., relating  
146 to a procedure for dispute resolution in homeowners'  
147 associations; amending s. 720.401, F.S.; requiring that  
148 the disclosure summary to prospective parcel owners  
149 include additional provisions; creating part IV of ch.  
150 720, F.S., relating to dispute resolution; creating s.  
151 720.501, F.S.; providing a short title; creating s.  
152 720.502, F.S.; providing legislative findings; creating s.  
153 720.503, F.S.; specifying applicability of provisions for  
154 mediation and arbitration of disputes in homeowners'  
155 associations; providing exceptions; providing for  
156 injunctive relief; providing for the tolling of applicable  
157 statutes of limitations; creating s. 720.504, F.S.;  
158 requiring that the notice of dispute be delivered before  
159 referral to mediation or arbitration; providing notice  
160 requirements; creating s. 720.505, F.S.; creating a  
161 statutory notice form for referral to mediation; providing  
162 delivery requirements; requiring parties to share costs;  
163 requiring the selection of a mediator and times to meet;  
164 providing penalties for failure to mediate; creating s.  
165 720.506, F.S.; creating an opt-out provision and  
166 procedures; creating s. 720.507, F.S.; creating a  
167 statutory notice form for referral to arbitration;  
168 providing delivery requirements; requiring parties to

169 share costs; requiring the selection of an arbitrator and  
 170 times to meet; providing penalties for failure to  
 171 arbitrate; providing subpoena powers and requirements;  
 172 providing requirements for and repercussions of subsequent  
 173 judicial resolution of the dispute; creating s. 720.508,  
 174 F.S.; providing for rules of procedure; providing for  
 175 confidentiality; providing applicability to other rules of  
 176 procedure and provisions of law; specifying that  
 177 arbitration awards have certain precedential value;  
 178 creating s. 720.509, F.S.; specifying qualifications for  
 179 mediators and arbitrators; creating s. 720.510, F.S.;  
 180 providing for enforcement of mediation agreements and  
 181 arbitration awards; requiring all new residential  
 182 construction in a deed-restricted community that requires  
 183 mandatory membership in the association under specified  
 184 provisions of Florida law to comply with specified  
 185 provisions of federal law; providing an effective date.  
 186

187 Be It Enacted by the Legislature of the State of Florida:  
 188

189 Section 1. Paragraph (d) of subsection (1) of section  
 190 34.01, Florida Statutes, is amended to read:

191 34.01 Jurisdiction of county court.--

192 (1) County courts shall have original jurisdiction:

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

196 Section 2. Paragraph (b) of subsection (2) of section

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197 468.436, Florida Statutes, is amended, and subsection (6) is  
 198 added to that section, to read:

199 468.436 Disciplinary proceedings.--

200 (2) The following acts constitute grounds for which the  
 201 disciplinary actions in subsection (4) may be taken:

202 (b)1. Violation of any provision of this part.

203 2. Violation of any lawful order or rule rendered or  
 204 adopted by the department or the council.

205 3. Being convicted of or pleading nolo contendere to a  
 206 felony in any court in the United States.

207 4. Obtaining a license or certification or any other  
 208 order, ruling, or authorization by means of fraud,  
 209 misrepresentation, or concealment of material facts.

210 5. Committing acts of ~~gross~~ misconduct or ~~gross~~ negligence  
 211 in connection with the profession.

212 6. Contracting, on behalf of an association, with any  
 213 entity in which the licensee has a financial interest that is  
 214 not disclosed.

215 (6) Upon the fifth or later finding that a community  
 216 association manager is guilty of any of the grounds set forth in  
 217 subsection (2), or upon the third or later finding that a  
 218 community association manager is guilty of a specific ground for  
 219 which the disciplinary actions set forth in subsection (2) may  
 220 be taken, the department's discretion under subsection (4) shall  
 221 not apply and the division shall enter an order permanently  
 222 revoking the license.

223 Section 3. Subsection (16) of section 718.103, Florida  
 224 Statutes, is amended to read:



225 718.103 Definitions.--As used in this chapter, the term:

226 (16) "Developer" means a person who creates a condominium  
 227 or offers condominium parcels for sale or lease in the ordinary  
 228 course of business, but does not include:

229 (a) An owner or lessee of a condominium or cooperative  
 230 unit who has acquired the unit for his or her own occupancy;;  
 231 ~~nor does it include~~

232 (b) A cooperative association which creates a condominium  
 233 by conversion of an existing residential cooperative after  
 234 control of the association has been transferred to the unit  
 235 owners if, following the conversion, the unit owners will be the  
 236 same persons who were unit owners of the cooperative and no  
 237 units are offered for sale or lease to the public as part of the  
 238 plan of conversion;;

239 (c) A bulk assignee or bulk buyer as defined in s.  
 240 718.703; or

241 (d) A state, county, or municipal entity ~~is not a~~  
 242 ~~developer for any purposes under this act when it is~~ acting as a  
 243 lessor and not otherwise named as a developer in the declaration  
 244 of condominium association.

245 Section 4. Subsections (3) and (5) of section 718.111,  
 246 Florida Statutes, are amended to read:

247 718.111 The association.--

248 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,  
 249 SUE, AND BE SUED.--

250 (a) The association may contract, sue, or be sued with  
 251 respect to the exercise or nonexercise of its powers. For these  
 252 purposes, the powers of the association include, but are not

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253 limited to, the maintenance, management, and operation of the  
254 condominium property.

255 (b) After control of the association is obtained by unit  
256 owners other than the developer, the association may institute,  
257 maintain, settle, or appeal actions or hearings in its name on  
258 behalf of all unit owners concerning matters of common interest  
259 to most or all unit owners, including, but not limited to, the  
260 common elements; the roof and structural components of a  
261 building or other improvements; mechanical, electrical, and  
262 plumbing elements serving an improvement or a building;  
263 representations of the developer pertaining to any existing or  
264 proposed commonly used facilities; and protesting ad valorem  
265 taxes on commonly used facilities and on units; and may defend  
266 actions in eminent domain or bring inverse condemnation actions.

267 (c) If the association has the authority to maintain a  
268 class action, the association may be joined in an action as  
269 representative of that class with reference to litigation and  
270 disputes involving the matters for which the association could  
271 bring a class action. Nothing herein limits any statutory or  
272 common-law right of any individual unit owner or class of unit  
273 owners to bring any action without participation by the  
274 association which may otherwise be available.

275 (d) The borrowing of funds or committing to a line of  
276 credit by the board of administration shall be considered a  
277 special assessment, and any meeting of the board of  
278 administration to discuss such matters must be noticed as  
279 provided in s. 718.112(2)(c). The board may not borrow funds or  
280 enter into a line of credit for any purpose unless the specific

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281 use of the funds from the loan or line of credit is set forth in  
282 the notice of meeting with the same specificity as required for  
283 a special assessment or unless the borrowing or line of credit  
284 has received the prior approval of at least two-thirds of the  
285 voting interests of the association.

286 (5) RIGHT OF ACCESS TO UNITS.--The association has the  
287 irrevocable right of access to each unit during reasonable  
288 hours, when necessary for the maintenance, repair, or  
289 replacement of any common elements or of any portion of a unit  
290 to be maintained by the association pursuant to the declaration  
291 or as necessary to prevent damage to the common elements or to a  
292 unit or units. Except in cases of emergency, the association  
293 must give the unit owner advance written notice of not less than  
294 24 hours of its intent to access the unit and such access must  
295 be by two persons, one of whom must be a member of the board of  
296 administration or a manager or employee of the association and  
297 one of whom must be an authorized representative of the  
298 association. The identity of the authorized representative  
299 seeking access to the unit shall be provided to the unit owner  
300 prior to entering the unit.

301 Section 5. Paragraphs (b), (c), (d), and (h) of subsection  
302 (2) of section 718.112, Florida Statutes, are amended to read:

303 718.112 Bylaws.--

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

307 (b) Quorum; voting requirements; proxies.--

308 1. Unless a lower number is provided in the bylaws, the

309 percentage of voting interests required to constitute a quorum  
310 at a meeting of the members shall be a majority of the voting  
311 interests. Unless otherwise provided in this chapter or in the  
312 declaration, articles of incorporation, or bylaws, and except as  
313 provided in sub-subparagraph ~~subparagraph~~ (d)3.a., decisions  
314 shall be made by owners of a majority of the voting interests  
315 represented at a meeting at which a quorum is present.

316 2. Except as specifically otherwise provided herein, after  
317 January 1, 1992, unit owners may not vote by general proxy, but  
318 may vote by limited proxies substantially conforming to a  
319 limited proxy form adopted by the division. No voting interest  
320 or consent right allocated to a unit owned by the association  
321 shall be exercised or considered for any purpose, whether for a  
322 quorum, an election, or otherwise. Limited proxies and general  
323 proxies may be used to establish a quorum. Limited proxies shall  
324 be used for votes taken to waive or reduce reserves in  
325 accordance with subparagraph (f)2.; for votes taken to waive the  
326 financial reporting requirements of s. 718.111(13); for votes  
327 taken to amend the declaration pursuant to s. 718.110; for votes  
328 taken to amend the articles of incorporation or bylaws pursuant  
329 to this section; and for any other matter for which this chapter  
330 requires or permits a vote of the unit owners. Except as  
331 provided in paragraph (d), after January 1, 1992, no proxy,  
332 limited or general, shall be used in the election of board  
333 members. General proxies may be used for other matters for which  
334 limited proxies are not required, and may also be used in voting  
335 for nonsubstantive changes to items for which a limited proxy is  
336 required and given. Notwithstanding the provisions of this

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337 | subparagraph, unit owners may vote in person at unit owner  
338 | meetings. Nothing contained herein shall limit the use of  
339 | general proxies or require the use of limited proxies for any  
340 | agenda item or election at any meeting of a timeshare  
341 | condominium association.

342 |         3. Any proxy given shall be effective only for the  
343 | specific meeting for which originally given and any lawfully  
344 | adjourned meetings thereof. In no event shall any proxy be valid  
345 | for a period longer than 90 days after the date of the first  
346 | meeting for which it was given. Every proxy is revocable at any  
347 | time at the pleasure of the unit owner executing it.

348 |         4. A member of the board of administration or a committee  
349 | may submit in writing his or her agreement or disagreement with  
350 | any action taken at a meeting that the member did not attend.  
351 | This agreement or disagreement may not be used as a vote for or  
352 | against the action taken and may not be used for the purposes of  
353 | creating a quorum.

354 |         5. When any of the board or committee members meet by  
355 | telephone conference, those board or committee members attending  
356 | by telephone conference may be counted toward obtaining a quorum  
357 | and may vote by telephone. A telephone speaker must be used so  
358 | that the conversation of those board or committee members  
359 | attending by telephone may be heard by the board or committee  
360 | members attending in person as well as by any unit owners  
361 | present at a meeting.

362 |         (c) Board of administration meetings.--Meetings of the  
363 | board of administration at which a quorum of the members is  
364 | present shall be open to all unit owners. Any unit owner may

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365 | tape record or videotape meetings of the board of  
366 | administration. The right to attend such meetings includes the  
367 | right to speak at such meetings with reference to all designated  
368 | agenda items. The division shall adopt reasonable rules  
369 | governing the tape recording and videotaping of the meeting. The  
370 | association may adopt written reasonable rules governing the  
371 | frequency, duration, and manner of unit owner statements.  
372 | Adequate notice of all meetings, which notice shall specifically  
373 | incorporate an identification of agenda items, shall be posted  
374 | conspicuously on the condominium property at least 48 continuous  
375 | hours preceding the meeting except in an emergency. If 20  
376 | percent of the voting interests petition the board to address an  
377 | item of business, the board shall at its next regular board  
378 | meeting or at a special meeting of the board, but not later than  
379 | 60 days after the receipt of the petition, place the item on the  
380 | agenda. Any item not included on the notice may be taken up on  
381 | an emergency basis by at least a majority plus one of the  
382 | members of the board. Such emergency action shall be noticed and  
383 | ratified at the next regular meeting of the board. However,  
384 | written notice of any meeting at which nonemergency special  
385 | assessments, or at which amendment to rules regarding unit use,  
386 | will be considered shall be mailed, delivered, or electronically  
387 | transmitted to the unit owners and posted conspicuously on the  
388 | condominium property not less than 14 days prior to the meeting.  
389 | Evidence of compliance with this 14-day notice shall be made by  
390 | an affidavit executed by the person providing the notice and  
391 | filed among the official records of the association. Upon notice  
392 | to the unit owners, the board shall by duly adopted rule

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393 designate a specific location on the condominium property or  
394 association property upon which all notices of board meetings  
395 shall be posted. If there is no condominium property or  
396 association property upon which notices can be posted, notices  
397 of board meetings shall be mailed, delivered, or electronically  
398 transmitted at least 14 days before the meeting to the owner of  
399 each unit. In lieu of or in addition to the physical posting of  
400 notice of any meeting of the board of administration on the  
401 condominium property, the association may, by reasonable rule,  
402 adopt a procedure for conspicuously posting and repeatedly  
403 broadcasting the notice and the agenda on a closed-circuit cable  
404 television system serving the condominium association. However,  
405 if broadcast notice is used in lieu of a notice posted  
406 physically on the condominium property, the notice and agenda  
407 must be broadcast at least four times every broadcast hour of  
408 each day that a posted notice is otherwise required under this  
409 section. When broadcast notice is provided, the notice and  
410 agenda must be broadcast in a manner and for a sufficient  
411 continuous length of time so as to allow an average reader to  
412 observe the notice and read and comprehend the entire content of  
413 the notice and the agenda. Notice of any meeting in which  
414 regular or special assessments against unit owners are to be  
415 considered for any reason shall specifically state that  
416 assessments will be considered and the nature of, the actual  
417 ~~estimated~~ cost of, and a description of the purposes for such  
418 assessments. Meetings of a committee to take final action on  
419 behalf of the board or make recommendations to the board  
420 regarding the association budget are subject to the provisions

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421 of this paragraph. Meetings of a committee that does not take  
422 final action on behalf of the board or make recommendations to  
423 the board regarding the association budget are subject to the  
424 provisions of this section, unless those meetings are exempted  
425 from this section by the bylaws of the association.

426 Notwithstanding any other law, the requirement that board  
427 meetings and committee meetings be open to the unit owners is  
428 inapplicable to meetings between the board or a committee and  
429 the association's attorney, with respect to proposed or pending  
430 litigation, when the meeting is held for the purpose of seeking  
431 or rendering legal advice.

432 (d) Unit owner meetings.--

433 1. There shall be an annual meeting of the unit owners  
434 held at the location provided in the association bylaws and, if  
435 the bylaws are silent as to the location, the meeting shall be  
436 held within 45 miles of the condominium property. However, such  
437 distance requirement does not apply to an association governing  
438 a timeshare condominium. Unless the bylaws provide otherwise, a  
439 vacancy on the board caused by the expiration of a director's  
440 term shall be filled by electing a new board member, and the  
441 election shall be by secret ballot; however, if the number of  
442 vacancies equals ~~or exceeds~~ the number of candidates, no  
443 election is required. Except in an association governing a  
444 timeshare condominium, the terms of all members of the board  
445 shall expire at the annual meeting and such board members may  
446 stand for reelection unless otherwise permitted by the bylaws.  
447 In the event that the bylaws permit staggered terms of no more  
448 than 2 years and upon approval of a majority of the total voting



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449 interests, the association board members may serve 2-year  
450 staggered terms. If the number ~~no person is interested in or~~  
451 ~~demonstrates an intention to run for the position~~ of a board  
452 members ~~member~~ whose terms have ~~term has~~ expired according to  
453 the provisions of this subparagraph exceeds the number of  
454 eligible association members showing interest in or  
455 demonstrating an intention to run for the vacant positions, each  
456 ~~such~~ board member whose term has expired shall become eligible  
457 for reappointment ~~be automatically reappointed~~ to the board of  
458 administration and need not stand for reelection. In a  
459 condominium association of more than 10 units, or in a  
460 condominium association that does not include timeshare units,  
461 coowners of a unit may not serve as members of the board of  
462 directors at the same time unless they own more than one unit  
463 and are not co-occupants of a unit or unless there is an  
464 insufficient number of eligible association members showing  
465 interest in or demonstrating an intention to run for the vacant  
466 positions on the board. Any unit owner desiring to be a  
467 candidate for board membership must ~~shall~~ comply with sub-  
468 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended  
469 or removed by the division under this chapter, or who is  
470 delinquent in the payment of any fee, fine, or special or  
471 regular assessment as provided in paragraph (n), is not eligible  
472 for board membership. A person who has been convicted of any  
473 felony in this state or in a United States District or  
474 Territorial Court, or who has been convicted of any offense in  
475 another jurisdiction that would be considered a felony if  
476 committed in this state, is not eligible for board membership

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477 unless such felon's civil rights have been restored for a period  
478 of no less than 5 years as of the date on which such person  
479 seeks election to the board. The validity of an action by the  
480 board is not affected if it is later determined that a member of  
481 the board is ineligible for board membership due to having been  
482 convicted of a felony.

483 2. The bylaws shall provide the method of calling meetings  
484 of unit owners, including annual meetings. Written notice, which  
485 notice must include an agenda, shall be mailed, hand delivered,  
486 or electronically transmitted to each unit owner at least 14  
487 days prior to the annual meeting and shall be posted in a  
488 conspicuous place on the condominium property at least 14  
489 continuous days preceding the annual meeting. Upon notice to the  
490 unit owners, the board shall by duly adopted rule designate a  
491 specific location on the condominium property or association  
492 property upon which all notices of unit owner meetings shall be  
493 posted; however, if there is no condominium property or  
494 association property upon which notices can be posted, this  
495 requirement does not apply. In lieu of or in addition to the  
496 physical posting of notice of any meeting of the unit owners on  
497 the condominium property, the association may, by reasonable  
498 rule, adopt a procedure for conspicuously posting and repeatedly  
499 broadcasting the notice and the agenda on a closed-circuit cable  
500 television system serving the condominium association. However,  
501 if broadcast notice is used in lieu of a notice posted  
502 physically on the condominium property, the notice and agenda  
503 must be broadcast at least four times every broadcast hour of  
504 each day that a posted notice is otherwise required under this

505 section. When broadcast notice is provided, the notice and  
506 agenda must be broadcast in a manner and for a sufficient  
507 continuous length of time so as to allow an average reader to  
508 observe the notice and read and comprehend the entire content of  
509 the notice and the agenda. Unless a unit owner waives in writing  
510 the right to receive notice of the annual meeting, such notice  
511 shall be hand delivered, mailed, or electronically transmitted  
512 to each unit owner. Notice for meetings and notice for all other  
513 purposes shall be mailed to each unit owner at the address last  
514 furnished to the association by the unit owner, or hand  
515 delivered to each unit owner. However, if a unit is owned by  
516 more than one person, the association shall provide notice, for  
517 meetings and all other purposes, to that one address which the  
518 developer initially identifies for that purpose and thereafter  
519 as one or more of the owners of the unit shall so advise the  
520 association in writing, or if no address is given or the owners  
521 of the unit do not agree, to the address provided on the deed of  
522 record. An officer of the association, or the manager or other  
523 person providing notice of the association meeting, shall  
524 provide an affidavit or United States Postal Service certificate  
525 of mailing, to be included in the official records of the  
526 association affirming that the notice was mailed or hand  
527 delivered, in accordance with this provision.

528       3.a. The members of the board shall be elected by written  
529 ballot or voting machine. Proxies shall in no event be used in  
530 electing the board, either in general elections or elections to  
531 fill vacancies caused by recall, resignation, or otherwise,  
532 unless otherwise provided in this chapter. Not less than 60 days

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533 before a scheduled election, the association shall mail,  
534 deliver, or electronically transmit, whether by separate  
535 association mailing or included in another association mailing,  
536 delivery, or transmission, including regularly published  
537 newsletters, to each unit owner entitled to a vote, a first  
538 notice of the date of the election ~~along with a certification~~  
539 ~~form provided by the division attesting that he or she has read~~  
540 ~~and understands, to the best of his or her ability, the~~  
541 ~~governing documents of the association and the provisions of~~  
542 ~~this chapter and any applicable rules.~~ Any unit owner or other  
543 eligible person desiring to be a candidate for the board must  
544 give written notice of his or her intent to be a candidate to  
545 the association not less than 40 days before a scheduled  
546 election. Together with the written notice and agenda as set  
547 forth in subparagraph 2., the association shall mail, deliver,  
548 or electronically transmit a second notice of the election to  
549 all unit owners entitled to vote therein, together with a ballot  
550 which shall list all candidates. Upon request of a candidate,  
551 ~~the association shall include~~ an information sheet, no larger  
552 than 8 1/2 inches by 11 inches, which must be furnished by the  
553 candidate not less than 35 days before the election, shall ~~along~~  
554 ~~with the signed certification form provided for in this~~  
555 ~~subparagraph,~~ to be included with the mailing, delivery, or  
556 transmission of the ballot, with the costs of mailing, delivery,  
557 or electronic transmission and copying to be borne by the  
558 association. The association is not liable for the contents of  
559 the information sheets prepared by the candidates. In order to  
560 reduce costs, the association may print or duplicate the

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561 information sheets on both sides of the paper. The division  
562 shall by rule establish voting procedures consistent with the  
563 provisions contained herein, including rules establishing  
564 procedures for giving notice by electronic transmission and  
565 rules providing for the secrecy of ballots. Elections shall be  
566 decided by a plurality of those ballots cast. There shall be no  
567 quorum requirement; however, at least 20 percent of the eligible  
568 voters must cast a ballot in order to have a valid election of  
569 members of the board. No unit owner shall permit any other  
570 person to vote his or her ballot, and any such ballots  
571 improperly cast shall be deemed invalid, provided any unit owner  
572 who violates this provision may be fined by the association in  
573 accordance with s. 718.303. A unit owner who needs assistance in  
574 casting the ballot for the reasons stated in s. 101.051 may  
575 obtain assistance in casting the ballot. The regular election  
576 shall occur on the date of the annual meeting. The provisions of  
577 this ~~sub-subparagraph~~ ~~subparagraph~~ shall not apply to timeshare  
578 condominium associations. Notwithstanding the provisions of this  
579 ~~sub-subparagraph~~ ~~subparagraph~~, an election is not required  
580 unless more candidates file notices of intent to run or are  
581 nominated than board vacancies exist.

582 b. Within 90 days after being elected to the board, each  
583 newly elected director shall certify in writing to the secretary  
584 of the association that he or she has read the association's  
585 declarations of covenants and restrictions, articles of  
586 incorporation, bylaws, and current written policies; that he or  
587 she will work to uphold such documents and policies to the best  
588 of his or her ability; and that he or she will faithfully

589 discharge his or her fiduciary responsibility to the  
590 association's members. In lieu of this written certification,  
591 the newly elected director may submit a certificate of  
592 satisfactory completion of the educational curriculum  
593 administered by a division-approved condominium education  
594 provider. Failure to timely file the written certification or  
595 educational certificate automatically disqualifies the director  
596 from service on the board. The secretary shall cause the  
597 association to retain a director's written certification or  
598 educational certificate for inspection by the members for 5  
599 years after a director's election. Failure to have such written  
600 certification or educational certificate on file does not affect  
601 the validity of any appropriate action.

602 4. Any approval by unit owners called for by this chapter  
603 or the applicable declaration or bylaws, including, but not  
604 limited to, the approval requirement in s. 718.111(8), shall be  
605 made at a duly noticed meeting of unit owners and shall be  
606 subject to all requirements of this chapter or the applicable  
607 condominium documents relating to unit owner decisionmaking,  
608 except that unit owners may take action by written agreement,  
609 without meetings, on matters for which action by written  
610 agreement without meetings is expressly allowed by the  
611 applicable bylaws or declaration or any statute that provides  
612 for such action.

613 5. Unit owners may waive notice of specific meetings if  
614 allowed by the applicable bylaws or declaration or any statute.  
615 If authorized by the bylaws, notice of meetings of the board of  
616 administration, unit owner meetings, except unit owner meetings

617 called to recall board members under paragraph (j), and  
 618 committee meetings may be given by electronic transmission to  
 619 unit owners who consent to receive notice by electronic  
 620 transmission.

621 6. Unit owners shall have the right to participate in  
 622 meetings of unit owners with reference to all designated agenda  
 623 items. However, the association may adopt reasonable rules  
 624 governing the frequency, duration, and manner of unit owner  
 625 participation.

626 7. Any unit owner may tape record or videotape a meeting  
 627 of the unit owners subject to reasonable rules adopted by the  
 628 division.

629 8. Unless otherwise provided in the bylaws, any vacancy  
 630 occurring on the board before the expiration of a term may be  
 631 filled by the affirmative vote of the majority of the remaining  
 632 directors, even if the remaining directors constitute less than  
 633 a quorum, or by the sole remaining director. In the alternative,  
 634 a board may hold an election to fill the vacancy, in which case  
 635 the election procedures must conform to the requirements of sub-  
 636 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10  
 637 units or fewer ~~less~~ and has opted out of the statutory election  
 638 process, in which case the bylaws of the association control.  
 639 Unless otherwise provided in the bylaws, a board member  
 640 appointed or elected under this section shall fill the vacancy  
 641 for the unexpired term of the seat being filled. Filling  
 642 vacancies created by recall is governed by paragraph (j) and  
 643 rules adopted by the division.

644

645 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-  
 646 subparagraph (d)3.a., an association of 10 or fewer units may,  
 647 by the affirmative vote of a majority of the total voting  
 648 interests, provide for different voting and election procedures  
 649 in its bylaws, which vote may be by a proxy specifically  
 650 delineating the different voting and election procedures. The  
 651 different voting and election procedures may provide for  
 652 elections to be conducted by limited or general proxy.

653 (h) Amendment of bylaws.--

654 1. The method by which the bylaws may be amended  
 655 consistent with the provisions of this chapter shall be stated.  
 656 If the bylaws fail to provide a method of amendment, the bylaws  
 657 may be amended if the amendment is approved by the owners of not  
 658 less than two-thirds of the voting interests.

659 2. No bylaw shall be revised or amended by reference to  
 660 its title or number only. Proposals to amend existing bylaws  
 661 shall contain the full text of the bylaws to be amended; new  
 662 words shall be inserted in the text underlined, and words to be  
 663 deleted shall be lined through with hyphens. However, if the  
 664 proposed change is so extensive that this procedure would  
 665 hinder, rather than assist, the understanding of the proposed  
 666 amendment, it is not necessary to use underlining and hyphens as  
 667 indicators of words added or deleted, but, instead, a notation  
 668 must be inserted immediately preceding the proposed amendment in  
 669 substantially the following language: "Substantial rewording of  
 670 bylaw. See bylaw \_\_\_\_\_ for present text."

671 3. Nonmaterial errors or omissions in the bylaw process  
 672 will not invalidate an otherwise properly promulgated amendment.



673           4. If the bylaws provide for amendment by the board of  
 674 administration, no bylaw may be amended unless it is heard and  
 675 noticed at two consecutive meetings of the board of  
 676 administration that are at least 1 week apart.

677           Section 6. Paragraph (d) of subsection (1) of section  
 678 718.115, Florida Statutes, is amended to read:

679           718.115 Common expenses and common surplus.--

680           (1)

681           (d) If so provided in the declaration, the cost of  
 682 communications services as defined in chapter 202, information  
 683 services, or Internet services ~~a master antenna television~~  
 684 ~~system or duly franchised cable television service~~ obtained  
 685 pursuant to a bulk contract shall be deemed a common expense. If  
 686 the declaration does not provide for the cost of communications  
 687 services as defined in chapter 202, information services, or  
 688 Internet services ~~a master antenna television system or duly~~  
 689 ~~franchised cable television service~~ obtained under a bulk  
 690 contract as a common expense, the board may enter into such a  
 691 contract, and the cost of the service will be a common expense  
 692 but allocated on a per-unit basis rather than a percentage basis  
 693 if the declaration provides for other than an equal sharing of  
 694 common expenses, and any contract entered into before July 1,  
 695 1998, in which the cost of the service is not equally divided  
 696 among all unit owners, may be changed by vote of a majority of  
 697 the voting interests present at a regular or special meeting of  
 698 the association, to allocate the cost equally among all units.  
 699 The contract shall be for a term of not less than 2 years.

700           1. Any contract made by the board after the effective date

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701 hereof for communications services as defined in chapter 202,  
 702 information services, or Internet services ~~a community antenna~~  
 703 ~~system or duly franchised cable television service~~ may be  
 704 canceled by a majority of the voting interests present at the  
 705 next regular or special meeting of the association. Any member  
 706 may make a motion to cancel the ~~said~~ contract, but if no motion  
 707 is made or if such motion fails to obtain the required majority  
 708 at the next regular or special meeting, whichever occurs ~~is~~  
 709 sooner, following the making of the contract, ~~then~~ such contract  
 710 shall be deemed ratified for the term therein expressed.

711 2. Any such contract shall provide, and shall be deemed to  
 712 provide if not expressly set forth, that any hearing-impaired or  
 713 legally blind unit owner who does not occupy the unit with a  
 714 non-hearing-impaired or sighted person, or any unit owner  
 715 receiving supplemental security income under Title XVI of the  
 716 Social Security Act or food stamps as administered by the  
 717 Department of Children and Family Services pursuant to s.  
 718 414.31, may discontinue the cable or video service without  
 719 incurring disconnect fees, penalties, or subsequent service  
 720 charges, and, as to such units, the owners shall not be required  
 721 to pay any common expenses charge related to such service. If  
 722 fewer ~~less~~ than all members of an association share the expenses  
 723 of cable or video service ~~television~~, the expense shall be  
 724 shared equally by all participating unit owners. The association  
 725 may use the provisions of s. 718.116 to enforce payment of the  
 726 shares of such costs by the unit owners receiving cable or video  
 727 service ~~television~~.

728 Section 7. Subsection (11) is added to section 718.116,

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729 Florida Statutes, to read:

730 718.116 Assessments; liability; lien and priority;  
731 interest; collection.--

732 (11) During the pendency of any foreclosure action of a  
733 condominium unit, if the unit is occupied by a tenant and the  
734 unit owner is delinquent in the payment of regular assessments,  
735 the association may demand that the tenant pay to the  
736 association the future regular assessments related to the  
737 condominium unit. The demand shall be continuing in nature, and  
738 upon demand the tenant shall continue to pay the regular  
739 assessments to the association until the association releases  
740 the tenant or the tenant discontinues tenancy in the unit. The  
741 association shall mail written notice to the unit owner of the  
742 association's demand that the tenant pay regular assessments to  
743 the association. The tenant shall not be liable for increases in  
744 the amount of the regular assessment due unless the tenant was  
745 reasonably notified of the increase prior to the day that the  
746 rent is due. The tenant shall be given a credit against rents  
747 due to the unit owner in the amount of assessments paid to the  
748 association. The association shall, upon request, provide the  
749 tenant with written receipts for payments made. The association  
750 may issue notices under s. 83.56 and may sue for eviction under  
751 ss. 83.59-83.625 as if the association were a landlord under  
752 part II of chapter 83 should the tenant fail to pay an  
753 assessment. However, the association shall not otherwise be  
754 considered a landlord under chapter 83 and shall specifically  
755 not have any duty under s. 83.51. The tenant shall not, by  
756 virtue of payment of assessments, have any of the rights of a

757 unit owner to vote in any election or to examine the books and  
 758 records of the association. A court may supersede the effect of  
 759 this subsection by appointing a receiver.

760 Section 8. Subsection (2) of section 718.1265, Florida  
 761 Statutes, is amended to read:

762 718.1265 Association emergency powers.--

763 (2) The special powers authorized under subsection (1)  
 764 shall be limited to that time reasonably necessary to protect  
 765 the health, safety, and welfare of the association and the unit  
 766 owners and the unit owners' family members, tenants, guests,  
 767 agents, or invitees and shall be reasonably necessary to  
 768 mitigate further damage and make emergency repairs.

769 Additionally, unless 20 percent or more of the units are made  
 770 uninhabitable by the emergency, the special powers authorized  
 771 under subsection (1) may only be exercised during the term of  
 772 the Governor's executive order or proclamation declaring the  
 773 state of emergency in the locale in which the condominium is  
 774 located.

775 Section 9. Subsection (1) of section 718.301, Florida  
 776 Statutes, is amended to read:

777 718.301 Transfer of association control; claims of defect  
 778 by association.--

779 (1) When unit owners other than the developer own 15  
 780 percent or more of the units in a condominium that will be  
 781 operated ultimately by an association, the unit owners other  
 782 than the developer shall be entitled to elect no less than one-  
 783 third of the members of the board of administration of the  
 784 association. Unit owners other than the developer are entitled

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785 to elect not less than a majority of the members of the board of  
786 administration of an association:

787 (a) Three years after 50 percent of the units that will be  
788 operated ultimately by the association have been conveyed to  
789 purchasers;

790 (b) Three months after 90 percent of the units that will  
791 be operated ultimately by the association have been conveyed to  
792 purchasers;

793 (c) When all the units that will be operated ultimately by  
794 the association have been completed, some of them have been  
795 conveyed to purchasers, and none of the others are being offered  
796 for sale by the developer in the ordinary course of business;

797 (d) When some of the units have been conveyed to  
798 purchasers and none of the others are being constructed or  
799 offered for sale by the developer in the ordinary course of  
800 business;

801 (e) When the developer files a petition seeking protection  
802 in bankruptcy;

803 (f) When a receiver for the developer is appointed by a  
804 circuit court and is not discharged within 30 days after such  
805 appointment, unless the court determines within 30 days after  
806 appointment of the receiver that transfer of control would be  
807 detrimental to the association or its members; or

808 (g) Seven years after recordation of the declaration of  
809 condominium; or, in the case of an association which may  
810 ultimately operate more than one condominium, 7 years after  
811 recordation of the declaration for the first condominium it  
812 operates; or, in the case of an association operating a phase

813 condominium created pursuant to s. 718.403, 7 years after  
 814 recordation of the declaration creating the initial phase,  
 815  
 816 whichever occurs first. The developer is entitled to elect at  
 817 least one member of the board of administration of an  
 818 association as long as the developer holds for sale in the  
 819 ordinary course of business at least 5 percent, in condominiums  
 820 with fewer than 500 units, and 2 percent, in condominiums with  
 821 more than 500 units, of the units in a condominium operated by  
 822 the association. Following the time the developer relinquishes  
 823 control of the association, the developer may exercise the right  
 824 to vote any developer-owned units in the same manner as any  
 825 other unit owner except for purposes of reacquiring control of  
 826 the association or selecting the majority members of the board  
 827 of administration.

828 Section 10. Subsection (3) of section 718.303, Florida  
 829 Statutes, is amended, and subsections (4) and (5) are added to  
 830 that section, to read:

831 718.303 Obligations of owners; waiver; suspension of  
 832 access or voting rights or levy of fine against unit by  
 833 association.--

834 (3) If a unit owner is delinquent for more than 90 days in  
 835 the payment of regular or special assessments or the declaration  
 836 or bylaws so provide, the association may suspend, for a  
 837 reasonable time, the right of a unit owner or a unit's occupant,  
 838 licensee, or invitee to use common elements, common facilities,  
 839 or any other association property. This subsection does not  
 840 apply to limited common elements intended to be used only by

841 that unit, common elements that must be used to access the unit,  
 842 utility services provided to the unit, parking spaces, or  
 843 elevators. The association may also levy reasonable fines  
 844 ~~against a unit~~ for the failure of the owner of the unit, or its  
 845 occupant, licensee, or invitee, to comply with any provision of  
 846 the declaration, the association bylaws, or reasonable rules of  
 847 the association. No fine will become a lien against a unit. A ~~No~~  
 848 fine may not exceed \$100 per violation. However, a fine may be  
 849 levied on the basis of each day of a continuing violation, with  
 850 a single notice and opportunity for hearing, provided that no  
 851 such fine shall in the aggregate exceed \$1,000. A ~~No~~ fine may  
 852 not be levied and a suspension may not be imposed unless the  
 853 association first gives ~~except after giving~~ reasonable notice  
 854 and opportunity for a hearing to the unit owner and, if  
 855 applicable, its occupant, licensee, or invitee. The hearing must  
 856 be held before a committee of other unit owners who are neither  
 857 board members nor persons residing in a board member's  
 858 household. If the committee does not agree with the fine or  
 859 suspension, the fine or suspension may not be levied or imposed.  
 860 ~~The provisions of this subsection do not apply to unoccupied~~  
 861 ~~units.~~

862 (4) The notice and hearing requirements of subsection (3)  
 863 do not apply to the imposition of suspensions or fines against a  
 864 unit owner or a unit's occupant, licensee, or invitee because of  
 865 the failure to pay any amounts due the association. If such a  
 866 fine or suspension is imposed, the association must levy the  
 867 fine or impose a reasonable suspension at a properly noticed  
 868 board meeting, and after the imposition of such fine or

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869 suspension, the association must notify the unit owner and, if  
 870 applicable, the unit's occupant, licensee, or invitee by mail or  
 871 hand delivery.

872 (5) If the declaration or bylaws so provide, an  
 873 association may also suspend the voting rights of a member due  
 874 to nonpayment of assessments, fines, or other charges payable to  
 875 the association which are delinquent in excess of 90 days.

876 Section 11. Subsection (1) of section 718.501, Florida  
 877 Statutes, is amended to read:

878 718.501 Authority, responsibility, and duties of Division  
 879 of Florida Condominiums, Timeshares, and Mobile Homes.--

880 (1) The Division of Florida Condominiums, Timeshares, and  
 881 Mobile Homes of the Department of Business and Professional  
 882 Regulation, referred to as the "division" in this part, has the  
 883 power to enforce and ensure compliance with the provisions of  
 884 this chapter and rules relating to the development,  
 885 construction, sale, lease, ownership, operation, and management  
 886 of residential condominium units. In performing its duties, the  
 887 division has complete jurisdiction to investigate complaints and  
 888 enforce compliance with the provisions of this chapter with  
 889 respect to associations that are still under developer control  
 890 and complaints against developers involving improper turnover or  
 891 failure to turnover, pursuant to s. 718.301. However, after  
 892 turnover has occurred, the division shall only have jurisdiction  
 893 to investigate complaints related to financial issues, failure  
 894 to maintain common elements, elections, and unit owner access to  
 895 association records pursuant to s. 718.111(12).

896 (a)1. The division may make necessary public or private



897 | investigations within or outside this state to determine whether  
898 | any person has violated this chapter or any rule or order  
899 | hereunder, to aid in the enforcement of this chapter, or to aid  
900 | in the adoption of rules or forms hereunder.

901 |         2. The division may submit any official written report,  
902 | worksheet, or other related paper, or a duly certified copy  
903 | thereof, compiled, prepared, drafted, or otherwise made by and  
904 | duly authenticated by a financial examiner or analyst to be  
905 | admitted as competent evidence in any hearing in which the  
906 | financial examiner or analyst is available for cross-examination  
907 | and attests under oath that such documents were prepared as a  
908 | result of an examination or inspection conducted pursuant to  
909 | this chapter.

910 |         (b) The division may require or permit any person to file  
911 | a statement in writing, under oath or otherwise, as the division  
912 | determines, as to the facts and circumstances concerning a  
913 | matter to be investigated.

914 |         (c) For the purpose of any investigation under this  
915 | chapter, the division director or any officer or employee  
916 | designated by the division director may administer oaths or  
917 | affirmations, subpoena witnesses and compel their attendance,  
918 | take evidence, and require the production of any matter which is  
919 | relevant to the investigation, including the existence,  
920 | description, nature, custody, condition, and location of any  
921 | books, documents, or other tangible things and the identity and  
922 | location of persons having knowledge of relevant facts or any  
923 | other matter reasonably calculated to lead to the discovery of  
924 | material evidence. Upon the failure by a person to obey a

925 subpoena or to answer questions propounded by the investigating  
 926 officer and upon reasonable notice to all persons affected  
 927 thereby, the division may apply to the circuit court for an  
 928 order compelling compliance.

929 (d) Notwithstanding any remedies available to unit owners  
 930 and associations, if the division has reasonable cause to  
 931 believe that a violation of any provision of this chapter or  
 932 related rule has occurred, the division may institute  
 933 enforcement proceedings in its own name against any developer,  
 934 association, officer, or member of the board of administration,  
 935 or its assignees or agents, as follows:

936 1. The division may permit a person whose conduct or  
 937 actions may be under investigation to waive formal proceedings  
 938 and enter into a consent proceeding whereby orders, rules, or  
 939 letters of censure or warning, whether formal or informal, may  
 940 be entered against the person.

941 2. The division may issue an order requiring the  
 942 developer, association, developer-designated officer, or  
 943 developer-designated member of the board of administration,  
 944 developer-designated assignees or agents, community association  
 945 manager, or community association management firm to cease and  
 946 desist from the unlawful practice and take such affirmative  
 947 action as in the judgment of the division will carry out the  
 948 purposes of this chapter. If the division finds that a  
 949 developer, association, officer, or member of the board of  
 950 administration, or its assignees or agents, is violating or is  
 951 about to violate any provision of this chapter, any rule adopted  
 952 or order issued by the division, or any written agreement

953 entered into with the division, and presents an immediate danger  
954 to the public requiring an immediate final order, it may issue  
955 an emergency cease and desist order reciting with particularity  
956 the facts underlying such findings. The emergency cease and  
957 desist order is effective for 90 days. If the division begins  
958 nonemergency cease and desist proceedings, the emergency cease  
959 and desist order remains effective until the conclusion of the  
960 proceedings under ss. 120.569 and 120.57.

961 3. If a developer fails to pay any restitution determined  
962 by the division to be owed, plus any accrued interest at the  
963 highest rate permitted by law, within 30 days after expiration  
964 of any appellate time period of a final order requiring payment  
965 of restitution or the conclusion of any appeal thereof,  
966 whichever is later, the division shall bring an action in  
967 circuit or county court on behalf of any association, class of  
968 unit owners, lessees, or purchasers for restitution, declaratory  
969 relief, injunctive relief, or any other available remedy. The  
970 division may also temporarily revoke its acceptance of the  
971 filing for the developer to which the restitution relates until  
972 payment of restitution is made.

973 4. The division may petition the court for the appointment  
974 of a receiver or conservator. If appointed, the receiver or  
975 conservator may take action to implement the court order to  
976 ensure the performance of the order and to remedy any breach  
977 thereof. In addition to all other means provided by law for the  
978 enforcement of an injunction or temporary restraining order, the  
979 circuit court may impound or sequester the property of a party  
980 defendant, including books, papers, documents, and related

981 records, and allow the examination and use of the property by  
982 the division and a court-appointed receiver or conservator.

983 5. The division may apply to the circuit court for an  
984 order of restitution whereby the defendant in an action brought  
985 pursuant to subparagraph 4. shall be ordered to make restitution  
986 of those sums shown by the division to have been obtained by the  
987 defendant in violation of this chapter. Such restitution shall,  
988 at the option of the court, be payable to the conservator or  
989 receiver appointed pursuant to subparagraph 4. or directly to  
990 the persons whose funds or assets were obtained in violation of  
991 this chapter.

992 6. The division may impose a civil penalty against a  
993 developer or association, or its assignee or agent, for any  
994 violation of this chapter or a rule adopted under this chapter.  
995 The division may impose a civil penalty individually against any  
996 officer or board member who willfully and knowingly violates a  
997 provision of this chapter, adopted rule, or a final order of the  
998 division; may order the removal of such individual as an officer  
999 or from the board of administration or as an officer of the  
1000 association; and may prohibit such individual from serving as an  
1001 officer or on the board of a community association for a period  
1002 of time. The term "willfully and knowingly" means that the  
1003 division informed the officer or board member that his or her  
1004 action or intended action violates this chapter, a rule adopted  
1005 under this chapter, or a final order of the division and that  
1006 the officer or board member refused to comply with the  
1007 requirements of this chapter, a rule adopted under this chapter,  
1008 or a final order of the division. The division, prior to

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1009 initiating formal agency action under chapter 120, shall afford  
1010 the officer or board member an opportunity to voluntarily comply  
1011 with this chapter, a rule adopted under this chapter, or a final  
1012 order of the division. An officer or board member who complies  
1013 within 10 days is not subject to a civil penalty. A penalty may  
1014 be imposed on the basis of each day of continuing violation, but  
1015 in no event shall the penalty for any offense exceed \$5,000. By  
1016 January 1, 1998, the division shall adopt, by rule, penalty  
1017 guidelines applicable to possible violations or to categories of  
1018 violations of this chapter or rules adopted by the division. The  
1019 guidelines must specify a meaningful range of civil penalties  
1020 for each such violation of the statute and rules and must be  
1021 based upon the harm caused by the violation, the repetition of  
1022 the violation, and upon such other factors deemed relevant by  
1023 the division. For example, the division may consider whether the  
1024 violations were committed by a developer or owner-controlled  
1025 association, the size of the association, and other factors. The  
1026 guidelines must designate the possible mitigating or aggravating  
1027 circumstances that justify a departure from the range of  
1028 penalties provided by the rules. It is the legislative intent  
1029 that minor violations be distinguished from those which endanger  
1030 the health, safety, or welfare of the condominium residents or  
1031 other persons and that such guidelines provide reasonable and  
1032 meaningful notice to the public of likely penalties that may be  
1033 imposed for proscribed conduct. This subsection does not limit  
1034 the ability of the division to informally dispose of  
1035 administrative actions or complaints by stipulation, agreed  
1036 settlement, or consent order. All amounts collected shall be

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1037 deposited with the Chief Financial Officer to the credit of the  
1038 Division of Florida Condominiums, Timeshares, and Mobile Homes  
1039 Trust Fund. If a developer fails to pay the civil penalty and  
1040 the amount deemed to be owed to the association, the division  
1041 shall issue an order directing that such developer cease and  
1042 desist from further operation until such time as the civil  
1043 penalty is paid or may pursue enforcement of the penalty in a  
1044 court of competent jurisdiction. If an association fails to pay  
1045 the civil penalty, the division shall pursue enforcement in a  
1046 court of competent jurisdiction, and the order imposing the  
1047 civil penalty or the cease and desist order will not become  
1048 effective until 20 days after the date of such order. Any action  
1049 commenced by the division shall be brought in the county in  
1050 which the division has its executive offices or in the county  
1051 where the violation occurred.

1052 7. If a unit owner presents the division with proof that  
1053 the unit owner has requested access to official records in  
1054 writing by certified mail, and that after 10 days the unit owner  
1055 again made the same request for access to official records in  
1056 writing by certified mail, and that more than 10 days has  
1057 elapsed since the second request and the association has still  
1058 failed or refused to provide access to official records as  
1059 required by this chapter, the division shall issue a subpoena  
1060 requiring production of the requested records where the records  
1061 are kept pursuant to s. 718.112.

1062 8. In addition to subparagraph 6., the division may seek  
1063 the imposition of a civil penalty through the circuit court for  
1064 any violation for which the division may issue a notice to show

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1065 cause under paragraph (r). The civil penalty shall be at least  
1066 \$500 but no more than \$5,000 for each violation. The court may  
1067 also award to the prevailing party court costs and reasonable  
1068 attorney's fees and, if the division prevails, may also award  
1069 reasonable costs of investigation.

1070 9. Notwithstanding subparagraph 6., when the division  
1071 finds that an officer or director has intentionally falsified  
1072 association records with the intent to conceal material facts  
1073 from the division, the board, or unit owners, the division shall  
1074 prohibit the officer or director from acting as an officer or  
1075 director of any condominium, cooperative, or homeowners'  
1076 association for at least 1 year.

1077 10. When the division finds that any person has derived an  
1078 improper personal benefit from a condominium association, the  
1079 division shall order the person to pay restitution to the  
1080 association and shall order the person to pay to the division  
1081 the costs of investigation and prosecution.

1082 (e) The division may prepare and disseminate a prospectus  
1083 and other information to assist prospective owners, purchasers,  
1084 lessees, and developers of residential condominiums in assessing  
1085 the rights, privileges, and duties pertaining thereto.

1086 (f) The division has authority to adopt rules pursuant to  
1087 ss. 120.536(1) and 120.54 to implement and enforce the  
1088 provisions of this chapter.

1089 (g) The division shall establish procedures for providing  
1090 notice to an association and the developer during the period  
1091 where the developer controls the association when the division  
1092 is considering the issuance of a declaratory statement with

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1093 | respect to the declaration of condominium or any related  
1094 | document governing in such condominium community.

1095 |       (h) The division shall furnish each association which pays  
1096 | the fees required by paragraph (2) (a) a copy of this act,  
1097 | subsequent changes to this act on an annual basis, an amended  
1098 | version of this act as it becomes available from the Secretary  
1099 | of State's office on a biennial basis, and the rules adopted  
1100 | thereto on an annual basis.

1101 |       (i) The division shall annually provide each association  
1102 | with a summary of declaratory statements and formal legal  
1103 | opinions relating to the operations of condominiums which were  
1104 | rendered by the division during the previous year.

1105 |       (j) The division shall provide training and educational  
1106 | programs for condominium association board members and unit  
1107 | owners. The training may, in the division's discretion, include  
1108 | web-based electronic media, and live training and seminars in  
1109 | various locations throughout the state. The division shall have  
1110 | the authority to review and approve education and training  
1111 | programs for board members and unit owners offered by providers  
1112 | and shall maintain a current list of approved programs and  
1113 | providers and shall make such list available to board members  
1114 | and unit owners in a reasonable and cost-effective manner.

1115 |       (k) The division shall maintain a toll-free telephone  
1116 | number accessible to condominium unit owners.

1117 |       (l) The division shall develop a program to certify both  
1118 | volunteer and paid mediators to provide mediation of condominium  
1119 | disputes. The division shall provide, upon request, a list of  
1120 | such mediators to any association, unit owner, or other



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1121 participant in arbitration proceedings under s. 718.1255  
 1122 requesting a copy of the list. The division shall include on the  
 1123 list of volunteer mediators only the names of persons who have  
 1124 received at least 20 hours of training in mediation techniques  
 1125 or who have mediated at least 20 disputes. In order to become  
 1126 initially certified by the division, paid mediators must be  
 1127 certified by the Supreme Court to mediate court cases in county  
 1128 or circuit courts. However, the division may adopt, by rule,  
 1129 additional factors for the certification of paid mediators,  
 1130 which factors must be related to experience, education, or  
 1131 background. Any person initially certified as a paid mediator by  
 1132 the division must, in order to continue to be certified, comply  
 1133 with the factors or requirements imposed by rules adopted by the  
 1134 division.

1135 (m) When a complaint is made, the division shall conduct  
 1136 its inquiry with due regard to the interests of the affected  
 1137 parties. Within 30 days after receipt of a complaint, the  
 1138 division shall acknowledge the complaint in writing and notify  
 1139 the complainant whether the complaint is within the jurisdiction  
 1140 of the division and whether additional information is needed by  
 1141 the division from the complainant. The division shall conduct  
 1142 its investigation and shall, within 90 days after receipt of the  
 1143 original complaint or of timely requested additional  
 1144 information, take action upon the complaint. However, the  
 1145 failure to complete the investigation within 90 days does not  
 1146 prevent the division from continuing the investigation,  
 1147 accepting or considering evidence obtained or received after 90  
 1148 days, or taking administrative action if reasonable cause exists

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1149 | to believe that a violation of this chapter or a rule of the  
1150 | division has occurred. If an investigation is not completed  
1151 | within the time limits established in this paragraph, the  
1152 | division shall, on a monthly basis, notify the complainant in  
1153 | writing of the status of the investigation. When reporting its  
1154 | action to the complainant, the division shall inform the  
1155 | complainant of any right to a hearing pursuant to ss. 120.569  
1156 | and 120.57.

1157 |         (n) Condominium association directors, officers, and  
1158 | employees; condominium developers; community association  
1159 | managers; and community association management firms have an  
1160 | ongoing duty to reasonably cooperate with the division in any  
1161 | investigation pursuant to this section. The division shall refer  
1162 | to local law enforcement authorities any person whom the  
1163 | division believes has altered, destroyed, concealed, or removed  
1164 | any record, document, or thing required to be kept or maintained  
1165 | by this chapter with the purpose to impair its verity or  
1166 | availability in the department's investigation.

1167 |         (o) The division may:

1168 |             1. Contract with agencies in this state or other  
1169 | jurisdictions to perform investigative functions; or

1170 |             2. Accept grants-in-aid from any source.

1171 |         (p) The division shall cooperate with similar agencies in  
1172 | other jurisdictions to establish uniform filing procedures and  
1173 | forms, public offering statements, advertising standards, and  
1174 | rules and common administrative practices.

1175 |         (q) The division shall consider notice to a developer to  
1176 | be complete when it is delivered to the developer's address

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1177 | currently on file with the division.

1178 |         (r) In addition to its enforcement authority, the division  
 1179 | may issue a notice to show cause, which shall provide for a  
 1180 | hearing, upon written request, in accordance with chapter 120.

1181 |         (s) The division shall submit to the Governor, the  
 1182 | President of the Senate, the Speaker of the House of  
 1183 | Representatives, and the chairs of the legislative  
 1184 | appropriations committees an annual report that includes, but  
 1185 | need not be limited to, the number of training programs provided  
 1186 | for condominium association board members and unit owners, the  
 1187 | number of complaints received by type, the number and percent of  
 1188 | complaints acknowledged in writing within 30 days and the number  
 1189 | and percent of investigations acted upon within 90 days in  
 1190 | accordance with paragraph (m), and the number of investigations  
 1191 | exceeding the 90-day requirement. The annual report shall also  
 1192 | include an evaluation of the division's core business processes  
 1193 | and make recommendations for improvements, including statutory  
 1194 | changes. The report shall be submitted by September 30 following  
 1195 | the end of the fiscal year.

1196 |         Section 12. Subsection (4) of section 718.5012, Florida  
 1197 | Statutes, is amended to read:

1198 |         718.5012 Ombudsman; powers and duties.--The ombudsman  
 1199 | shall have the powers that are necessary to carry out the duties  
 1200 | of his or her office, including the following specific powers:

1201 |         (4) To act as liaison between the division, unit owners,  
 1202 | boards of directors, board members, community association  
 1203 | managers, and other affected parties. The ombudsman shall  
 1204 | develop policies and procedures to assist unit owners, boards of

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1205 directors, board members, community association managers, and  
 1206 other affected parties to understand their rights and  
 1207 responsibilities as set forth in this chapter and the  
 1208 condominium documents governing their respective association.  
 1209 The ombudsman shall coordinate and assist in the preparation and  
 1210 adoption of educational and reference material, and shall  
 1211 endeavor to coordinate with private or volunteer providers of  
 1212 these services, so that the availability of these resources is  
 1213 made known to the largest possible audience. In conjunction with  
 1214 the division, included in the preparation and adoption of  
 1215 educational and reference materials shall be the publishing and  
 1216 updating of a "Florida Condominium Handbook" to facilitate  
 1217 understanding of this chapter, the contents of which are stated  
 1218 in a clear, conspicuous, and easily understandable manner. The  
 1219 handbook shall be made publicly available on the ombudsman's  
 1220 Internet website.

1221 Section 13. Part VII of chapter 718, Florida Statutes,  
 1222 consisting of sections 718.701, 718.702, 718.703, 718.704,  
 1223 718.705, 718.706, 718.707, and 718.708, is created to read:

1224 PART VII

1225 DISTRESSED CONDOMINIUM RELIEF

1226 718.701 Short title.--This part may be cited as the  
 1227 "Distressed Condominium Relief Act."

1228 718.702 Legislative intent.--

1229 (1) The Legislature acknowledges the massive downturn in  
 1230 the condominium market which has transpired throughout the state  
 1231 and the impact of such downturn on developers, lenders, unit  
 1232 owners, and condominium associations. Numerous condominium

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1233 projects have either failed or are in the process of failing,  
1234 whereby the condominium has a small percentage of third-party  
1235 unit owners as compared to the unsold inventory of units. As a  
1236 result of the inability to find purchasers for this inventory of  
1237 units, which results in part from the devaluing of real estate  
1238 in this state, developers are unable to satisfy the requirements  
1239 of their lenders, leading to defaults on mortgages.  
1240 Consequently, lenders are faced with the task of finding a  
1241 solution to the problem in order to be paid for their  
1242 investments.

1243 (2) The Legislature recognizes that all of the factors  
1244 listed in this section lead to condominiums becoming distressed,  
1245 resulting in detriment to the unit owners and the condominium  
1246 association on account of the resulting shortage of assessment  
1247 moneys available to support the financial requirements for  
1248 proper maintenance of the condominium. Such shortage and the  
1249 resulting lack of proper maintenance further erode property  
1250 values. The Legislature finds that individuals and entities  
1251 within Florida and in other states have expressed interest in  
1252 purchasing unsold inventory in one or more condominium projects,  
1253 but are reticent to do so because of accompanying liabilities  
1254 inherited from the original developer, which are by definition  
1255 imputed to the successor purchaser, including a foreclosing  
1256 mortgagee. This results in the potential purchaser having  
1257 unknown and unquantifiable risks, and potential successor  
1258 purchasers are unwilling to accept such risks. The result is  
1259 that condominium projects stagnate, leaving all parties involved  
1260 at an impasse without the ability to find a solution.

1261       (3) The Legislature finds and declares that it is the  
 1262 public policy of this state to protect the interests of  
 1263 developers, lenders, unit owners, and condominium associations  
 1264 with regard to distressed condominiums, and that there is a need  
 1265 for relief from certain provisions of the Florida Condominium  
 1266 Act geared toward enabling economic opportunities within these  
 1267 condominiums for successor purchasers, including foreclosing  
 1268 mortgagees. Such relief would benefit existing unit owners and  
 1269 condominium associations. The Legislature further finds and  
 1270 declares that this situation cannot be open-ended without  
 1271 potentially prejudicing the rights of unit owners and  
 1272 condominium associations, and thereby declares that the  
 1273 provisions of this part shall be used by purchasers of  
 1274 condominium inventory for a specific and defined period.

1275       718.703 Definitions.--As used in this part, the term:

1276       (1) "Bulk assignee" means a person who:

1277       (a) Acquires more than seven condominium parcels as set  
 1278 forth in s. 718.707; and

1279       (b) Receives an assignment of some or all of the rights of  
 1280 the developer as are set forth in the declaration of condominium  
 1281 or in this chapter by a written instrument recorded as an  
 1282 exhibit to the deed or as a separate instrument in the public  
 1283 records of the county in which the condominium is located.

1284       (2) "Bulk buyer" means a person who acquires more than  
 1285 seven condominium parcels as set forth in s. 718.707 but who  
 1286 does not receive an assignment of any developer rights other  
 1287 than the right to conduct sales, leasing, and marketing  
 1288 activities within the condominium.

1289 718.704 Assignment of developer rights to and assumption  
 1290 of developer rights by bulk assignee; bulk buyer.--

1291 (1) A bulk assignee shall be deemed to have assumed and is  
 1292 liable for all duties and responsibilities of the developer  
 1293 under the declaration and this chapter, except:

1294 (a) Warranties of the developer under s. 718.203(1) or s.  
 1295 718.618, except for design, construction, development, or repair  
 1296 work performed by or on behalf of such bulk assignee.

1297 (b) The obligation to:

1298 1. Fund converter reserves under s. 718.618 for a unit  
 1299 which was not acquired by the bulk assignee; or

1300 2. Provide converter warranties on any portion of the  
 1301 condominium property except as may be expressly provided by the  
 1302 bulk assignee in the contract for purchase and sale executed  
 1303 with a purchaser and pertaining to any design, construction,  
 1304 development, or repair work performed by or on behalf of the  
 1305 bulk assignee.

1306 (c) The requirement to provide the association with a  
 1307 cumulative audit of the association's finances from the date of  
 1308 formation of the condominium association as required by s.  
 1309 718.301. However, the bulk assignee shall provide an audit for  
 1310 the period for which the bulk assignee elects a majority of the  
 1311 members of the board of administration.

1312 (d) Any liability arising out of or in connection with  
 1313 actions taken by the board of administration or the developer-  
 1314 appointed directors before the bulk assignee elects a majority  
 1315 of the members of the board of administration.

1316 (e) Any liability for or arising out of the developer's

1317 failure to fund previous assessments or to resolve budgetary  
 1318 deficits in relation to a developer's right to guarantee  
 1319 assessments, except as otherwise provided in subsection (2).

1320  
 1321 Further, the bulk assignee is responsible for delivering  
 1322 documents and materials in accordance with s. 718.705(3). A bulk  
 1323 assignee may expressly assume some or all of the obligations of  
 1324 the developer described in paragraphs (a)-(e).

1325 (2) A bulk assignee receiving the assignment of the rights  
 1326 of the developer to guarantee the level of assessments and fund  
 1327 budgetary deficits pursuant to s. 718.116 shall be deemed to  
 1328 have assumed and is liable for all obligations of the developer  
 1329 with respect to such guarantee, including any applicable funding  
 1330 of reserves to the extent required by law, for as long as the  
 1331 guarantee remains in effect. A bulk assignee not receiving an  
 1332 assignment of the right of the developer to guarantee the level  
 1333 of assessments and fund budgetary deficits pursuant to s.  
 1334 718.116 or a bulk buyer is not deemed to have assumed and is not  
 1335 liable for the obligations of the developer with respect to such  
 1336 guarantee, but is responsible for payment of assessments in the  
 1337 same manner as all other owners of condominium parcels.

1338 (3) A bulk buyer is liable for the duties and  
 1339 responsibilities of the developer under the declaration and this  
 1340 chapter only to the extent provided in this part, together with  
 1341 any other duties or responsibilities of the developer expressly  
 1342 assumed in writing by the bulk buyer.

1343 (4) An acquirer of condominium parcels is not considered a  
 1344 bulk assignee or a bulk buyer if the transfer to such acquirer



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1345 was made with the intent to hinder, delay, or defraud any  
 1346 purchaser, unit owner, or the association, or if the acquirer is  
 1347 a person who would constitute an insider under s. 726.102(7).

1348 (5) An assignment of developer rights to a bulk assignee  
 1349 may be made by the developer, a previous bulk assignee, or a  
 1350 court of competent jurisdiction acting on behalf of the  
 1351 developer or the previous bulk assignee. At any particular time,  
 1352 there may be no more than one bulk assignee within a  
 1353 condominium, but there may be more than one bulk buyer. If more  
 1354 than one acquirer of condominium parcels receives an assignment  
 1355 of developer rights from the same person, the bulk assignee is  
 1356 the acquirer whose instrument of assignment is recorded first in  
 1357 applicable public records.

1358 718.705 Board of administration; transfer of control.--

1359 (1) For purposes of determining the timing for transfer of  
 1360 control of the board of administration of the association to  
 1361 unit owners other than the developer under s. 718.301(1)(a) or  
 1362 (b), if a bulk assignee is entitled to elect a majority of the  
 1363 members of the board, a condominium parcel acquired by the bulk  
 1364 assignee shall not be deemed to be conveyed to a purchaser, or  
 1365 to be owned by an owner other than the developer, until such  
 1366 condominium parcel is conveyed to an owner who is not a bulk  
 1367 assignee.

1368 (2) Unless control of the board of administration of the  
 1369 association has already been relinquished pursuant to s.  
 1370 718.301(1), the bulk assignee is obligated to relinquish control  
 1371 of the association in accordance with s. 718.301 and this part.

1372 (3) When a bulk assignee relinquishes control of the board

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1373 of administration as set forth in s. 718.301, the bulk assignee  
1374 shall deliver all of those items required by s. 718.301(4).  
1375 However, the bulk assignee is not required to deliver items and  
1376 documents not in the possession of the bulk assignee during the  
1377 period during which the bulk assignee was the owner of  
1378 condominium parcels. In conjunction with the acquisition of  
1379 condominium parcels, a bulk assignee shall undertake a good  
1380 faith effort to obtain the documents and materials required to  
1381 be provided to the association pursuant to s. 718.301(4). To the  
1382 extent the bulk assignee is not able to obtain all of such  
1383 documents and materials, the bulk assignee shall certify in  
1384 writing to the association the names or descriptions of the  
1385 documents and materials that were not obtainable by the bulk  
1386 assignee. Delivery of the certificate relieves the bulk assignee  
1387 of responsibility for the delivery of the documents and  
1388 materials referenced in the certificate as otherwise required  
1389 under ss. 718.112 and 718.301 and this part. The responsibility  
1390 of the bulk assignee for the audit required by s. 718.301(4)  
1391 shall commence as of the date on which the bulk assignee elected  
1392 a majority of the members of the board of administration.

1393 (4) If a conflict arises between the provisions or  
1394 application of this section and s. 718.301, this section shall  
1395 prevail.

1396 (5) Failure of a bulk assignee or bulk buyer to comply  
1397 with all the requirements contained in this part shall result in  
1398 the loss of any and all protections or exemptions provided under  
1399 this part.

1400 718.706 Specific provisions pertaining to offering of

1401 units by a bulk assignee or bulk buyer.--

1402 (1) Before offering any units for sale or for lease for a  
 1403 term exceeding 5 years, a bulk assignee or bulk buyer must file  
 1404 the following documents with the division and provide such  
 1405 documents to a prospective purchaser:

1406 (a) An updated prospectus or offering circular, or a  
 1407 supplement to the prospectus or offering circular, filed by the  
 1408 creating developer prepared in accordance with s. 718.504, which  
 1409 shall include the form of contract for purchase and sale in  
 1410 compliance with s. 718.503(2).

1411 (b) An updated Frequently Asked Questions and Answers  
 1412 sheet.

1413 (c) The executed escrow agreement if required under s.  
 1414 718.202.

1415 (d) The financial information required by s. 718.111(13).  
 1416 However, if a financial information report does not exist for  
 1417 the fiscal year before acquisition of title by the bulk assignee  
 1418 or bulk buyer, or accounting records cannot be obtained in good  
 1419 faith by the bulk assignee or bulk buyer which would permit  
 1420 preparation of the required financial information report, the  
 1421 bulk assignee or bulk buyer is excused from the requirement of  
 1422 this paragraph. However, the bulk assignee or bulk buyer must  
 1423 include in the purchase contract the following statement in  
 1424 conspicuous type:

1425  
 1426 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER  
 1427 SECTION 718.111(13), FLORIDA STATUTES, FOR THE  
 1428 IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION

1429 IS NOT AVAILABLE OR CANNOT BE CREATED BY THE SELLER AS  
 1430 A RESULT OF INSUFFICIENT ACCOUNTING RECORDS OF THE  
 1431 ASSOCIATION.

1432  
 1433 (2) Before offering any units for sale or for lease for a  
 1434 term exceeding 5 years, a bulk assignee must file with the  
 1435 division and provide to a prospective purchaser a disclosure  
 1436 statement that must include, but is not limited to:

1437 (a) A description to the purchaser of any rights of the  
 1438 developer which have been assigned to the bulk assignee.

1439 (b) The following statement in conspicuous type:

1441 SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE  
 1442 DEVELOPER UNDER SECTION 718.203(1) OR SECTION 718.618,  
 1443 FLORIDA STATUTES, AS APPLICABLE, EXCEPT FOR DESIGN,  
 1444 CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY  
 1445 OR ON BEHALF OF SELLER.

1446  
 1447 (c) If the condominium is a conversion subject to part VI,  
 1448 the following statement in conspicuous type:

1449  
 1450 SELLER HAS NO OBLIGATION TO FUND CONVERTER RESERVES OR  
 1451 TO PROVIDE CONVERTER WARRANTIES UNDER SECTION 718.618,  
 1452 FLORIDA STATUTES, ON ANY PORTION OF THE CONDOMINIUM  
 1453 PROPERTY EXCEPT AS MAY BE EXPRESSLY REQUIRED OF THE  
 1454 SELLER IN THE CONTRACT FOR PURCHASE AND SALE EXECUTED  
 1455 BY THE SELLER AND THE PREVIOUS DEVELOPER AND  
 1456 PERTAINING TO ANY DESIGN, CONSTRUCTION, DEVELOPMENT,

1457 OR REPAIR WORK PERFORMED BY OR ON BEHALF OF THE  
 1458 SELLER.

1460 (3) In addition to the requirements set forth in  
 1461 subsection (1), a bulk assignee or bulk buyer must comply with  
 1462 the nondeveloper disclosure requirements set forth in s.  
 1463 718.503(2) before offering any units for sale or for lease for a  
 1464 term exceeding 5 years.

1465 (4) A bulk assignee, while in control of the board of  
 1466 administration of the association, may not authorize, on behalf  
 1467 of the association:

1468 (a) The waiver of reserves or the reduction of funding of  
 1469 the reserves in accordance with s. 718.112(2)(f)2., unless  
 1470 approved by a majority of the voting interests not controlled by  
 1471 the developer, bulk assignee, or bulk buyer; or

1472 (b) The use of reserve expenditures for other purposes in  
 1473 accordance with s. 718.112(2)(f)3., unless approved by a  
 1474 majority of the voting interests not controlled by the  
 1475 developer, bulk assignee, or bulk buyer.

1476 (5) A bulk assignee, while in control of the board of  
 1477 administration of the association, must comply with the  
 1478 requirements imposed upon developers to transfer control of the  
 1479 association to the unit owners in accordance with s. 718.301.

1480 (6) A bulk assignee or bulk buyer must comply with all the  
 1481 requirements of s. 718.302 regarding any contracts entered into  
 1482 by the association during the period the bulk assignee or bulk  
 1483 buyer maintains control of the board of administration. Unit  
 1484 owners shall be afforded all the protections contained in s.

1485 718.302 regarding agreements entered into by the association  
 1486 before unit owners other than the developer, bulk assignee, or  
 1487 bulk buyer elected a majority of the board of administration.

1488 (7) A bulk buyer must comply with the requirements  
 1489 contained in the declaration regarding any transfer of a unit,  
 1490 including sales, leases, and subleases. A bulk buyer is not  
 1491 entitled to any exemptions afforded a developer or successor  
 1492 developer under this chapter regarding any transfer of a unit,  
 1493 including sales, leases, or subleases.

1494 718.707 Time limitation for classification as bulk  
 1495 assignee or bulk buyer.--A person acquiring condominium parcels  
 1496 may not be classified as a bulk assignee or bulk buyer unless  
 1497 the condominium parcels were acquired before July 1, 2012. The  
 1498 date of such acquisition shall be determined by the date of  
 1499 recording of a deed or other instrument of conveyance for such  
 1500 parcels in the public records of the county in which the  
 1501 condominium is located or by the date of issuance of a  
 1502 certificate of title in a foreclosure proceeding with respect to  
 1503 such condominium parcels.

1504 718.708 Liability of developers and others.--An assignment  
 1505 of developer rights to a bulk assignee or bulk buyer does not  
 1506 release the developer from any liabilities under the declaration  
 1507 or this chapter. This part does not limit the liability of the  
 1508 developer for claims brought by unit owners, bulk assignees, or  
 1509 bulk buyers for violations of this chapter by the developer,  
 1510 unless specifically excluded in this part. Nothing contained  
 1511 within this part waives, releases, compromises, or limits the  
 1512 liability of contractors, subcontractors, materialmen,

1513 manufacturers, architects, engineers, or any participant in the  
 1514 design or construction of a condominium for any claim brought by  
 1515 an association, unit owners, bulk assignees, or bulk buyers  
 1516 arising from the design of the condominium, construction  
 1517 defects, misrepresentations associated with condominium  
 1518 property, or violations of this chapter, unless specifically  
 1519 excluded in this part.

1520 Section 14. Subsection (2) of section 720.302, Florida  
 1521 Statutes, is amended to read:

1522 720.302 Purposes, scope, and application.--

1523 (2) The Legislature recognizes that it is not in the best  
 1524 interest of homeowners' associations or the individual  
 1525 association members thereof to create or impose a bureau or  
 1526 other agency of state government to regulate the affairs of  
 1527 homeowners' associations. However, in accordance with part IV of  
 1528 this chapter ~~s. 720.311~~, the Legislature finds that homeowners'  
 1529 associations and their individual members will benefit from an  
 1530 expedited alternative process for resolution of ~~election and~~  
 1531 ~~recall disputes and presuit mediation of other~~ disputes  
 1532 involving covenant enforcement in homeowners' associations and  
 1533 deed-restricted communities using the procedures provided in  
 1534 part IV of ~~and authorizes the department to hear, administer,~~  
 1535 ~~and determine these disputes as more fully set forth in this~~  
 1536 chapter. Further, the Legislature recognizes that certain  
 1537 contract rights have been created for the benefit of homeowners'  
 1538 associations and members thereof as well as deed-restricted  
 1539 communities before the effective date of this act and that part  
 1540 IV of this chapter is ~~ss. 720.301-720.407~~ are not intended to

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1541 impair such contract rights, including, but not limited to, the  
1542 rights of the developer to complete the community as initially  
1543 contemplated.

1544 Section 15. Paragraph (b) of subsection (2), paragraphs  
1545 (a) and (c) of subsection (5), paragraphs (b), (c), (d), (f),  
1546 and (g) of subsection (6), and paragraphs (c) and (d) of  
1547 subsection (10) of section 720.303, Florida Statutes, are  
1548 amended, and subsections (12), (13), and (14) are added to that  
1549 section, to read:

1550 720.303 Association powers and duties; meetings of board;  
1551 official records; budgets; financial reporting; association  
1552 funds; recalls; prohibited compensation; borrowing; transfer  
1553 fees.--

1554 (2) BOARD MEETINGS.--

1555 (b) Members have the right to attend all meetings of the  
1556 board and to speak on any matter placed on the agenda by  
1557 petition of the voting interests for at least 3 minutes. The  
1558 association may adopt written reasonable rules expanding the  
1559 right of members to speak and governing the frequency, duration,  
1560 and other manner of member statements, which rules must be  
1561 consistent with this paragraph and may include a sign-up sheet  
1562 for members wishing to speak. Notwithstanding any other law, ~~the~~  
1563 ~~requirement that board meetings and committee meetings be open~~  
1564 ~~to the members is inapplicable to meetings between the board or~~  
1565 a committee and the association's attorney to discuss proposed  
1566 or pending litigation, ~~or with respect to~~ meetings of the board  
1567 held for the purpose of discussing personnel matters are not  
1568 required to be open to the members.



1569 (5) INSPECTION AND COPYING OF RECORDS.--The official  
 1570 records shall be maintained within the state and must be open to  
 1571 inspection and available for photocopying by members or their  
 1572 authorized agents at reasonable times and places within 10  
 1573 business days after receipt of a written request for access.  
 1574 This subsection may be complied with by having a copy of the  
 1575 official records available for inspection or copying in the  
 1576 community. If the association has a photocopy machine available  
 1577 where the records are maintained, it must provide parcel owners  
 1578 with copies on request during the inspection if the entire  
 1579 request is limited to no more than 25 pages.

1580 (a) The failure of an association to provide access to the  
 1581 records within 10 business days after receipt of a written  
 1582 request submitted by certified mail, return receipt requested,  
 1583 creates a rebuttable presumption that the association willfully  
 1584 failed to comply with this subsection.

1585 (c) The association may adopt reasonable written rules  
 1586 governing the frequency, time, location, notice, records to be  
 1587 inspected, and manner of inspections, but may not require ~~impose~~  
 1588 ~~a requirement that~~ a parcel owner to demonstrate any proper  
 1589 purpose for the inspection, state any reason for the inspection,  
 1590 or limit a parcel owner's right to inspect records to less than  
 1591 one 8-hour business day per month. The association may impose  
 1592 fees to cover the costs of providing copies of the official  
 1593 records, including, without limitation, the costs of copying.  
 1594 The association may charge up to 50 cents per page for copies  
 1595 made on the association's photocopier. If the association does  
 1596 not have a photocopy machine available where the records are

1597 kept, or if the records requested to be copied exceed 25 pages  
 1598 in length, the association may have copies made by an outside  
 1599 vendor or association management company personnel and may  
 1600 charge the actual cost of copying, including any reasonable  
 1601 costs involving personnel fees and charges at an hourly rate for  
 1602 employee time to cover administrative costs to the association.

1603 The association shall maintain an adequate number of copies of  
 1604 the recorded governing documents, to ensure their availability  
 1605 to members and prospective members. Notwithstanding the  
 1606 provisions of this paragraph, the following records are shall  
 1607 not ~~be~~ accessible to members or parcel owners:

1608 1. Any record protected by the lawyer-client privilege as  
 1609 described in s. 90.502 and any record protected by the work-  
 1610 product privilege, including, but not limited to, any record  
 1611 prepared by an association attorney or prepared at the  
 1612 attorney's express direction which reflects a mental impression,  
 1613 conclusion, litigation strategy, or legal theory of the attorney  
 1614 or the association and which was prepared exclusively for civil  
 1615 or criminal litigation or for adversarial administrative  
 1616 proceedings or which was prepared in anticipation of imminent  
 1617 civil or criminal litigation or imminent adversarial  
 1618 administrative proceedings until the conclusion of the  
 1619 litigation or ~~adversarial~~ administrative proceedings.

1620 2. Information obtained by an association in connection  
 1621 with the approval of the lease, sale, or other transfer of a  
 1622 parcel.

1623 3. Disciplinary, health, insurance, and personnel records  
 1624 of the association's employees.

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1625 4. Medical records of parcel owners or community  
 1626 residents.

1627 (6) BUDGETS.--

1628 (b) In addition to annual operating expenses, the budget  
 1629 may include reserve accounts for capital expenditures and  
 1630 deferred maintenance for which the association is responsible.  
 1631 If reserve accounts are not established pursuant to paragraph  
 1632 (d), funding of such reserves shall be limited to the extent  
 1633 that the governing documents do not limit increases in  
 1634 assessments, including reserves. If the budget of the  
 1635 association includes reserve accounts established pursuant to  
 1636 paragraph (d), such reserves shall be determined, maintained,  
 1637 and waived in the manner provided in this subsection. Once an  
 1638 association provides for reserve accounts pursuant to paragraph  
 1639 (d) in the budget, the association shall thereafter determine,  
 1640 maintain, and waive reserves in compliance with this subsection.  
 1641 This section does not preclude the termination of a reserve  
 1642 account established pursuant to this paragraph upon approval of  
 1643 a majority of the voting interests of the association. Upon such  
 1644 approval, the terminating reserve account shall be removed from  
 1645 the budget.

1646 (c)1. If the budget of the association does not provide  
 1647 for reserve accounts pursuant to paragraph (d) ~~governed by this~~  
 1648 ~~subsection~~ and the association is responsible for the repair and  
 1649 maintenance of capital improvements that may result in a special  
 1650 assessment if reserves are not provided, each financial report  
 1651 for the preceding fiscal year required under ~~by~~ subsection (7)  
 1652 shall contain the following statement in conspicuous type:

1653  
 1654 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR  
 1655 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED  
 1656 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.  
 1657 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS  
 1658 PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
 1659 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT~~  
 1660 ~~LESS THAN~~ A MAJORITY OF THE TOTAL VOTING INTERESTS OF  
 1661 THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR  
 1662 BY WRITTEN CONSENT.

1663  
 1664 2. If the budget of the association does provide for  
 1665 funding accounts for deferred expenditures, including, but not  
 1666 limited to, funds for capital expenditures and deferred  
 1667 maintenance, but such accounts are not created or established  
 1668 pursuant to paragraph (d), each financial report for the  
 1669 preceding fiscal year required under subsection (7) must also  
 1670 contain the following statement in conspicuous type:

1671  
 1672 THE BUDGET OF THE ASSOCIATION DOES PROVIDE FOR LIMITED  
 1673 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING  
 1674 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT  
 1675 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING  
 1676 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
 1677 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION  
 1678 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT  
 1679 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET

1680 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN  
 1681 ACCORDANCE WITH THAT STATUTE.  
 1682

1683 (d) An association shall be deemed to have provided for  
 1684 reserve accounts if ~~when~~ reserve accounts have been initially  
 1685 established by the developer or if ~~when~~ the membership of the  
 1686 association affirmatively elects to provide for reserves. If  
 1687 reserve accounts are not initially provided for by the  
 1688 developer, the membership of the association may elect to do so  
 1689 upon the affirmative approval of ~~not less than~~ a majority of the  
 1690 total voting interests of the association. Such approval may be  
 1691 obtained ~~attained~~ by vote of the members at a duly called  
 1692 meeting of the membership or by the ~~upon a~~ written consent of  
 1693 ~~executed by not less than~~ a majority of the total voting  
 1694 interests in the community. The approval action of the  
 1695 membership shall state that reserve accounts shall be provided  
 1696 for in the budget and shall designate the components for which  
 1697 the reserve accounts are to be established. Upon approval by the  
 1698 membership, the board of directors shall include ~~provide for~~ the  
 1699 required reserve accounts ~~for inclusion~~ in the budget in the  
 1700 next fiscal year following the approval and ~~in~~ each year  
 1701 thereafter. Once established as provided in this subsection, the  
 1702 reserve accounts shall be funded or maintained or shall have  
 1703 their funding waived in the manner provided in paragraph (f).

1704 (f) After one or more ~~Once a reserve account or~~ reserve  
 1705 accounts are established, the membership of the association,  
 1706 upon a majority vote at a meeting at which a quorum is present,  
 1707 may provide for no reserves or less reserves than required by

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1708 | this section. If a meeting of the unit owners has been called to  
1709 | determine whether to waive or reduce the funding of reserves and  
1710 | no such result is achieved or a quorum is not present, the  
1711 | reserves as included in the budget shall go into effect. After  
1712 | the turnover, the developer may vote its voting interest to  
1713 | waive or reduce the funding of reserves. Any vote taken pursuant  
1714 | to this subsection to waive or reduce reserves is ~~shall be~~  
1715 | applicable only to one budget year.

1716 | (g) Funding formulas for reserves authorized by this  
1717 | section shall be based on either a separate analysis of each of  
1718 | the required assets or a pooled analysis of two or more of the  
1719 | required assets.

1720 | 1. If the association maintains separate reserve accounts  
1721 | for each of the required assets, the amount of the contribution  
1722 | to each reserve account is ~~shall be~~ the sum of the following two  
1723 | calculations:

1724 | a. The total amount necessary, if any, to bring a negative  
1725 | component balance to zero.

1726 | b. The total estimated deferred maintenance expense or  
1727 | estimated replacement cost of the reserve component less the  
1728 | estimated balance of the reserve component as of the beginning  
1729 | of the period ~~for which~~ the budget will be in effect. The  
1730 | remainder, if greater than zero, shall be divided by the  
1731 | estimated remaining useful life of the component.

1732 |  
1733 | The formula may be adjusted each year for changes in estimates  
1734 | and deferred maintenance performed during the year and may

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1735 include factors such as inflation and earnings on invested  
1736 funds.

1737 2. If the association maintains a pooled account of two or  
1738 more of the required reserve assets, the amount of the  
1739 contribution to the pooled reserve account as disclosed on the  
1740 proposed budget may ~~shall~~ not be less than that required to  
1741 ensure that the balance on hand at the beginning of the period  
1742 ~~for which~~ the budget will go into effect plus the projected  
1743 annual cash inflows over the remaining estimated useful life of  
1744 all of the assets that make up the reserve pool are equal to or  
1745 greater than the projected annual cash outflows over the  
1746 remaining estimated useful lives of all ~~of~~ the assets that make  
1747 up the reserve pool, based on the current reserve analysis. The  
1748 projected annual cash inflows may include estimated earnings  
1749 from investment of principal and accounts receivable minus the  
1750 allowance for doubtful accounts. The reserve funding formula may  
1751 ~~shall~~ not include any type of balloon payments.

1752 (10) RECALL OF DIRECTORS.--

1753 (c)1. If the declaration, articles of incorporation, or  
1754 bylaws specifically provide, the members may also recall and  
1755 remove a board director or directors by a vote taken at a  
1756 meeting. If so provided in the governing documents, a special  
1757 meeting of the members to recall a director or directors of the  
1758 board of administration may be called by 10 percent of the  
1759 voting interests giving notice of the meeting as required for a  
1760 meeting of members, and the notice shall state the purpose of  
1761 the meeting. Electronic transmission may not be used as a method

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1762 of giving notice of a meeting called in whole or in part for  
1763 this purpose.

1764 2. The board shall duly notice and hold a board meeting  
1765 within 5 full business days after the adjournment of the member  
1766 meeting to recall one or more directors. At the meeting, the  
1767 board shall certify the recall, in which case such member or  
1768 members shall be recalled effective immediately and shall turn  
1769 over to the board within 5 full business days any and all  
1770 records and property of the association in their possession, or  
1771 shall proceed as set forth in paragraph ~~subparagraph~~ (d).

1772 (d) If the board determines not to certify the written  
1773 agreement or written ballots to recall a director or directors  
1774 of the board or does not certify the recall by a vote at a  
1775 meeting, the board shall, within 5 full business days after the  
1776 meeting, initiate ~~file with the department a petition for~~  
1777 binding arbitration pursuant to the applicable procedures in s.  
1778 720.507 ~~ss. 718.112(2)(j) and 718.1255 and the rules adopted~~  
1779 ~~thereunder~~. For the purposes of this section, the members who  
1780 voted at the meeting or who executed the agreement in writing  
1781 shall constitute one party under the petition for arbitration.  
1782 If the arbitrator certifies the recall as to any director or  
1783 directors of the board, the recall will be effective upon  
1784 mailing of the final order of arbitration to the association.  
1785 The director or directors so recalled shall deliver to the board  
1786 any and all records of the association in their possession  
1787 within 5 full business days after the effective date of the  
1788 recall.



1789           (12) COMPENSATION PROHIBITED.--A director, officer, or  
 1790 committee member of the association may not receive, directly or  
 1791 indirectly, any salary or compensation from the association for  
 1792 the performance of duties as a director, officer, or committee  
 1793 member and may not in any other way benefit financially from  
 1794 service to the association. This subsection does not preclude:

1795           (a) Participation by such person in a financial benefit  
 1796 accruing to all or a significant number of members as a result  
 1797 of actions lawfully taken by the board or a committee of which  
 1798 he or she is a member, including, but not limited to, routine  
 1799 maintenance, repair, or replacement of community assets.

1800           (b) Reimbursement for out-of-pocket expenses incurred by  
 1801 such person on behalf of the association, subject to approval in  
 1802 accordance with procedures established by the association's  
 1803 governing documents or, in the absence of such procedures, in  
 1804 accordance with an approval process established by the board.

1805           (c) Any recovery of insurance proceeds derived from a  
 1806 policy of insurance maintained by the association for the  
 1807 benefit of its members.

1808           (d) Any fee or compensation authorized in the governing  
 1809 documents.

1810           (e) Any fee or compensation authorized in advance by a  
 1811 vote of a majority of the voting interests voting in person or  
 1812 by proxy at a meeting of the members.

1813           (f) A developer or its representative from serving as a  
 1814 director, officer, or committee member of the association and  
 1815 benefiting financially from service to the association.

1816           (13) BORROWING.--The borrowing of funds or committing to a

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1817 line of credit by the board of administration shall be  
1818 considered a special assessment, and any meeting of the board of  
1819 administration to discuss such matters must be noticed as  
1820 provided in paragraph (2) (c). The board may not borrow funds or  
1821 enter into a line of credit for any purpose unless the specific  
1822 use of the funds from the loan or line of credit is set forth in  
1823 the notice of meeting with the same specificity as required for  
1824 a special assessment or unless the borrowing or line of credit  
1825 has received the prior approval of at least two-thirds of the  
1826 voting interests of the association.

1827 (14) TRANSFER FEES.--No charge may be made by the  
1828 association or anyone on its behalf in connection with the sale,  
1829 mortgage, lease, sublease, or other transfer of a parcel.  
1830 Nothing in this subsection may be construed to prohibit an  
1831 association from requiring as a condition to permitting the  
1832 letting or renting of a parcel, when the association has such  
1833 authority in the documents, the depositing into an escrow  
1834 account maintained by the association of a security deposit in  
1835 an amount not to exceed the equivalent of 1 month's rent. The  
1836 security deposit shall protect against damages to the common  
1837 areas or association property. Within 15 days after a tenant  
1838 vacates the premises, the association shall refund the full  
1839 security deposit or give written notice to the tenant of any  
1840 claim made against the security. Disputes under this subsection  
1841 shall be handled in the same fashion as disputes concerning  
1842 security deposits under s. 83.49.

1843 Section 16. Paragraph (a) of subsection (2) of section  
1844 720.304, Florida Statutes, is amended to read:

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

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1845 720.304 Right of owners to peaceably assemble; display of  
 1846 flag; SLAPP suits prohibited.--

1847 (2) (a) Any homeowner may display within the boundaries of  
 1848 the homeowner's parcel one portable, removable United States  
 1849 ~~flag or official flag of the State of Florida in a respectful~~  
 1850 ~~manner, and one portable, removable official flag,~~ in a  
 1851 respectful way and, on Armed Forces Day, Memorial Day, Flag Day,  
 1852 Independence Day, and Veterans' Day, may display in a respectful  
 1853 way portable, removable official flags ~~manner,~~ not larger than 4  
 1854 1/2 feet by 6 feet, that represent ~~which represents~~ the United  
 1855 States Army, Navy, Air Force, Marine Corps, or Coast Guard, ~~or a~~  
 1856 ~~POW-MIA flag,~~ regardless of any declaration ~~covenants,~~  
 1857 ~~restrictions, bylaws, rules,~~ or requirements dealing with flags  
 1858 or decorations ~~of the association.~~

1859 Section 17. Subsection (2) of section 720.305, Florida  
 1860 Statutes, is amended to read:

1861 720.305 Obligations of members; remedies at law or in  
 1862 equity; levy of fines and suspension of use rights.--

1863 (2) If the governing documents so provide, an association  
 1864 may suspend, for a reasonable period of time, the rights of a  
 1865 member or a member's tenants, guests, or invitees, or both, to  
 1866 use common areas and facilities and may levy reasonable fines of  
 1867 up to, ~~not to exceed~~ \$100 per violation, against any member or  
 1868 any tenant, guest, or invitee. A fine may be levied on the basis  
 1869 of each day of a continuing violation, with a single notice and  
 1870 opportunity for hearing, except that no ~~such~~ fine may ~~shall~~  
 1871 exceed \$1,000 in the aggregate unless otherwise provided in the  
 1872 governing documents. A fine of less than \$1,000 may ~~shall~~ not

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1873 become a lien against a parcel. In any action to recover a fine,  
 1874 the prevailing party is entitled to collect its reasonable  
 1875 attorney's fees and costs from the nonprevailing party as  
 1876 determined by the court.

1877 (a) A fine or suspension may not be imposed without ~~notice~~  
 1878 ~~of~~ at least 14 days' notice ~~days~~ to the person sought to be  
 1879 fined or suspended and an opportunity for a hearing before a  
 1880 committee of at least three members appointed by the board who  
 1881 are not officers, directors, or employees of the association, or  
 1882 the spouse, parent, child, brother, or sister of an officer,  
 1883 director, or employee. If the committee, by majority vote, does  
 1884 not approve a proposed fine or suspension, it may not be  
 1885 imposed.

1886 (b) The requirements of this subsection do not apply to  
 1887 the imposition of suspensions or fines upon any member because  
 1888 of the failure of the member to pay assessments or other charges  
 1889 when due if such action is authorized by the governing  
 1890 documents.

1891 (c) Suspension of common-area-use rights do ~~shall~~ not  
 1892 impair the right of an owner or tenant of a parcel to have  
 1893 vehicular and pedestrian ingress to and egress from the parcel,  
 1894 including, but not limited to, the right to park.

1895 Section 18. Subsections (8) and (9) of section 720.306,  
 1896 Florida Statutes, are amended to read:

1897 720.306 Meetings of members; voting and election  
 1898 procedures; amendments.--

1899 (8) PROXY VOTING.--The members have the right, unless  
 1900 otherwise provided in this subsection or in the governing  
 1901 documents, to vote in person or by proxy.

1902 (a) To be valid, a proxy must be dated, must state the  
 1903 date, time, and place of the meeting for which it was given, and  
 1904 must be signed by the authorized person who executed the proxy.  
 1905 A proxy is effective only for the specific meeting for which it  
 1906 was originally given, as the meeting may lawfully be adjourned  
 1907 and reconvened from time to time, and automatically expires 90  
 1908 days after the date of the meeting for which it was originally  
 1909 given. A proxy is revocable at any time at the pleasure of the  
 1910 person who executes it. If the proxy form expressly so provides,  
 1911 any proxy holder may appoint, in writing, a substitute to act in  
 1912 his or her place.

1913 (b) If the governing documents permit voting by secret  
 1914 ballot by members who are not in attendance at a meeting of the  
 1915 members for the election of directors, such ballots shall be  
 1916 placed in an inner envelope with no identifying markings and  
 1917 mailed or delivered to the association in an outer envelope  
 1918 bearing identifying information reflecting the name of the  
 1919 member, the lot or parcel for which the vote is being cast, and  
 1920 the signature of the lot or parcel owner casting that ballot.  
 1921 After the eligibility of the member to vote and confirmation  
 1922 that no other ballot has been submitted for that lot or parcel,  
 1923 the inner envelope shall be removed from the outer envelope  
 1924 bearing the identification information, placed with the ballots  
 1925 which were personally cast, and opened when the ballots are  
 1926 counted. If more than one ballot is submitted for a lot or

1927 parcel, the ballots for that lot or parcel shall be  
 1928 disqualified. Any vote by ballot received after the closing of  
 1929 the balloting may not be considered.

1930 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.--

1931 (a) Elections of directors must be conducted in accordance  
 1932 with the procedures set forth in the governing documents of the  
 1933 association. All members of the association are ~~shall be~~  
 1934 eligible to serve on the board of directors, and a member may  
 1935 nominate himself or herself as a candidate for the board at a  
 1936 meeting where the election is to be held or, if the election  
 1937 process allows voting by absentee ballot, in advance of the  
 1938 balloting. Except as otherwise provided in the governing  
 1939 documents, boards of directors must be elected by a plurality of  
 1940 the votes cast by eligible voters. Any election dispute between  
 1941 a member and an association must be submitted to mandatory  
 1942 binding arbitration with the division. Such proceedings shall be  
 1943 conducted in the manner provided by s. 720.507 ~~718.1255~~ and the  
 1944 ~~procedural rules adopted by the division.~~

1945 (b) Within 30 days after being elected to the board of  
 1946 directors, a new director shall certify in writing to the  
 1947 secretary of the association that he or she has read the  
 1948 association's declarations of covenants and restrictions,  
 1949 articles of incorporation, bylaws, and current written policies  
 1950 and that he or she will work to uphold each to the best of his  
 1951 or her ability and will faithfully discharge his or her  
 1952 fiduciary responsibility to the association's members. Failure  
 1953 to timely file such statement shall automatically disqualify the  
 1954 director from service on the association's board of directors.

1955 The secretary shall cause the association to retain a director's  
 1956 certification for inspection by the members for 5 years after a  
 1957 director's election. Failure to have such certification on file  
 1958 does not affect the validity of any appropriate action.

1959 Section 19. Section (8) is added to section 720.3085,  
 1960 Florida Statutes, to read:

1961 720.3085 Payment for assessments; lien claims.--

1962 (8) During the pendency of any foreclosure action of a  
 1963 parcel within a homeowners' association, if the home is occupied  
 1964 by a tenant and the parcel owner is delinquent in the payment of  
 1965 regular assessments, the association may demand that the tenant  
 1966 pay to the association the future regular assessments related to  
 1967 the parcel. The demand shall be continuing in nature, and upon  
 1968 demand the tenant shall continue to pay the regular assessments  
 1969 to the association until the association releases the tenant or  
 1970 the tenant discontinues tenancy in the unit. The association  
 1971 shall mail written notice to the parcel owner of the  
 1972 association's demand that the tenant pay regular assessments to  
 1973 the association. The tenant shall not be liable for increases in  
 1974 the amount of the regular assessment due unless the tenant was  
 1975 reasonably notified of the increase prior to the day that the  
 1976 rent is due. The tenant shall be given a credit against rents  
 1977 due to the parcel owner in the amount of assessments paid to the  
 1978 association. The association shall, upon request, provide the  
 1979 tenant with written receipts for payments made. The association  
 1980 may issue notices under s. 83.56 and may sue for eviction under  
 1981 ss. 83.59-83.625 as if the association were a landlord under  
 1982 part II of chapter 83 should the tenant fail to pay an

1983 assessment. However, the association shall not otherwise be  
 1984 considered a landlord under chapter 83 and shall specifically  
 1985 not have any duty under s. 83.51. The tenant shall not, by  
 1986 virtue of payment of assessments, have any of the rights of a  
 1987 unit owner to vote in any election or to examine the books and  
 1988 records of the association. A court may supersede the effect of  
 1989 this subsection by appointing a receiver.

1990 Section 20. Section 720.3095, Florida Statutes, is created  
 1991 to read:

1992 720.3095 Management and maintenance agreements entered  
 1993 into by the association.--

1994 (1) A written contract between a party contracting to  
 1995 provide maintenance or management services and an association  
 1996 which provides for operation, maintenance, or management of a  
 1997 homeowners' association is not valid or enforceable unless the  
 1998 contract:

1999 (a) Specifies the services, obligations, and  
 2000 responsibilities of the party contracting to provide maintenance  
 2001 or management services to the unit owners.

2002 (b) Specifies those costs incurred in the performance of  
 2003 those services, obligations, or responsibilities which are to be  
 2004 reimbursed by the association to the party contracting to  
 2005 provide maintenance or management services.

2006 (c) Provides an indication of how often each service,  
 2007 obligation, or responsibility is to be performed, whether stated  
 2008 for each service, obligation, or responsibility or in categories  
 2009 thereof.

2010 (d) Specifies a minimum number of personnel to be employed



2011 by the party contracting to provide maintenance or management  
 2012 services for the purpose of providing service to the  
 2013 association.

2014 (e) Discloses any financial or ownership interest which  
 2015 the developer, if the developer is in control of the  
 2016 association, holds with regard to the party contracting to  
 2017 provide maintenance or management services.

2018 (f) Discloses any financial or ownership interest a board  
 2019 member or any party providing maintenance or management services  
 2020 to the association holds with the contracting party.

2021 (2) In any case in which the party contracting to provide  
 2022 maintenance or management services fails to provide such  
 2023 services in accordance with the contract, the association is  
 2024 authorized to procure such services from some other party and  
 2025 shall be entitled to collect any fees or charges paid for  
 2026 services performed by another party from the party contracting  
 2027 to provide maintenance or management services.

2028 (3) Any services or obligations not stated on the face of  
 2029 the contract shall be unenforceable.

2030 (4) Notwithstanding the fact that certain vendors contract  
 2031 with associations to maintain equipment or property which is  
 2032 made available to serve unit owners, it is the intent of the  
 2033 Legislature that this section applies to contracts for  
 2034 maintenance or management services for which the association  
 2035 pays compensation. This section does not apply to contracts for  
 2036 services or property made available for the convenience of unit  
 2037 owners by lessees or licensees of the association, such as coin-  
 2038 operated laundry, food, soft drink, or telephone vendors; cable

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2039 television operators; retail store operators; businesses;  
 2040 restaurants; or similar vendors.

2041 Section 21. Section 720.3096, Florida Statutes, is created  
 2042 to read:

2043 720.3096 Limitation on agreements entered into by the  
 2044 association.--As to any contract or other transaction between an  
 2045 association and one or more of its directors or any other  
 2046 corporation, firm, association, or entity in which one or more  
 2047 of its directors are directors or officers or are financially  
 2048 interested:

2049 (1) The association must comply with the requirements of  
 2050 s. 617.0832.

2051 (2) The disclosures required by s. 617.0832 must be  
 2052 entered into the written minutes of the meeting.

2053 (3) Approval of the contract or other transaction requires  
 2054 an affirmative vote of at least two-thirds of the directors  
 2055 present.

2056 (4) At the next regular or special meeting of the members,  
 2057 the existence of the contract or other transaction must be  
 2058 disclosed to the members. Upon motion of any member, the  
 2059 contract or transaction shall be brought up for a vote and may  
 2060 be canceled by a majority vote of the members present. If the  
 2061 members cancel the contract, the association is liable for only  
 2062 the reasonable value of goods and services provided up to the  
 2063 time of cancellation and is not liable for any termination fee,  
 2064 liquidated damages, or other form of penalty for such  
 2065 cancellation.

2066 Section 22. Section 720.311, Florida Statutes, is  
 2067 repealed.

2068 Section 23. Paragraph (a) of subsection (1) of section  
 2069 720.401, Florida Statutes, is amended to read:

2070 720.401 Prospective purchasers subject to association  
 2071 membership requirement; disclosure required; covenants;  
 2072 assessments; contract cancellation.--

2073 (1) (a) A prospective parcel owner in a community must be  
 2074 presented a disclosure summary before executing the contract for  
 2075 sale. The disclosure summary must be in a form substantially  
 2076 similar to the following form:

2077  
 2078 DISCLOSURE SUMMARY  
 2079 FOR  
 2080 (NAME OF COMMUNITY)

2081  
 2082 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL  
 2083 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

2084 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE  
 2085 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS  
 2086 COMMUNITY.

2087 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
 2088 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
 2089 APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. YOU WILL  
 2090 ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
 2091 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
 2092 IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

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2093 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
 2094 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
 2095 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

2096 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS  
 2097 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION MAY ~~COULD~~ RESULT  
 2098 IN A LIEN ON YOUR PROPERTY.

2099 6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES  
 2100 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN  
 2101 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF  
 2102 APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

2103 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE  
 2104 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
 2105 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
 2106 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

2107 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
 2108 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
 2109 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
 2110 DOCUMENTS BEFORE PURCHASING PROPERTY.

2111 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND  
 2112 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 2113 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE  
 2114 OBTAINED FROM THE DEVELOPER.

2115 10. THERE MAY BE AN OBLIGATION TO PAY ASSESSMENTS (TAXES  
 2116 OR FEES) TO A RESIDENTIAL COMMUNITY DEVELOPMENT DISTRICT FOR THE  
 2117 PURPOSE OF RETIRING BOND OBLIGATIONS USED TO CONSTRUCT  
 2118 INFRASTRUCTURE OR OTHER IMPROVEMENTS.

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2119 11. YOU ARE JOINTLY AND SEVERALLY LIABLE WITH THE PREVIOUS  
 2120 OWNER OF YOUR PROPERTY FOR ALL UNPAID ASSESSMENTS THAT CAME DUE  
 2121 UP TO THE TIME OF TRANSFER OF TITLE.

2122

2123 DATE: PURCHASER:

2124 PURCHASER:

2125

2126 The disclosure must be supplied by the developer, or by the  
 2127 parcel owner if the sale is by an owner that is not the  
 2128 developer. Any contract or agreement for sale shall refer to and  
 2129 incorporate the disclosure summary and shall include, in  
 2130 prominent language, a statement that the potential buyer should  
 2131 not execute the contract or agreement until he or she has ~~they~~  
 2132 ~~have~~ received and read the disclosure summary required by this  
 2133 section.

2134 Section 24. Part IV of chapter 720, Florida Statutes,  
 2135 consisting of sections 720.501, 720.502, 720.503, 720.504,  
 2136 720.505, 720.506, 720.507, 720.508, 720.509, and 720.510, is  
 2137 created to read:

2138 PART IV

2139 DISPUTE RESOLUTION

2140 720.501 Short title.--This part may be cited as the "Home  
 2141 Court Advantage Dispute Resolution Act."

2142 720.502 Legislative findings.--The Legislature finds that  
 2143 alternative dispute resolution has made progress in reducing  
 2144 court dockets and trials and in offering a more efficient, cost-  
 2145 effective option to litigation.

2146 720.503 Applicability of this part.--

2147 (1) Unless otherwise provided in this part, before a  
 2148 dispute described in this part between a homeowners' association  
 2149 and a parcel owner or owners, or a dispute between parcel owners  
 2150 within the same homeowners' association, may be filed in court,  
 2151 the dispute is subject to presuit mediation pursuant to s.  
 2152 720.505 or presuit arbitration pursuant to s. 720.507, at the  
 2153 option of the aggrieved party who initiates the first formal  
 2154 action of alternative dispute resolution under this part. The  
 2155 parties may mutually agree to participate in both presuit  
 2156 mediation and presuit arbitration prior to suit being filed by  
 2157 either party.

2158 (2) Unless otherwise provided in this part, the mediation  
 2159 and arbitration provisions of this part are limited to disputes  
 2160 between an association and a parcel owner or owners or between  
 2161 parcel owners regarding the use of or changes to the parcel or  
 2162 the common areas under the governing documents and other  
 2163 disputes involving violations of the recorded declaration of  
 2164 covenants or other governing documents, disputes arising  
 2165 concerning enforcement of the governing documents or any  
 2166 amendments thereto, and disputes involving access to the  
 2167 official records of the association. A dispute concerning title  
 2168 to any parcel or common area, interpretation or enforcement of  
 2169 any warranty, the levy of a fee or assessment, the collection of  
 2170 an assessment levied against a party, the eviction or other  
 2171 removal of a tenant from a parcel, alleged breaches of fiduciary  
 2172 duty by one or more directors, or any action to collect mortgage  
 2173 indebtedness or to foreclosure a mortgage shall not be subject  
 2174 to the provisions of this part.

2175 (3) A dispute arising after the effective date of this  
 2176 part involving the election of the board of directors for an  
 2177 association or the recall of any member of the board or officer  
 2178 of the association is ineligible for presuit mediation under s.  
 2179 720.505 and subject to presuit arbitration under s. 720.507.

2180 (4) In any dispute subject to presuit mediation or presuit  
 2181 arbitration under this part for which emergency relief is  
 2182 required, a motion for temporary injunctive relief may be filed  
 2183 with the court without first complying with the presuit  
 2184 mediation or presuit arbitration requirements of this part.  
 2185 After any issues regarding emergency or temporary relief are  
 2186 resolved, the court may refer the parties to a mediation program  
 2187 administered by the courts or require mediation or arbitration  
 2188 under this part.

2189 (5) The mailing of a statutory notice of presuit mediation  
 2190 or presuit arbitration as provided in this part shall toll the  
 2191 applicable statute of limitations during the pendency of the  
 2192 mediation or arbitration and for a period of 30 days following  
 2193 the conclusion of either proceeding. The 30-day period shall  
 2194 start upon the filing of the mediator's notice of impasse or the  
 2195 arbitrator's written arbitration award. If the parties mutually  
 2196 agree to participate in both presuit mediation and presuit  
 2197 arbitration under this part, the tolling of the applicable  
 2198 statute of limitations for each such alternative dispute  
 2199 resolution proceeding shall be consecutive.

2200 720.504 Notice of dispute.--Prior to giving the statutory  
 2201 notice to proceed under presuit mediation or presuit arbitration  
 2202 under this part, the aggrieved association or parcel owner must

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2203 first provide written notice of the dispute to the responding  
2204 party in the manner provided by this section.

2205 (1) The notice of dispute shall be delivered to the  
2206 responding party by certified mail, return receipt requested, or  
2207 in person, and the person making delivery shall file with the  
2208 notice of mediation either the proof of receipt of mailing or an  
2209 affidavit stating the date and time of the delivery of the  
2210 notice of dispute. If the notice is delivered by certified mail,  
2211 return receipt requested, and the responding party fails or  
2212 refuses to accept delivery, notice shall be considered properly  
2213 delivered for purposes of this section on the date of the first  
2214 attempted delivery.

2215 (2) The notice of dispute shall state with specificity the  
2216 nature of the dispute, including the date, time, and location of  
2217 each event that is the subject of the dispute and the action  
2218 requested to resolve the dispute. The notice shall also include  
2219 the text of any provision in the governing documents, including  
2220 the rules and regulations, of the association which form the  
2221 basis of the dispute.

2222 (3) Unless the parties otherwise agree in writing to a  
2223 longer time period, the party receiving the notice of dispute  
2224 shall have 10 days following the date of receipt of notice to  
2225 resolve the dispute. If the alleged dispute has not been  
2226 resolved within the 10-day period, the aggrieved party may  
2227 proceed under this part at any time thereafter within the  
2228 applicable statute of limitations.

2229 (4) A copy of the notice and the text of the provision in  
2230 the governing documents, or the rules and regulations, of the



2231 association which are the basis of the dispute, along with proof  
 2232 of service of the notice of dispute and a copy of any written  
 2233 responses received from the responding party, shall be included  
 2234 as an exhibit to any demand for mediation or arbitration under  
 2235 this part.

2236 720.505 Presuit mediation.--

2237 (1) Disputes between an association and a parcel owner or  
 2238 owners or between parcel owners must be submitted to presuit  
 2239 mediation before the dispute may be filed in court; or, at the  
 2240 election of the party initiating the presuit procedures, such  
 2241 dispute may be submitted to presuit arbitration pursuant to s.  
 2242 720.507 before the dispute may be filed in court. An aggrieved  
 2243 party who elects to use the presuit mediation procedure under  
 2244 this section shall serve on the responding party a written  
 2245 notice of presuit mediation in substantially the following form:

2247 STATUTORY NOTICE OF PRESUIT MEDIATION

2249 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
 2250 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
 2251 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
 2252 MEDIATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)  
 2253 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE  
 2254 SUBJECT TO PRESUIT MEDIATION:

2256 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION  
 2257 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO  
 2258 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF

2259 A VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
 2260 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING  
 2261 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE  
 2262 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
 2263 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
 2264 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

2265  
 2266 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
 2267 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
 2268 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
 2269 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
 2270 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
 2271 MEDIATION WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER  
 2272 TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
 2273 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
 2274 PARTICIPATE IN THIS PROCESS. UNLESS YOU RESPOND TO  
 2275 THIS NOTICE BY FILING WITH THE AGGRIEVED PARTY A  
 2276 NOTICE OF OPTING OUT AND DEMAND FOR ARBITRATION UNDER  
 2277 SECTION 720.506, FLORIDA STATUTES, YOUR FAILURE TO  
 2278 PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A  
 2279 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT  
 2280 FURTHER NOTICE.

2281  
 2282 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
 2283 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
 2284 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS  
 2285 THEM IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING  
 2286 PART OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE

2287 IN PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
 2288 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
 2289 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
 2290 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
 2291 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE  
 2292 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
 2293 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

2294  
 2295 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
 2296 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
 2297 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
 2298 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE  
 2299 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
 2300 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
 2301 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN  
 2302 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
 2303 PARTY MAY PROCEED TO FILE A LAWSUIT ON ALL  
 2304 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
 2305 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION  
 2306 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER  
 2307 ATTORNEY'S FEES IF YOU PREVAIL IN A SUBSEQUENT COURT  
 2308 PROCEEDING INVOLVING THE SAME DISPUTE.

2309  
 2310 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
 2311 ELIGIBLE, QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
 2312 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
 2313 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
 2314 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE

2315 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE  
 2316 OF THE LISTED MEDIATORS DOES NOT MEAN THAT THE  
 2317 MEDIATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
 2318 FACILITATOR. THE NAMES OF THE MEDIATORS THAT THE  
 2319 AGGRIEVED PARTY HEREBY SUBMITS TO YOU FROM WHOM YOU  
 2320 MAY CHOOSE ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE  
 2321 NUMBERS, AND HOURLY RATES ARE AS FOLLOWS:

2322  
 2323 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
 2324 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
 2325 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
 2326 BE INCLUDED AS AN ATTACHMENT.)

2327  
 2328 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
 2329 CONFIRM THAT EACH OF THE ABOVE-LISTED MEDIATORS WILL  
 2330 BE NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD  
 2331 EITHER PARTY. UNLESS OTHERWISE AGREED TO BY THE  
 2332 PARTIES, PART IV OF CHAPTER 720, FLORIDA STATUTES,  
 2333 REQUIRES THAT THE PARTIES SHARE THE COSTS OF PRESUIT  
 2334 MEDIATION EQUALLY, INCLUDING THE FEE CHARGED BY THE  
 2335 MEDIATOR. AN AVERAGE MEDIATION MAY REQUIRE 3 TO 4  
 2336 HOURS OF THE MEDIATOR'S TIME, INCLUDING SOME  
 2337 PREPARATION TIME, AND THE PARTIES WOULD NEED TO  
 2338 EQUALLY SHARE THE MEDIATOR'S FEES AS WELL AS BE  
 2339 RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES IF  
 2340 THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
 2341 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
 2342 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE

2343 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
 2344 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY  
 2345 HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE  
 2346 SELECTED MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS  
 2347 AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS AS  
 2348 THE MEDIATOR REQUIRES FOR THIS PURPOSE UPON THE  
 2349 SELECTION OF THE MEDIATOR. ANY FUNDS DEPOSITED WILL BE  
 2350 RETURNED TO YOU IF THESE FUNDS ARE IN EXCESS OF YOUR  
 2351 SHARE OF THE MEDIATOR FEES INCURRED.

2352  
 2353 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO  
 2354 TRY TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER  
 2355 LEGAL ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE  
 2356 WHICH MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE  
 2357 MEDIATORS LISTED BY THE AGGRIEVED PARTY ABOVE.

2358  
 2359 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
 2360 OF PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE  
 2361 YOU MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
 2362 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
 2363 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
 2364 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT  
 2365 MEDIATION OR WITHIN 90 DAYS AFTER THE DATE YOU WERE  
 2366 SERVED WITH A COPY OF THIS NOTICE. THE AGGRIEVED PARTY  
 2367 WILL THEN ASK THE MEDIATOR TO SCHEDULE A MUTUALLY  
 2368 CONVENIENT TIME AND PLACE FOR THE MEDIATION CONFERENCE  
 2369 TO BE HELD. IF YOU DO NOT PROVIDE A LIST OF AVAILABLE  
 2370 DATES AND TIMES, THE MEDIATOR IS AUTHORIZED TO

2371 SCHEDULE A MEDIATION CONFERENCE WITHOUT TAKING YOUR  
 2372 SCHEDULE AND CONVENIENCE INTO CONSIDERATION. IN NO  
 2373 EVENT SHALL THE MEDIATION CONFERENCE BE LATER THAN 90  
 2374 DAYS AFTER THE NOTICE OF PRESUIT MEDIATION WAS FIRST  
 2375 SERVED UNLESS ALL PARTIES MUTUALLY AGREE OTHERWISE. IN  
 2376 THE EVENT THAT YOU FAIL TO RESPOND WITHIN 20 DAYS  
 2377 AFTER THE DATE OF THIS NOTICE, FAIL TO PROVIDE THE  
 2378 MEDIATOR WITH DATES AND TIMES IN WHICH YOU ARE  
 2379 AVAILABLE FOR THE MEDIATION CONFERENCE, FAIL TO AGREE  
 2380 TO ONE OF THE MEDIATORS THAT THE AGGRIEVED PARTY HAS  
 2381 LISTED, FAIL TO PAY OR PREPAY TO THE MEDIATOR ONE-HALF  
 2382 OF THE COSTS INVOLVED, OR FAIL TO APPEAR AND  
 2383 PARTICIPATE AT THE SCHEDULED MEDIATION, THE AGGRIEVED  
 2384 PARTY WILL BE AUTHORIZED TO PROCEED WITH THE FILING OF  
 2385 A LAWSUIT AGAINST YOU WITHOUT FURTHER NOTICE. IN ANY  
 2386 SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY MAY SEEK  
 2387 AN AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS  
 2388 INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

2389

2390 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 2391 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
 2392 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
 2393 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE  
 2394 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
 2395 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
 2396 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
 2397 OF THIS NOTICE.

2398

2399  
2400  
2401  
2402  
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2423  
2424

\_\_\_\_\_  
SIGNATURE OF AGGRIEVED PARTY

\_\_\_\_\_  
PRINTED NAME OF AGGRIEVED PARTY

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

AGREEMENT TO MEDIATE

THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
PRESUIT MEDIATION AND AGREES TO ATTEND A MEDIATION  
CONDUCTED BY THE MEDIATOR LISTED BELOW AS ACCEPTABLE  
TO MEDIATE THIS DISPUTE:

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

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

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

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2425 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
 2426 MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
 2427 AS THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

2428 \_\_\_\_\_  
 2429 \_\_\_\_\_  
 2430 SIGNATURE OF RESPONDING PARTY #1

2431 \_\_\_\_\_  
 2432 TELEPHONE CONTACT INFORMATION

2433 \_\_\_\_\_  
 2434 \_\_\_\_\_  
 2435 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
 2436 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
 2437 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,  
 2438 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
 2439 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

2441 (2) (a) Service of the notice of presuit mediation shall be  
 2442 effected either by personal service, as provided in chapter 48,  
 2443 or by certified mail, return receipt requested, in a letter in  
 2444 substantial conformity with the form provided in subsection (1),  
 2445 with an additional copy being sent by regular first-class mail,  
 2446 to the address of the responding party as it last appears on the  
 2447 books and records of the association or, if not available, then  
 2448 as it last appears in the official records of the county  
 2449 property appraiser where the parcel in dispute is located. The  
 2450 responding party has 20 days after the postmarked date of the  
 2451 mailing of the statutory notice or the date the responding party  
 2452 is served with a copy of the notice to serve a written response



2453 to the aggrieved party. The response shall be served by  
2454 certified mail, return receipt requested, with an additional  
2455 copy being sent by regular first-class mail, to the address  
2456 shown on the statutory notice. The date of the postmark on the  
2457 envelope for the response shall constitute the date that the  
2458 response is served. Once the parties have agreed on a mediator,  
2459 the mediator may schedule or reschedule the mediation for a date  
2460 and time mutually convenient to the parties within 90 days after  
2461 the date of service of the statutory notice. After such 90-day  
2462 period, the mediator may reschedule the mediation only upon the  
2463 mutual written agreement of all the parties.

2464 (b) The parties shall share the costs of presuit mediation  
2465 equally, including the fee charged by the mediator, if any,  
2466 unless the parties agree otherwise, and the mediator may require  
2467 advance payment of his or her reasonable fees and costs. Each  
2468 party shall be responsible for that party's own attorney's fees  
2469 if a party chooses to be represented by an attorney at the  
2470 mediation.

2471 (c) The party responding to the aggrieved party may  
2472 provide a notice of opting out under s. 720.506 and demand  
2473 arbitration or may sign the agreement to mediate included in the  
2474 notice of presuit mediation. A responding party signing the  
2475 agreement to mediate must clearly indicate the name of the  
2476 mediator who is acceptable from the five names provided by the  
2477 aggrieved party and must provide a list of dates and times in  
2478 which the responding party is available to participate in the  
2479 mediation within 90 days after the date the responding party was

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2480 served, either by process server or by certified mail, with the  
2481 statutory notice of presuit mediation.

2482 (d) The mediator who has been selected and agreed to  
2483 mediate must schedule the mediation conference at a mutually  
2484 convenient time and place within that 90-day period; but, if the  
2485 responding party does not provide a list of available dates and  
2486 times, the mediator is authorized to schedule a mediation  
2487 conference without taking the responding party's schedule and  
2488 convenience into consideration. Within 10 days after the  
2489 designation of the mediator, the mediator shall coordinate with  
2490 the parties and notify the parties in writing of the date, time,  
2491 and place of the mediation conference.

2492 (e) The mediation conference must be held on the scheduled  
2493 date and may be rescheduled if a rescheduled date is approved by  
2494 the mediator. However, in no event shall the mediation be held  
2495 later than 90 days after the notice of presuit mediation was  
2496 first served, unless all parties mutually agree in writing  
2497 otherwise. If the presuit mediation is not completed within the  
2498 required time limits, the mediator shall declare an impasse  
2499 unless the mediation date is extended by mutual written  
2500 agreement by all parties and approved by the mediator.

2501 (f) If the responding party fails to respond within 20  
2502 days after the date of service of the statutory notice of  
2503 presuit mediation, fails to agree to at least one of the  
2504 mediators listed by the aggrieved party in the notice, fails to  
2505 pay or prepay to the mediator one-half of the costs of the  
2506 mediator, or fails to appear and participate at the scheduled

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2507 mediation, the aggrieved party shall be authorized to proceed  
2508 with the filing of a lawsuit without further notice.

2509 (g)1. The failure of any party to respond to the statutory  
2510 notice of presuit mediation within 20 days, the failure to agree  
2511 upon a mediator, the failure to provide a listing of dates and  
2512 times in which the responding party is available to participate  
2513 in the mediation within 90 days after the date the responding  
2514 party was served with the statutory notice of presuit mediation,  
2515 the failure to make payment of fees and costs within the time  
2516 established by the mediator, or the failure to appear for a  
2517 scheduled mediation session without the approval of the mediator  
2518 shall in each instance constitute a failure or refusal to  
2519 participate in the mediation process and shall operate as an  
2520 impasse in the presuit mediation by such party, entitling the  
2521 other party to file a lawsuit in court and to seek an award of  
2522 the costs and attorney's fees associated with the mediation.

2523 2. Persons who fail or refuse to participate in the entire  
2524 mediation process may not recover attorney's fees and costs in  
2525 subsequent litigation relating to the same dispute between the  
2526 same parties. If any presuit mediation session cannot be  
2527 scheduled and conducted within 90 days after the offer to  
2528 participate in mediation was filed, through no fault of either  
2529 party, then an impasse shall be deemed to have occurred unless  
2530 the parties mutually agree in writing to extend this deadline.  
2531 In the event of such impasse, each party shall be responsible  
2532 for its own costs and attorney's fees and one-half of any  
2533 mediator fees and filing fees, and either party may file a  
2534 lawsuit in court regarding the dispute.

2535 720.506 Opt-out of presuit mediation.--A party served with  
 2536 a notice of presuit mediation under s. 720.505 may opt out of  
 2537 presuit mediation and demand that the dispute proceed under  
 2538 nonbinding arbitration as follows:

2539 (1) In lieu of a response to the notice of presuit  
 2540 mediation as required under s. 720.505, the responding party may  
 2541 serve upon the aggrieved party, in the same manner as the  
 2542 response to a notice for presuit mediation under s. 720.505, a  
 2543 notice of opting out of mediation and demand that the dispute  
 2544 instead proceed to presuit arbitration under s. 720.507.

2545 (2) The aggrieved party shall be relieved from having to  
 2546 satisfy the requirements of s. 720.504 as a condition precedent  
 2547 to filing the demand for presuit arbitration.

2548 (3) Except as otherwise provided in this part, the choice  
 2549 of which presuit alternative dispute resolution procedure is  
 2550 used shall be at the election of the aggrieved party who first  
 2551 initiated such proceeding after complying with the provisions of  
 2552 s. 720.504.

2553 720.507 Presuit arbitration.--

2554 (1) Disputes between an association and a parcel owner or  
 2555 owners or between parcel owners are subject to a demand for  
 2556 presuit arbitration pursuant to this section before the dispute  
 2557 may be filed in court. A party who elects to use the presuit  
 2558 arbitration procedure under this part shall serve on the  
 2559 responding party a written notice of presuit arbitration in  
 2560 substantially the following form:

2561  
 2562 STATUTORY NOTICE OF PRESUIT ARBITRATION

2563  
 2564 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
 2565 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
 2566 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
 2567 ARBITRATION IN CONNECTION WITH THE FOLLOWING  
 2568 DISPUTE(S) WITH YOU, WHICH BY STATUTE ARE OF A TYPE  
 2569 THAT ARE SUBJECT TO PRESUIT ARBITRATION:  
 2570  
 2571 (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
 2572 ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
 2573 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
 2574 LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING  
 2575 DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
 2576 PARTIES.)  
 2577  
 2578 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
 2579 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
 2580 ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
 2581 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
 2582 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
 2583 ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
 2584 ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
 2585 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
 2586 PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO  
 2587 PARTICIPATE IN THE ARBITRATION PROCESS, A LAWSUIT MAY  
 2588 BE BROUGHT AGAINST YOU IN COURT WITHOUT FURTHER  
 2589 WARNING.  
 2590

2591 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
 2592 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY  
 2593 THE PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
 2594 "ARBITRATION AWARD." PURSUANT TO SECTION 720.507,  
 2595 FLORIDA STATUTES, THE ARBITRATION AWARD SHALL BE FINAL  
 2596 UNLESS A LAWSUIT IS FILED IN A COURT OF COMPETENT  
 2597 JURISDICTION FOR THE JUDICIAL CIRCUIT IN WHICH THE  
 2598 PARCEL(S) GOVERNED BY THE HOMEOWNERS' ASSOCIATION  
 2599 IS/ARE LOCATED WITHIN 30 DAYS AFTER THE DATE OF THE  
 2600 ARBITRATION AWARD.

2601  
 2602 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
 2603 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
 2604 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
 2605 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
 2606 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR  
 2607 TO LITIGATE THESE ISSUES IN COURT AND SHALL BE THE  
 2608 SAME AS A SETTLEMENT AGREEMENT REACHED BETWEEN THE  
 2609 PARTIES UNDER SECTION 720.505, FLORIDA STATUTES. THE  
 2610 FAILURE OF A PARTY TO PARTICIPATE IN THE ARBITRATION  
 2611 PROCESS MAY RESULT IN THE ARBITRATOR ISSUING AN  
 2612 ARBITRATION AWARD BY DEFAULT IN THE ARBITRATION. IF  
 2613 YOU HAVE FAILED OR REFUSED TO PARTICIPATE IN THE  
 2614 ENTIRE ARBITRATION PROCESS, YOU WILL NOT BE ENTITLED  
 2615 TO RECOVER ATTORNEY'S FEES IF YOU PREVAIL IN A  
 2616 SUBSEQUENT COURT PROCEEDING INVOLVING THE SAME  
 2617 DISPUTE.

2618

2619 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE  
 2620 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
 2621 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
 2622 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
 2623 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
 2624 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
 2625 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
 2626 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
 2627 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
 2628 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
 2629 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT  
 2630 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,  
 2631 AND HOURLY RATES, ARE AS FOLLOWS:

2632  
 2633 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
 2634 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.)

2635  
 2636 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
 2637 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL  
 2638 AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.

2639  
 2640 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF  
 2641 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
 2642 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION  
 2643 EQUALLY, INCLUDING THE FEE CHARGED BY THE ARBITRATOR.  
 2644 THE PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN  
 2645 ATTORNEY'S FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY  
 2646 IN CONNECTION WITH THE ARBITRATION. HOWEVER, USE OF AN

2647 ATTORNEY TO REPRESENT YOU FOR THE ARBITRATION IS NOT  
 2648 REQUIRED. THE ARBITRATOR SELECTED MAY REQUIRE THE  
 2649 ADVANCE PAYMENT OF SOME OR ALL OF THE ANTICIPATED  
 2650 FEES. THE AGGRIEVED PARTY HEREBY AGREES TO PAY OR  
 2651 PREPAY ONE-HALF OF THE SELECTED ARBITRATOR'S ESTIMATED  
 2652 FEES AND TO FORWARD THIS AMOUNT OR SUCH OTHER  
 2653 REASONABLE ADVANCE DEPOSITS AS THE ARBITRATOR WHO IS  
 2654 SELECTED REQUIRES FOR THIS PURPOSE. ANY FUNDS  
 2655 DEPOSITED WILL BE RETURNED TO YOU IF THESE FUNDS ARE  
 2656 IN EXCESS OF YOUR SHARE OF THE FEES INCURRED.

2657  
 2658 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND  
 2659 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS  
 2660 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE  
 2661 AGGRIEVED PARTY.

2662  
 2663 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
 2664 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF  
 2665 PRESUIT ARBITRATION WAS PERSONALLY SERVED ON YOU OR  
 2666 THE POSTMARKED DATE THAT THIS NOTICE OF PRESUIT  
 2667 ARBITRATION WAS SENT TO YOU BY CERTIFIED MAIL. YOU  
 2668 MUST ALSO PROVIDE A LIST OF AT LEAST THREE DATES AND  
 2669 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
 2670 ARBITRATION THAT ARE WITHIN 90 DAYS AFTER THE DATE YOU  
 2671 WERE PERSONALLY SERVED OR WITHIN 90 DAYS AFTER THE  
 2672 POSTMARKED DATE OF THE CERTIFIED MAILING OF THIS  
 2673 STATUTORY NOTICE OF PRESUIT ARBITRATION. A COPY OF  
 2674 THIS NOTICE AND YOUR RESPONSE WILL BE PROVIDED BY THE



2675 AGGRIEVED PARTY TO THE ARBITRATOR SELECTED, AND THE  
 2676 ARBITRATOR WILL SCHEDULE A MUTUALLY CONVENIENT TIME  
 2677 AND PLACE FOR THE ARBITRATION CONFERENCE TO BE HELD.  
 2678 IF YOU DO NOT PROVIDE A LIST OF AVAILABLE DATES AND  
 2679 TIMES, THE ARBITRATOR IS AUTHORIZED TO SCHEDULE AN  
 2680 ARBITRATION CONFERENCE WITHOUT TAKING YOUR SCHEDULE  
 2681 AND CONVENIENCE INTO CONSIDERATION. THE ARBITRATION  
 2682 CONFERENCE MUST BE HELD ON THE SCHEDULED DATE, OR ANY  
 2683 RESCHEDULED DATE APPROVED BY THE ARBITRATOR. IN NO  
 2684 EVENT SHALL THE ARBITRATION CONFERENCE BE LATER THAN  
 2685 90 DAYS AFTER NOTICE OF THE PRESUIT ARBITRATION WAS  
 2686 FIRST SERVED, UNLESS ALL PARTIES MUTUALLY AGREE IN  
 2687 WRITING OTHERWISE. IF THE ARBITRATION IS NOT COMPLETED  
 2688 WITHIN THE REQUIRED TIME LIMITS, THE ARBITRATOR SHALL  
 2689 ISSUE AN ARBITRATION AWARD, UNLESS THE HEARING IS  
 2690 EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES  
 2691 AND APPROVED BY THE ARBITRATOR. IN THE EVENT THAT YOU  
 2692 FAIL TO RESPOND WITHIN 20 DAYS AFTER THE DATE YOU WERE  
 2693 SERVED WITH A COPY OF THIS NOTICE, FAIL TO PROVIDE THE  
 2694 ARBITRATOR WITH DATES AND TIMES IN WHICH YOU ARE  
 2695 AVAILABLE FOR THE ARBITRATION CONFERENCE, FAIL TO  
 2696 AGREE TO ONE OF THE ARBITRATORS THAT THE AGGRIEVED  
 2697 PARTY HAS NAMED, FAIL TO PAY OR PREPAY TO THE  
 2698 ARBITRATOR ONE-HALF OF THE COSTS INVOLVED AS REQUIRED,  
 2699 OR FAIL TO APPEAR AND PARTICIPATE AT THE SCHEDULED  
 2700 ARBITRATION CONFERENCE, THE AGGRIEVED PARTY MAY  
 2701 REQUEST THE ARBITRATOR TO ISSUE AN ARBITRATION AWARD.  
 2702 IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY

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2703 SHALL BE ENTITLED TO RECOVER AN AWARD OF REASONABLE  
 2704 ATTORNEY'S FEES AND COSTS, INCLUDING ANY FEES PAID TO  
 2705 THE ARBITRATOR, INCURRED IN OBTAINING AN ARBITRATION  
 2706 AWARD PURSUANT TO SECTION 720.507, FLORIDA STATUTES.

2707  
 2708 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 2709 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
 2710 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,  
 2711 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
 2712 ARBITRATION.

2713  
 2714 \_\_\_\_\_  
 2715 SIGNATURE OF AGGRIEVED PARTY

2716  
 2717 \_\_\_\_\_  
 2718 PRINTED NAME OF AGGRIEVED PARTY

2719  
 2720 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 2721 ACCEPTANCE OF THE AGREEMENT TO ARBITRATE.

2722  
 2723 AGREEMENT TO ARBITRATE

2724  
 2725 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
 2726 PRESUIT ARBITRATION AND AGREES TO ATTEND AN  
 2727 ARBITRATION CONDUCTED BY THE FOLLOWING ARBITRATOR  
 2728 LISTED BELOW AS SOMEONE WHO WOULD BE ACCEPTABLE TO  
 2729 ARBITRATE THIS DISPUTE:

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2731 (IN YOUR RESPONSE, SELECT THE NAME OF ONE ARBITRATOR  
 2732 THAT IS ACCEPTABLE TO YOU FROM THOSE ARBITRATORS  
 2733 LISTED BY THE AGGRIEVED PARTY.)

2734  
 2735 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
 2736 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE  
 2737 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
 2738 AND TIMES:

2739  
 2740 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
 2741 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
 2742 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
 2743 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
 2744 ARBITRATION.)

2745  
 2746 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
 2747 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
 2748 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

2749  
 2750 \_\_\_\_\_  
 2751 SIGNATURE OF RESPONDING PARTY #1

2752 \_\_\_\_\_  
 2753 TELEPHONE CONTACT INFORMATION

2754  
 2755 \_\_\_\_\_  
 2756 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
 2757 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
 2758 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,

2759 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
 2760 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

2761  
 2762 (2) (a) Service of the notice of presuit arbitration shall  
 2763 be effected either by personal service, as provided in chapter  
 2764 48, or by certified mail, return receipt requested, in a letter  
 2765 in substantial conformity with the form provided in subsection  
 2766 (1), with an additional copy being sent by regular first-class  
 2767 mail, to the address of the responding party as it last appears  
 2768 on the books and records of the association or, if not  
 2769 available, the last address as it appears on the official  
 2770 records of the county property appraiser for the county in which  
 2771 the property is situated that is subject to the association  
 2772 documents. The responding party has 20 days after the postmarked  
 2773 date of the certified mailing of the statutory notice of presuit  
 2774 arbitration or the date the responding party is personally  
 2775 served with the statutory notice of presuit arbitration to serve  
 2776 a written response to the aggrieved party. The response shall be  
 2777 served by certified mail, return receipt requested, with an  
 2778 additional copy being sent by regular first-class mail, to the  
 2779 address shown on the statutory notice of presuit arbitration.  
 2780 The postmarked date on the envelope of the response shall  
 2781 constitute the date the response was served.

2782 (b) The parties shall share the costs of presuit  
 2783 arbitration equally, including the fee charged by the  
 2784 arbitrator, if any, unless the parties agree otherwise, and the  
 2785 arbitrator may require advance payment of his or her reasonable  
 2786 fees and costs. Each party shall be responsible for that party's

2787 own attorney's fees if a party chooses to be represented by an  
2788 attorney for the arbitration proceedings.

2789 (c)1. The party responding to the aggrieved party must  
2790 sign the agreement to arbitrate included in the notice of  
2791 presuit arbitration and clearly indicate the name of the  
2792 arbitrator who is acceptable of those arbitrators listed by the  
2793 aggrieved party. The responding party must provide a list of at  
2794 least three dates and times in which the responding party is  
2795 available to participate in the arbitration conference within 90  
2796 days after the date the responding party was served with the  
2797 statutory notice of presuit arbitration.

2798 2. The arbitrator must schedule the arbitration conference  
2799 at a mutually convenient time and place, but if the responding  
2800 party does not provide a list of available dates and times, the  
2801 arbitrator is authorized to schedule an arbitration conference  
2802 without taking the responding party's schedule and convenience  
2803 into consideration. Within 10 days after the designation of the  
2804 arbitrator, the arbitrator shall notify the parties in writing  
2805 of the date, time, and place of the arbitration conference.

2806 3. The arbitration conference must be held on the  
2807 scheduled date and may be rescheduled if approved by the  
2808 arbitrator. However, in no event shall the arbitration hearing  
2809 be later than 90 days after the notice of presuit arbitration  
2810 was first served, unless all parties mutually agree in writing  
2811 otherwise. If the arbitration hearing is not completed within  
2812 the required time limits, the arbitrator may issue an  
2813 arbitration award unless the time for the hearing is extended as  
2814 provided herein.

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2815 4. If the responding party fails to respond within 20 days  
2816 after the date of statutory notice of presuit arbitration, fails  
2817 to agree to at least one of the arbitrators that have been  
2818 listed by the aggrieved party in the presuit notice of  
2819 arbitration, fails to pay or prepay to the arbitrator one-half  
2820 of the costs involved, or fails to appear and participate at the  
2821 scheduled arbitration, the aggrieved party is authorized to  
2822 proceed with a request that the arbitrator issue an arbitration  
2823 award.

2824 (d)1. The failure of any party to respond to the statutory  
2825 notice of presuit arbitration within 20 days, the failure to  
2826 select one of the arbitrators listed by the aggrieved party, the  
2827 failure to provide a listing of dates and times in which the  
2828 responding party is available to participate in the arbitration  
2829 conference within 90 days after the date of the responding party  
2830 being served with the statutory notice of presuit arbitration,  
2831 the failure to make payment of fees and costs as required within  
2832 the time established by the arbitrator, or the failure to appear  
2833 for an arbitration conference without the approval of the  
2834 arbitrator shall entitle the other party to request the  
2835 arbitrator to enter an arbitration award, including an award of  
2836 the reasonable costs and attorney's fees associated with the  
2837 arbitration.

2838 2. Persons who fail or refuse to participate in the entire  
2839 arbitration process may not recover attorney's fees and costs in  
2840 any subsequent litigation proceeding relating to the same  
2841 dispute involving the same parties.

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2842       (3) (a) In an arbitration proceeding, the arbitrator may  
2843 not consider any unsuccessful mediation of the dispute.

2844       (b) An arbitrator in a proceeding initiated pursuant to  
2845 this part may shorten the time for discovery or otherwise limit  
2846 discovery in a manner consistent with the policy goals of this  
2847 part to reduce the time and expense of litigating homeowners'  
2848 association disputes initiated pursuant to this chapter and to  
2849 promote an expeditious alternative dispute resolution procedure  
2850 for parties to such actions.

2851       (4) At the request of any party to the arbitration, the  
2852 arbitrator may issue subpoenas for the attendance of witnesses  
2853 and the production of books, records, documents, and other  
2854 evidence, and any party on whose behalf a subpoena is issued may  
2855 apply to the court for orders compelling such attendance and  
2856 production. Subpoenas shall be served and are enforceable in the  
2857 manner provided by the Florida Rules of Civil Procedure.  
2858 Discovery may, at the discretion of the arbitrator, be permitted  
2859 in the manner provided by the Florida Rules of Civil Procedure.

2860       (5) The final arbitration award shall be sent to the  
2861 parties in writing no later than 30 days after the date of the  
2862 arbitration hearing, absent extraordinary circumstances  
2863 necessitating a later filing the reasons for which shall be  
2864 stated in the final award if filed more than 30 days after the  
2865 date of the final session of the arbitration conference. An  
2866 agreed arbitration award is final in those disputes in which the  
2867 parties have mutually agreed to be bound. An arbitration award  
2868 decided by the arbitrator is final unless a lawsuit seeking a  
2869 trial de novo is filed in a court of competent jurisdiction

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2870 within 30 days after the date of the arbitration award. The  
2871 right to file for a trial de novo entitles the parties to file a  
2872 complaint in the appropriate trial court for a judicial  
2873 resolution of the dispute. The prevailing party in an  
2874 arbitration proceeding shall be awarded the costs of the  
2875 arbitration and reasonable attorney's fees in an amount  
2876 determined by the arbitrator.

2877 (6) The party filing a motion for a trial de novo shall be  
2878 assessed the other party's arbitration costs, court costs, and  
2879 other reasonable costs, including attorney's fees, investigation  
2880 expenses, and expenses for expert or other testimony or evidence  
2881 incurred after the arbitration hearing, if the judgment upon the  
2882 trial de novo is not more favorable than the final arbitration  
2883 award.

2884 720.508 Rules of procedure.--

2885 (1) Presuit mediation and presuit arbitration proceedings  
2886 under this part must be conducted in accordance with the  
2887 applicable Florida Rules of Civil Procedure and rules governing  
2888 mediations and arbitrations under chapter 44, except that this  
2889 part shall be controlling to the extent of any conflict with  
2890 other applicable rules or statutes. The arbitrator may shorten  
2891 any applicable time period and otherwise limit the scope of  
2892 discovery on request of the parties or within the discretion of  
2893 the arbitrator exercised consistent with the purpose and  
2894 objective of reducing the expense and expeditiously concluding  
2895 proceedings under this part.

2896 (2) Presuit mediation proceedings under s. 720.505 are  
2897 privileged and confidential to the same extent as court-ordered



2898 mediation under chapter 44. An arbitrator or judge may not  
 2899 consider any information or evidence arising from the presuit  
 2900 mediation proceeding except in a proceeding to impose sanctions  
 2901 for failure to attend a presuit mediation session or to enforce  
 2902 a mediated settlement agreement.

2903 (3) Persons who are not parties to the dispute may not  
 2904 attend the presuit mediation conference without consent of all  
 2905 parties, with the exception of counsel for the parties and a  
 2906 corporate representative designated by the association. Presuit  
 2907 mediations under this part are not a board meeting for purposes  
 2908 of notice and participation set forth in this chapter.

2909 (4) Attendance at a mediation conference by the board of  
 2910 directors shall not require notice or participation by nonboard  
 2911 members as otherwise required by this chapter for meetings of  
 2912 the board.

2913 (5) Settlement agreements resulting from a mediation or  
 2914 arbitration proceeding do not have precedential value in  
 2915 proceedings involving parties other than those participating in  
 2916 the mediation or arbitration.

2917 (6) Arbitration awards by an arbitrator shall have  
 2918 precedential value in other proceedings involving the same  
 2919 association or with respect to the same parcel owner.

2920 720.509 Mediators and arbitrators; qualifications.--A  
 2921 person is authorized to conduct mediation or arbitration under  
 2922 this part if he or she has been certified as a circuit court  
 2923 civil mediator under the requirements adopted pursuant to s.  
 2924 44.106, is a member in good standing with The Florida Bar, and  
 2925 otherwise meets all other requirements imposed by chapter 44.

2926 720.510 Enforcement of mediation agreement or arbitration  
 2927 award.--

2928 (1) A mediation settlement may be enforced through the  
 2929 county or circuit court, as applicable, and any costs and  
 2930 attorney's fees incurred in the enforcement of a settlement  
 2931 agreement reached at mediation shall be awarded to the  
 2932 prevailing party in any enforcement action.

2933 (2) Any party to an arbitration proceeding may enforce an  
 2934 arbitration award by filing a petition in a court of competent  
 2935 jurisdiction in which the homeowners' association is located.  
 2936 The prevailing party in such proceeding shall be awarded  
 2937 reasonable attorney's fees and costs incurred in such  
 2938 proceeding.

2939 (3) If a complaint is filed seeking a trial de novo, the  
 2940 arbitration award shall be stayed and a petition to enforce the  
 2941 award may not be granted. Such award, however, shall be  
 2942 admissible in the court proceeding seeking a trial de novo.

2943 Section 25. All new residential construction in any deed-  
 2944 restricted community that requires mandatory membership in the  
 2945 association under chapter 718, chapter 719, or chapter 720,  
 2946 Florida Statutes, must comply with the provisions of Pub. L. No.  
 2947 110-140, Title XIV, ss. 1402 to 1406, 15 U.S.C. ss. 8001-8005.

2948 Section 26. This act shall take effect July 1, 2010.