

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; providing that payments from tenants shall
39 not be considered a breach of any lease between the tenant
40 and the unit owner nor serve as cause for eviction or
41 other action for failure to pay rent; limiting the amount
42 of assessments for which a tenant is held responsible;
43 amending s. 718.1265, F.S.; limiting the exercise of
44 specified special powers under a declared state of
45 emergency unless a certain number of units are rendered
46 uninhabitable by the emergency; amending s. 718.301, F.S.;
47 revising conditions under which unit owners other than the
48 developer may elect not less than a majority of the
49 members of the board of administration of an association;
50 amending s. 718.303, F.S.; revising provisions relating to
51 levy of fines; providing for suspension of certain rights
52 of access and voting rights under certain circumstances
53 relating to nonpayment of assessments, fines, or other
54 charges payable to the association; amending s. 718.501,
55 F.S.; providing for jurisdiction of the Division of
56 Florida Condominiums, Timeshares, and Mobile Homes of the

57 | department to investigate complaints concerning failure to
58 | maintain common elements; prohibiting an officer or
59 | director from acting as such for a specified period after
60 | having been found to have committed specified violations;
61 | providing for payment of restitution and costs of
62 | investigation and prosecution in certain circumstances;
63 | amending s. 718.5012, F.S.; providing a responsibility of
64 | the ombudsman to prepare and adopt a "Florida Condominium
65 | Handbook"; requiring the publishing and updating of the
66 | handbook to be done in conjunction with the division;
67 | providing the purpose of the handbook; requiring the
68 | handbook to be published on the ombudsman's Internet
69 | website; creating part VII of ch. 718, F.S., relating to
70 | distressed condominium relief; creating s. 718.701, F.S.;
71 | providing a short title; creating s. 718.702, F.S.;
72 | providing legislative findings and intent; creating s.
73 | 718.703, F.S.; defining the terms "bulk assignee" and
74 | "bulk buyer"; creating s. 718.704, F.S.; providing for the
75 | assignment of developer rights to and the assumption of
76 | developer rights by a bulk assignee; specifying
77 | liabilities of bulk assignees and bulk buyers; providing
78 | exceptions; providing additional responsibilities of bulk
79 | assignees and bulk buyers; authorizing certain entities to
80 | assign developer rights to a bulk assignee; limiting the
81 | number of bulk assignees at any given time; creating s.
82 | 718.705, F.S.; providing for the transfer of control of a
83 | board of administration; providing effects of such
84 | transfer on parcels acquired by a bulk assignee; providing

85 obligations of a bulk assignee upon the transfer of
86 control of a board of administration; requiring that a
87 bulk assignee certify certain information in writing;
88 providing for the resolution of a conflict between
89 specified provisions of state law; providing that the
90 failure of a bulk assignee or bulk buyer to comply with
91 specified provisions of state law results in the loss of
92 certain protections and exemptions; creating s. 718.706,
93 F.S.; requiring that a bulk assignee or bulk buyer file
94 certain information with the division before offering any
95 units for sale or lease in excess of a specified term;
96 requiring that a copy of such information be provided to a
97 prospective purchaser; requiring that certain contracts
98 and disclosure statements contain specified statements;
99 requiring that a bulk assignee or bulk buyer comply with
100 certain disclosure requirements; prohibiting a bulk
101 assignee from taking certain actions on behalf of an
102 association while the bulk assignee is in control of the
103 board of administration of the association and requiring
104 that such bulk assignee comply with certain requirements;
105 requiring that a bulk assignee or bulk buyer comply with
106 certain requirements regarding certain contracts;
107 providing unit owners with specified protections regarding
108 certain contracts; requiring that a bulk buyer comply with
109 certain requirements regarding the transfer of a unit;
110 creating s. 718.707, F.S.; prohibiting a person from being
111 classified as a bulk assignee or bulk buyer unless
112 condominium parcels were acquired before a specified date;

113 providing for the determination of the date of acquisition
114 of a parcel; creating s. 718.708, F.S.; providing that the
115 assignment of developer rights to a bulk assignee or bulk
116 buyer does not release a developer from certain
117 liabilities; preserving certain liabilities for certain
118 parties; amending s. 720.302, F.S.; correcting a cross-
119 reference to conform to changes made by the act;
120 establishing legislative intent; amending s. 720.303,
121 F.S.; revising provisions relating to homeowners'
122 association board meetings, inspection and copying of
123 records, reserve accounts of budgets, and recall of
124 directors; prohibiting a salary or compensation for
125 certain association personnel; providing exceptions;
126 providing requirements for the borrowing of funds or
127 committing to a line of credit by the board; providing
128 requirements relating to transfer fees; amending s.
129 720.304, F.S.; revising requirements with respect to the
130 display of flags; amending s. 720.305, F.S.; authorizing
131 fines assessed against members which exceed a certain
132 amount to become a lien against a parcel; amending s.
133 720.306, F.S.; providing requirements for secret ballots;
134 requiring newly elected members of a board of directors to
135 make certain certifications in writing to the association;
136 providing for disqualification for failure to make such
137 certifications; requiring an association to retain
138 certifications for a specified time; amending s. 720.3085,
139 F.S.; requiring a tenant in a unit in which the regular
140 assessments are delinquent to pay future regular

141 assessments to the association; requiring notice;
142 providing for eviction by the association; specifying
143 rights of the tenant; providing that payments from tenants
144 shall not be considered a breach of any lease between the
145 tenant and the homeowner nor serve as cause for eviction
146 or other action for failure to pay rent; limiting the
147 amount of assessments for which a tenant is held
148 responsible; creating s. 720.3095, F.S.; providing
149 requirements of maintenance and management contracts of a
150 homeowners' association; requiring disclosures; providing
151 a penalty; providing exceptions; creating s. 720.3096,
152 F.S.; limiting contracts entered into by a homeowners'
153 association; providing requirements for such contracts;
154 repealing s. 720.311, F.S., relating to a procedure for
155 dispute resolution in homeowners' associations; amending
156 s. 720.401, F.S.; requiring that the disclosure summary to
157 prospective parcel owners include additional provisions;
158 creating part IV of ch. 720, F.S., relating to dispute
159 resolution; creating s. 720.501, F.S.; providing a short
160 title; creating s. 720.502, F.S.; providing legislative
161 findings; creating s. 720.503, F.S.; specifying
162 applicability of provisions for mediation and arbitration
163 of disputes in homeowners' associations; providing
164 exceptions; providing for injunctive relief; providing for
165 the tolling of applicable statutes of limitations;
166 creating s. 720.504, F.S.; requiring that the notice of
167 dispute be delivered before referral to mediation or
168 arbitration; providing notice requirements; creating s.

169 720.505, F.S.; creating a statutory notice form for
170 referral to mediation; providing delivery requirements;
171 requiring parties to share costs; requiring the selection
172 of a mediator and times to meet; providing penalties for
173 failure to mediate; creating s. 720.506, F.S.; creating an
174 opt-out provision and procedures; creating s. 720.507,
175 F.S.; creating a statutory notice form for referral to
176 arbitration; providing delivery requirements; requiring
177 parties to share costs; requiring the selection of an
178 arbitrator and times to meet; providing penalties for
179 failure to arbitrate; providing subpoena powers and
180 requirements; providing requirements for and repercussions
181 of subsequent judicial resolution of the dispute; creating
182 s. 720.508, F.S.; providing for rules of procedure;
183 providing for confidentiality; providing applicability to
184 other rules of procedure and provisions of law; specifying
185 that arbitration awards have certain precedential value;
186 creating s. 720.509, F.S.; specifying qualifications for
187 mediators and arbitrators; creating s. 720.510, F.S.;
188 providing for enforcement of mediation agreements and
189 arbitration awards; requiring all new residential
190 construction in a deed-restricted community that requires
191 mandatory membership in the association under specified
192 provisions of Florida law to comply with specified
193 provisions of federal law; providing an effective date.

194

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

196

197 Section 1. Paragraph (d) of subsection (1) of section
 198 34.01, Florida Statutes, is amended to read:

199 34.01 Jurisdiction of county court.—

200 (1) County courts shall have original jurisdiction:

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

204 Section 2. Paragraph (b) of subsection (2) of section
 205 468.436, Florida Statutes, is amended, and subsection (6) is
 206 added to that section, to read:

207 468.436 Disciplinary proceedings.—

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

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

211 2. Violation of any lawful order or rule rendered or
 212 adopted by the department or the council.

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

215 4. Obtaining a license or certification or any other
 216 order, ruling, or authorization by means of fraud,
 217 misrepresentation, or concealment of material facts.

218 5. Committing acts of ~~gross~~ misconduct or ~~gross~~ negligence
 219 in connection with the profession.

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

223 (6) Upon the fifth or later finding that a community
 224 association manager is guilty of any of the grounds set forth in

225 subsection (2), or upon the third or later finding that a
 226 community association manager is guilty of a specific ground for
 227 which the disciplinary actions set forth in subsection (2) may
 228 be taken, the department's discretion under subsection (4) shall
 229 not apply and the division shall enter an order permanently
 230 revoking the license.

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

233 718.103 Definitions.—As used in this chapter, the term:

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

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

240 (b) A cooperative association which creates a condominium
 241 by conversion of an existing residential cooperative after
 242 control of the association has been transferred to the unit
 243 owners if, following the conversion, the unit owners will be the
 244 same persons who were unit owners of the cooperative and no
 245 units are offered for sale or lease to the public as part of the
 246 plan of conversion;~~;~~

247 (c) A bulk assignee or bulk buyer as defined in s.
 248 718.703; or

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

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

255 718.111 The association.—

256 (3) POWER TO MANAGE CONDOMINIUM PROPERTY AND TO CONTRACT,
 257 SUE, AND BE SUED.—

258 (a) The association may contract, sue, or be sued with
 259 respect to the exercise or nonexercise of its powers. For these
 260 purposes, the powers of the association include, but are not
 261 limited to, the maintenance, management, and operation of the
 262 condominium property.

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

275 (c) If the association has the authority to maintain a
 276 class action, the association may be joined in an action as
 277 representative of that class with reference to litigation and
 278 disputes involving the matters for which the association could
 279 bring a class action. Nothing herein limits any statutory or
 280 common-law right of any individual unit owner or class of unit

281 owners to bring any action without participation by the
 282 association which may otherwise be available.

283 (d) The borrowing of funds or committing to a line of
 284 credit by the board of administration shall be considered a
 285 special assessment, and any meeting of the board of
 286 administration to discuss such matters must be noticed as
 287 provided in s. 718.112(2)(c). The board may not borrow funds or
 288 enter into a line of credit for any purpose unless the specific
 289 use of the funds from the loan or line of credit is set forth in
 290 the notice of meeting with the same specificity as required for
 291 a special assessment or unless the borrowing or line of credit
 292 has received the prior approval of at least two-thirds of the
 293 voting interests of the association.

294 (5) RIGHT OF ACCESS TO UNITS.—The association has the
 295 irrevocable right of access to each unit during reasonable
 296 hours, when necessary for the maintenance, repair, or
 297 replacement of any common elements or of any portion of a unit
 298 to be maintained by the association pursuant to the declaration
 299 or as necessary to prevent damage to the common elements or to a
 300 unit or units. Except in cases of emergency, the association
 301 must give the unit owner advance written notice of not less than
 302 24 hours of its intent to access the unit and such access must
 303 be by two persons, one of whom must be a member of the board of
 304 administration or a manager or employee of the association and
 305 one of whom must be an authorized representative of the
 306 association. The identity of the authorized representative
 307 seeking access to the unit shall be provided to the unit owner
 308 prior to entering the unit.

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

311 718.112 Bylaws.—

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

315 (b) Quorum; voting requirements; proxies.—

316 1. Unless a lower number is provided in the bylaws, the
 317 percentage of voting interests required to constitute a quorum
 318 at a meeting of the members shall be a majority of the voting
 319 interests. Unless otherwise provided in this chapter or in the
 320 declaration, articles of incorporation, or bylaws, and except as
 321 provided in sub-subparagraph ~~subparagraph~~ (d)3.a., decisions
 322 shall be made by owners of a majority of the voting interests
 323 represented at a meeting at which a quorum is present.

324 2. Except as specifically otherwise provided herein, after
 325 January 1, 1992, unit owners may not vote by general proxy, but
 326 may vote by limited proxies substantially conforming to a
 327 limited proxy form adopted by the division. No voting interest
 328 or consent right allocated to a unit owned by the association
 329 shall be exercised or considered for any purpose, whether for a
 330 quorum, an election, or otherwise. Limited proxies and general
 331 proxies may be used to establish a quorum. Limited proxies shall
 332 be used for votes taken to waive or reduce reserves in
 333 accordance with subparagraph (f)2.; for votes taken to waive the
 334 financial reporting requirements of s. 718.111(13); for votes
 335 taken to amend the declaration pursuant to s. 718.110; for votes
 336 taken to amend the articles of incorporation or bylaws pursuant

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337 to this section; and for any other matter for which this chapter
338 requires or permits a vote of the unit owners. Except as
339 provided in paragraph (d), after January 1, 1992, no proxy,
340 limited or general, shall be used in the election of board
341 members. General proxies may be used for other matters for which
342 limited proxies are not required, and may also be used in voting
343 for nonsubstantive changes to items for which a limited proxy is
344 required and given. Notwithstanding the provisions of this
345 subparagraph, unit owners may vote in person at unit owner
346 meetings. Nothing contained herein shall limit the use of
347 general proxies or require the use of limited proxies for any
348 agenda item or election at any meeting of a timeshare
349 condominium association.

350 3. Any proxy given shall be effective only for the
351 specific meeting for which originally given and any lawfully
352 adjourned meetings thereof. In no event shall any proxy be valid
353 for a period longer than 90 days after the date of the first
354 meeting for which it was given. Every proxy is revocable at any
355 time at the pleasure of the unit owner executing it.

356 4. A member of the board of administration or a committee
357 may submit in writing his or her agreement or disagreement with
358 any action taken at a meeting that the member did not attend.
359 This agreement or disagreement may not be used as a vote for or
360 against the action taken and may not be used for the purposes of
361 creating a quorum.

362 5. When any of the board or committee members meet by
363 telephone conference, those board or committee members attending
364 by telephone conference may be counted toward obtaining a quorum

365 and may vote by telephone. A telephone speaker must be used so
366 that the conversation of those board or committee members
367 attending by telephone may be heard by the board or committee
368 members attending in person as well as by any unit owners
369 present at a meeting.

370 (c) Board of administration meetings.—Meetings of the
371 board of administration at which a quorum of the members is
372 present shall be open to all unit owners. Any unit owner may
373 tape record or videotape meetings of the board of
374 administration. The right to attend such meetings includes the
375 right to speak at such meetings with reference to all designated
376 agenda items. The division shall adopt reasonable rules
377 governing the tape recording and videotaping of the meeting. The
378 association may adopt written reasonable rules governing the
379 frequency, duration, and manner of unit owner statements.
380 Adequate notice of all meetings, which notice shall specifically
381 incorporate an identification of agenda items, shall be posted
382 conspicuously on the condominium property at least 48 continuous
383 hours preceding the meeting except in an emergency. If 20
384 percent of the voting interests petition the board to address an
385 item of business, the board shall at its next regular board
386 meeting or at a special meeting of the board, but not later than
387 60 days after the receipt of the petition, place the item on the
388 agenda. Any item not included on the notice may be taken up on
389 an emergency basis by at least a majority plus one of the
390 members of the board. Such emergency action shall be noticed and
391 ratified at the next regular meeting of the board. However,
392 written notice of any meeting at which nonemergency special

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393 assessments, or at which amendment to rules regarding unit use,
394 will be considered shall be mailed, delivered, or electronically
395 transmitted to the unit owners and posted conspicuously on the
396 condominium property not less than 14 days prior to the meeting.
397 Evidence of compliance with this 14-day notice shall be made by
398 an affidavit executed by the person providing the notice and
399 filed among the official records of the association. Upon notice
400 to the unit owners, the board shall by duly adopted rule
401 designate a specific location on the condominium property or
402 association property upon which all notices of board meetings
403 shall be posted. If there is no condominium property or
404 association property upon which notices can be posted, notices
405 of board meetings shall be mailed, delivered, or electronically
406 transmitted at least 14 days before the meeting to the owner of
407 each unit. In lieu of or in addition to the physical posting of
408 notice of any meeting of the board of administration on the
409 condominium property, the association may, by reasonable rule,
410 adopt a procedure for conspicuously posting and repeatedly
411 broadcasting the notice and the agenda on a closed-circuit cable
412 television system serving the condominium association. However,
413 if broadcast notice is used in lieu of a notice posted
414 physically on the condominium property, the notice and agenda
415 must be broadcast at least four times every broadcast hour of
416 each day that a posted notice is otherwise required under this
417 section. When broadcast notice is provided, the notice and
418 agenda must be broadcast in a manner and for a sufficient
419 continuous length of time so as to allow an average reader to
420 observe the notice and read and comprehend the entire content of

421 the notice and the agenda. Notice of any meeting in which
422 regular or special assessments against unit owners are to be
423 considered for any reason shall specifically state that
424 assessments will be considered and the nature of, the actual
425 ~~estimated~~ cost of, and a description of the purposes for such
426 assessments. Meetings of a committee to take final action on
427 behalf of the board or make recommendations to the board
428 regarding the association budget are subject to the provisions
429 of this paragraph. Meetings of a committee that does not take
430 final action on behalf of the board or make recommendations to
431 the board regarding the association budget are subject to the
432 provisions of this section, unless those meetings are exempted
433 from this section by the bylaws of the association.
434 Notwithstanding any other law, the requirement that board
435 meetings and committee meetings be open to the unit owners is
436 inapplicable to meetings between the board or a committee and
437 the association's attorney, with respect to proposed or pending
438 litigation, when the meeting is held for the purpose of seeking
439 or rendering legal advice.

440 (d) Unit owner meetings.—

441 1. There shall be an annual meeting of the unit owners
442 held at the location provided in the association bylaws and, if
443 the bylaws are silent as to the location, the meeting shall be
444 held within 45 miles of the condominium property. However, such
445 distance requirement does not apply to an association governing
446 a timeshare condominium. Unless the bylaws provide otherwise, a
447 vacancy on the board caused by the expiration of a director's
448 term shall be filled by electing a new board member, and the

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449 election shall be by secret ballot; however, if the number of
450 vacancies equals ~~or exceeds~~ the number of candidates, no
451 election is required. Except in an association governing a
452 timeshare condominium, the terms of all members of the board
453 shall expire at the annual meeting and such board members may
454 stand for reelection unless otherwise permitted by the bylaws.
455 In the event that the bylaws permit staggered terms of no more
456 than 2 years and upon approval of a majority of the total voting
457 interests, the association board members may serve 2-year
458 staggered terms. If the number ~~no person is interested in or~~
459 ~~demonstrates an intention to run for the position of a board~~
460 members ~~member~~ whose terms have ~~term has~~ expired according to
461 the provisions of this subparagraph exceeds the number of
462 eligible association members showing interest in or
463 demonstrating an intention to run for the vacant positions, each
464 ~~such~~ board member whose term has expired shall become eligible
465 for reappointment ~~be automatically reappointed~~ to the board of
466 administration and need not stand for reelection. In a
467 condominium association of more than 10 units, or in a
468 condominium association that does not include timeshare units,
469 coowners of a unit may not serve as members of the board of
470 directors at the same time unless they own more than one unit
471 and are not co-occupants of a unit or unless there is an
472 insufficient number of eligible association members showing
473 interest in or demonstrating an intention to run for the vacant
474 positions on the board. Any unit owner desiring to be a
475 candidate for board membership must ~~shall~~ comply with sub-
476 subparagraph ~~subparagraph~~ 3.a. A person who has been suspended

477 or removed by the division under this chapter, or who is
478 delinquent in the payment of any fee, fine, or special or
479 regular assessment as provided in paragraph (n), is not eligible
480 for board membership. A person who has been convicted of any
481 felony in this state or in a United States District or
482 Territorial Court, or who has been convicted of any offense in
483 another jurisdiction that would be considered a felony if
484 committed in this state, is not eligible for board membership
485 unless such felon's civil rights have been restored for a period
486 of no less than 5 years as of the date on which such person
487 seeks election to the board. The validity of an action by the
488 board is not affected if it is later determined that a member of
489 the board is ineligible for board membership due to having been
490 convicted of a felony.

491 2. The bylaws shall provide the method of calling meetings
492 of unit owners, including annual meetings. Written notice, which
493 notice must include an agenda, shall be mailed, hand delivered,
494 or electronically transmitted to each unit owner at least 14
495 days prior to the annual meeting and shall be posted in a
496 conspicuous place on the condominium property at least 14
497 continuous days preceding the annual meeting. Upon notice to the
498 unit owners, the board shall by duly adopted rule designate a
499 specific location on the condominium property or association
500 property upon which all notices of unit owner meetings shall be
501 posted; however, if there is no condominium property or
502 association property upon which notices can be posted, this
503 requirement does not apply. In lieu of or in addition to the
504 physical posting of notice of any meeting of the unit owners on

505 the condominium property, the association may, by reasonable
506 rule, adopt a procedure for conspicuously posting and repeatedly
507 broadcasting the notice and the agenda on a closed-circuit cable
508 television system serving the condominium association. However,
509 if broadcast notice is used in lieu of a notice posted
510 physically on the condominium property, the notice and agenda
511 must be broadcast at least four times every broadcast hour of
512 each day that a posted notice is otherwise required under this
513 section. When broadcast notice is provided, the notice and
514 agenda must be broadcast in a manner and for a sufficient
515 continuous length of time so as to allow an average reader to
516 observe the notice and read and comprehend the entire content of
517 the notice and the agenda. Unless a unit owner waives in writing
518 the right to receive notice of the annual meeting, such notice
519 shall be hand delivered, mailed, or electronically transmitted
520 to each unit owner. Notice for meetings and notice for all other
521 purposes shall be mailed to each unit owner at the address last
522 furnished to the association by the unit owner, or hand
523 delivered to each unit owner. However, if a unit is owned by
524 more than one person, the association shall provide notice, for
525 meetings and all other purposes, to that one address which the
526 developer initially identifies for that purpose and thereafter
527 as one or more of the owners of the unit shall so advise the
528 association in writing, or if no address is given or the owners
529 of the unit do not agree, to the address provided on the deed of
530 record. An officer of the association, or the manager or other
531 person providing notice of the association meeting, shall
532 provide an affidavit or United States Postal Service certificate

533 of mailing, to be included in the official records of the
534 association affirming that the notice was mailed or hand
535 delivered, in accordance with this provision.

536 3.a. The members of the board shall be elected by written
537 ballot or voting machine. Proxies shall in no event be used in
538 electing the board, either in general elections or elections to
539 fill vacancies caused by recall, resignation, or otherwise,
540 unless otherwise provided in this chapter. Not less than 60 days
541 before a scheduled election, the association shall mail,
542 deliver, or electronically transmit, whether by separate
543 association mailing or included in another association mailing,
544 delivery, or transmission, including regularly published
545 newsletters, to each unit owner entitled to a vote, a first
546 notice of the date of the election ~~along with a certification~~
547 ~~form provided by the division attesting that he or she has read~~
548 ~~and understands, to the best of his or her ability, the~~
549 ~~governing documents of the association and the provisions of~~
550 ~~this chapter and any applicable rules.~~ Any unit owner or other
551 eligible person desiring to be a candidate for the board must
552 give written notice of his or her intent to be a candidate to
553 the association not less than 40 days before a scheduled
554 election. Together with the written notice and agenda as set
555 forth in subparagraph 2., the association shall mail, deliver,
556 or electronically transmit a second notice of the election to
557 all unit owners entitled to vote therein, together with a ballot
558 which shall list all candidates. Upon request of a candidate,
559 ~~the association shall include~~ an information sheet, no larger
560 than 8 1/2 inches by 11 inches, which must be furnished by the

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561 candidate not less than 35 days before the election, shall ~~along~~
 562 ~~with the signed certification form provided for in this~~
 563 ~~subparagraph,~~ to be included with the mailing, delivery, or
 564 transmission of the ballot, with the costs of mailing, delivery,
 565 or electronic transmission and copying to be borne by the
 566 association. The association is not liable for the contents of
 567 the information sheets prepared by the candidates. In order to
 568 reduce costs, the association may print or duplicate the
 569 information sheets on both sides of the paper. The division
 570 shall by rule establish voting procedures consistent with the
 571 provisions contained herein, including rules establishing
 572 procedures for giving notice by electronic transmission and
 573 rules providing for the secrecy of ballots. Elections shall be
 574 decided by a plurality of those ballots cast. There shall be no
 575 quorum requirement; however, at least 20 percent of the eligible
 576 voters must cast a ballot in order to have a valid election of
 577 members of the board. No unit owner shall permit any other
 578 person to vote his or her ballot, and any such ballots
 579 improperly cast shall be deemed invalid, provided any unit owner
 580 who violates this provision may be fined by the association in
 581 accordance with s. 718.303. A unit owner who needs assistance in
 582 casting the ballot for the reasons stated in s. 101.051 may
 583 obtain assistance in casting the ballot. The regular election
 584 shall occur on the date of the annual meeting. The provisions of
 585 this sub-subparagraph ~~subparagraph~~ shall not apply to timeshare
 586 condominium associations. Notwithstanding the provisions of this
 587 sub-subparagraph ~~subparagraph~~, an election is not required
 588 unless more candidates file notices of intent to run or are

589 | nominated than board vacancies exist.

590 | b. Within 90 days after being elected to the board, each
591 | newly elected director shall certify in writing to the secretary
592 | of the association that he or she has read the association's
593 | declarations of covenants and restrictions, articles of
594 | incorporation, bylaws, and current written policies; that he or
595 | she will work to uphold such documents and policies to the best
596 | of his or her ability; and that he or she will faithfully
597 | discharge his or her fiduciary responsibility to the
598 | association's members. In lieu of this written certification,
599 | the newly elected director may submit a certificate of
600 | satisfactory completion of the educational curriculum
601 | administered by a division-approved condominium education
602 | provider. Failure to timely file the written certification or
603 | educational certificate automatically disqualifies the director
604 | from service on the board. The secretary shall cause the
605 | association to retain a director's written certification or
606 | educational certificate for inspection by the members for 5
607 | years after a director's election. Failure to have such written
608 | certification or educational certificate on file does not affect
609 | the validity of any appropriate action.

610 | 4. Any approval by unit owners called for by this chapter
611 | or the applicable declaration or bylaws, including, but not
612 | limited to, the approval requirement in s. 718.111(8), shall be
613 | made at a duly noticed meeting of unit owners and shall be
614 | subject to all requirements of this chapter or the applicable
615 | condominium documents relating to unit owner decisionmaking,
616 | except that unit owners may take action by written agreement,

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617 without meetings, on matters for which action by written
618 agreement without meetings is expressly allowed by the
619 applicable bylaws or declaration or any statute that provides
620 for such action.

621 5. Unit owners may waive notice of specific meetings if
622 allowed by the applicable bylaws or declaration or any statute.
623 If authorized by the bylaws, notice of meetings of the board of
624 administration, unit owner meetings, except unit owner meetings
625 called to recall board members under paragraph (j), and
626 committee meetings may be given by electronic transmission to
627 unit owners who consent to receive notice by electronic
628 transmission.

629 6. Unit owners shall have the right to participate in
630 meetings of unit owners with reference to all designated agenda
631 items. However, the association may adopt reasonable rules
632 governing the frequency, duration, and manner of unit owner
633 participation.

634 7. Any unit owner may tape record or videotape a meeting
635 of the unit owners subject to reasonable rules adopted by the
636 division.

637 8. Unless otherwise provided in the bylaws, any vacancy
638 occurring on the board before the expiration of a term may be
639 filled by the affirmative vote of the majority of the remaining
640 directors, even if the remaining directors constitute less than
641 a quorum, or by the sole remaining director. In the alternative,
642 a board may hold an election to fill the vacancy, in which case
643 the election procedures must conform to the requirements of sub-
644 subparagraph ~~subparagraph~~ 3.a. unless the association governs 10

645 units or fewer ~~less~~ and has opted out of the statutory election
 646 process, in which case the bylaws of the association control.
 647 Unless otherwise provided in the bylaws, a board member
 648 appointed or elected under this section shall fill the vacancy
 649 for the unexpired term of the seat being filled. Filling
 650 vacancies created by recall is governed by paragraph (j) and
 651 rules adopted by the division.

652
 653 Notwithstanding subparagraph ~~subparagraphs~~ (b)2. and sub-
 654 subparagraph (d)3.a., an association of 10 or fewer units may,
 655 by the affirmative vote of a majority of the total voting
 656 interests, provide for different voting and election procedures
 657 in its bylaws, which vote may be by a proxy specifically
 658 delineating the different voting and election procedures. The
 659 different voting and election procedures may provide for
 660 elections to be conducted by limited or general proxy.

661 (h) Amendment of bylaws.—

662 1. The method by which the bylaws may be amended
 663 consistent with the provisions of this chapter shall be stated.
 664 If the bylaws fail to provide a method of amendment, the bylaws
 665 may be amended if the amendment is approved by the owners of not
 666 less than two-thirds of the voting interests.

667 2. No bylaw shall be revised or amended by reference to
 668 its title or number only. Proposals to amend existing bylaws
 669 shall contain the full text of the bylaws to be amended; new
 670 words shall be inserted in the text underlined, and words to be
 671 deleted shall be lined through with hyphens. However, if the
 672 proposed change is so extensive that this procedure would

673 hinder, rather than assist, the understanding of the proposed
 674 amendment, it is not necessary to use underlining and hyphens as
 675 indicators of words added or deleted, but, instead, a notation
 676 must be inserted immediately preceding the proposed amendment in
 677 substantially the following language: "Substantial rewording of
 678 bylaw. See bylaw _____ for present text."

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

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

685 Section 6. Paragraph (d) of subsection (1) of section
 686 718.115, Florida Statutes, is amended to read:

687 718.115 Common expenses and common surplus.—

688 (1)

689 (d) If so provided in the declaration, the cost of
 690 communications services as defined in chapter 202, information
 691 services, or Internet services ~~a master antenna television~~
 692 ~~system or duly franchised cable television service~~ obtained
 693 pursuant to a bulk contract shall be deemed a common expense. If
 694 the declaration does not provide for the cost of communications
 695 services as defined in chapter 202, information services, or
 696 Internet services ~~a master antenna television system or duly~~
 697 ~~franchised cable television service~~ obtained under a bulk
 698 contract as a common expense, the board may enter into such a
 699 contract, and the cost of the service will be a common expense
 700 but allocated on a per-unit basis rather than a percentage basis

701 | if the declaration provides for other than an equal sharing of
 702 | common expenses, and any contract entered into before July 1,
 703 | 1998, in which the cost of the service is not equally divided
 704 | among all unit owners, may be changed by vote of a majority of
 705 | the voting interests present at a regular or special meeting of
 706 | the association, to allocate the cost equally among all units.
 707 | The contract shall be for a term of not less than 2 years.

708 | 1. Any contract made by the board after the effective date
 709 | hereof for communications services as defined in chapter 202,
 710 | information services, or Internet services ~~a community antenna~~
 711 | ~~system or duly franchised cable television service~~ may be
 712 | canceled by a majority of the voting interests present at the
 713 | next regular or special meeting of the association. Any member
 714 | may make a motion to cancel the ~~said~~ contract, but if no motion
 715 | is made or if such motion fails to obtain the required majority
 716 | at the next regular or special meeting, whichever occurs ~~is~~
 717 | sooner, following the making of the contract, ~~then~~ such contract
 718 | shall be deemed ratified for the term therein expressed.

719 | 2. Any such contract shall provide, and shall be deemed to
 720 | provide if not expressly set forth, that any hearing-impaired or
 721 | legally blind unit owner who does not occupy the unit with a
 722 | non-hearing-impaired or sighted person, or any unit owner
 723 | receiving supplemental security income under Title XVI of the
 724 | Social Security Act or food stamps as administered by the
 725 | Department of Children and Family Services pursuant to s.
 726 | 414.31, may discontinue the cable or video service without
 727 | incurring disconnect fees, penalties, or subsequent service
 728 | charges, and, as to such units, the owners shall not be required

729 to pay any common expenses charge related to such service. If
 730 fewer ~~less~~ than all members of an association share the expenses
 731 of cable or video service television, the expense shall be
 732 shared equally by all participating unit owners. The association
 733 may use the provisions of s. 718.116 to enforce payment of the
 734 shares of such costs by the unit owners receiving cable or video
 735 service television.

736 Section 7. Subsection (11) is added to section 718.116,
 737 Florida Statutes, to read:

738 718.116 Assessments; liability; lien and priority;
 739 interest; collection.-

740 (11) During the pendency of any foreclosure action of a
 741 condominium unit, if the unit is occupied by a tenant and the
 742 unit owner is delinquent in the payment of regular assessments,
 743 the association may demand that the tenant pay to the
 744 association the future regular assessments related to the
 745 condominium unit. The demand shall be continuing in nature, and
 746 upon demand the tenant shall continue to pay the regular
 747 assessments to the association until the association releases
 748 the tenant or the tenant discontinues tenancy in the unit. The
 749 association shall mail written notice to the unit owner of the
 750 association's demand that the tenant pay regular assessments to
 751 the association. The tenant shall not be liable for increases in
 752 the amount of the regular assessment due unless the tenant was
 753 reasonably notified of the increase prior to the day that the
 754 rent is due. The tenant shall be given a credit against rents
 755 due to the unit owner in the amount of assessments paid to the
 756 association. The association shall, upon request, provide the

757 tenant with written receipts for payments made. The association
 758 may issue notices under s. 83.56 and may sue for eviction under
 759 ss. 83.59-83.625 as if the association were a landlord under
 760 part II of chapter 83 should the tenant fail to pay an
 761 assessment. However, the association shall not otherwise be
 762 considered a landlord under chapter 83 and shall specifically
 763 not have any duty under s. 83.51. The tenant shall not, by
 764 virtue of payment of assessments, have any of the rights of a
 765 unit owner to vote in any election or to examine the books and
 766 records of the association. A court may supersede the effect of
 767 this subsection by appointing a receiver. Payments made by a
 768 tenant pursuant to this subsection in lieu of or as a credit
 769 against rent shall not be considered a breach of any lease
 770 between the tenant and the unit owner nor serve as cause for
 771 eviction or other action for failure to pay rent. Under no
 772 circumstances shall the amount of assessments for which a tenant
 773 is held responsible under this subsection exceed the amount owed
 774 in rent to the unit owner.

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

777 718.1265 Association emergency powers.—

778 (2) The special powers authorized under subsection (1)
 779 shall be limited to that time reasonably necessary to protect
 780 the health, safety, and welfare of the association and the unit
 781 owners and the unit owners' family members, tenants, guests,
 782 agents, or invitees and shall be reasonably necessary to
 783 mitigate further damage and make emergency repairs.

784 Additionally, unless 20 percent or more of the units are made

785 uninhabitable by the emergency, the special powers authorized
786 under subsection (1) may only be exercised during the term of
787 the Governor's executive order or proclamation declaring the
788 state of emergency in the locale in which the condominium is
789 located.

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

792 718.301 Transfer of association control; claims of defect
793 by association.—

794 (1) When unit owners other than the developer own 15
795 percent or more of the units in a condominium that will be
796 operated ultimately by an association, the unit owners other
797 than the developer shall be entitled to elect no less than one-
798 third of the members of the board of administration of the
799 association. Unit owners other than the developer are entitled
800 to elect not less than a majority of the members of the board of
801 administration of an association:

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

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

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

812 (d) When some of the units have been conveyed to

813 purchasers and none of the others are being constructed or
 814 offered for sale by the developer in the ordinary course of
 815 business;

816 (e) When the developer files a petition seeking protection
 817 in bankruptcy;

818 (f) When a receiver for the developer is appointed by a
 819 circuit court and is not discharged within 30 days after such
 820 appointment, unless the court determines within 30 days after
 821 appointment of the receiver that transfer of control would be
 822 detrimental to the association or its members; or

823 (g) Seven years after recordation of the declaration of
 824 condominium; or, in the case of an association which may
 825 ultimately operate more than one condominium, 7 years after
 826 recordation of the declaration for the first condominium it
 827 operates; or, in the case of an association operating a phase
 828 condominium created pursuant to s. 718.403, 7 years after
 829 recordation of the declaration creating the initial phase,
 830
 831 whichever occurs first. The developer is entitled to elect at
 832 least one member of the board of administration of an
 833 association as long as the developer holds for sale in the
 834 ordinary course of business at least 5 percent, in condominiums
 835 with fewer than 500 units, and 2 percent, in condominiums with
 836 more than 500 units, of the units in a condominium operated by
 837 the association. Following the time the developer relinquishes
 838 control of the association, the developer may exercise the right
 839 to vote any developer-owned units in the same manner as any
 840 other unit owner except for purposes of reacquiring control of

841 the association or selecting the majority members of the board
 842 of administration.

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

846 718.303 Obligations of owners; waiver; suspension of
 847 access or voting rights or levy of fine against unit by
 848 association.-

849 (3) If a unit owner is delinquent for more than 90 days in
 850 the payment of regular or special assessments or the declaration
 851 or bylaws so provide, the association may suspend, for a
 852 reasonable time, the right of a unit owner or a unit's occupant,
 853 licensee, or invitee to use common elements, common facilities,
 854 or any other association property. This subsection does not
 855 apply to limited common elements intended to be used only by
 856 that unit, common elements that must be used to access the unit,
 857 utility services provided to the unit, parking spaces, or
 858 elevators. The association may also levy reasonable fines
 859 ~~against a unit~~ for the failure of the owner of the unit, or its
 860 occupant, licensee, or invitee, to comply with any provision of
 861 the declaration, the association bylaws, or reasonable rules of
 862 the association. No fine will become a lien against a unit. A ~~No~~
 863 fine may not exceed \$100 per violation. However, a fine may be
 864 levied on the basis of each day of a continuing violation, with
 865 a single notice and opportunity for hearing, provided that no
 866 such fine shall in the aggregate exceed \$1,000. A ~~No~~ fine may
 867 not be levied and a suspension may not be imposed unless the
 868 association first gives ~~except after giving~~ reasonable notice

869 and opportunity for a hearing to the unit owner and, if
 870 applicable, its occupant, licensee, or invitee. The hearing must
 871 be held before a committee of other unit owners who are neither
 872 board members nor persons residing in a board member's
 873 household. If the committee does not agree with the fine or
 874 suspension, the fine or suspension may not be levied or imposed.
 875 ~~The provisions of this subsection do not apply to unoccupied~~
 876 ~~units.~~

877 (4) The notice and hearing requirements of subsection (3)
 878 do not apply to the imposition of suspensions or fines against a
 879 unit owner or a unit's occupant, licensee, or invitee because of
 880 the failure to pay any amounts due the association. If such a
 881 fine or suspension is imposed, the association must levy the
 882 fine or impose a reasonable suspension at a properly noticed
 883 board meeting, and after the imposition of such fine or
 884 suspension, the association must notify the unit owner and, if
 885 applicable, the unit's occupant, licensee, or invitee by mail or
 886 hand delivery.

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

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

893 718.501 Authority, responsibility, and duties of Division
 894 of Florida Condominiums, Timeshares, and Mobile Homes.—

895 (1) The Division of Florida Condominiums, Timeshares, and
 896 Mobile Homes of the Department of Business and Professional

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897 Regulation, referred to as the "division" in this part, has the
898 power to enforce and ensure compliance with the provisions of
899 this chapter and rules relating to the development,
900 construction, sale, lease, ownership, operation, and management
901 of residential condominium units. In performing its duties, the
902 division has complete jurisdiction to investigate complaints and
903 enforce compliance with the provisions of this chapter with
904 respect to associations that are still under developer control
905 and complaints against developers involving improper turnover or
906 failure to turnover, pursuant to s. 718.301. However, after
907 turnover has occurred, the division shall only have jurisdiction
908 to investigate complaints related to financial issues, failure
909 to maintain common elements, elections, and unit owner access to
910 association records pursuant to s. 718.111(12).

911 (a)1. The division may make necessary public or private
912 investigations within or outside this state to determine whether
913 any person has violated this chapter or any rule or order
914 hereunder, to aid in the enforcement of this chapter, or to aid
915 in the adoption of rules or forms hereunder.

916 2. The division may submit any official written report,
917 worksheet, or other related paper, or a duly certified copy
918 thereof, compiled, prepared, drafted, or otherwise made by and
919 duly authenticated by a financial examiner or analyst to be
920 admitted as competent evidence in any hearing in which the
921 financial examiner or analyst is available for cross-examination
922 and attests under oath that such documents were prepared as a
923 result of an examination or inspection conducted pursuant to
924 this chapter.

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925 (b) The division may require or permit any person to file
926 a statement in writing, under oath or otherwise, as the division
927 determines, as to the facts and circumstances concerning a
928 matter to be investigated.

929 (c) For the purpose of any investigation under this
930 chapter, the division director or any officer or employee
931 designated by the division director may administer oaths or
932 affirmations, subpoena witnesses and compel their attendance,
933 take evidence, and require the production of any matter which is
934 relevant to the investigation, including the existence,
935 description, nature, custody, condition, and location of any
936 books, documents, or other tangible things and the identity and
937 location of persons having knowledge of relevant facts or any
938 other matter reasonably calculated to lead to the discovery of
939 material evidence. Upon the failure by a person to obey a
940 subpoena or to answer questions propounded by the investigating
941 officer and upon reasonable notice to all persons affected
942 thereby, the division may apply to the circuit court for an
943 order compelling compliance.

944 (d) Notwithstanding any remedies available to unit owners
945 and associations, if the division has reasonable cause to
946 believe that a violation of any provision of this chapter or
947 related rule has occurred, the division may institute
948 enforcement proceedings in its own name against any developer,
949 association, officer, or member of the board of administration,
950 or its assignees or agents, as follows:

951 1. The division may permit a person whose conduct or
952 actions may be under investigation to waive formal proceedings

953 and enter into a consent proceeding whereby orders, rules, or
954 letters of censure or warning, whether formal or informal, may
955 be entered against the person.

956 2. The division may issue an order requiring the
957 developer, association, developer-designated officer, or
958 developer-designated member of the board of administration,
959 developer-designated assignees or agents, community association
960 manager, or community association management firm to cease and
961 desist from the unlawful practice and take such affirmative
962 action as in the judgment of the division will carry out the
963 purposes of this chapter. If the division finds that a
964 developer, association, officer, or member of the board of
965 administration, or its assignees or agents, is violating or is
966 about to violate any provision of this chapter, any rule adopted
967 or order issued by the division, or any written agreement
968 entered into with the division, and presents an immediate danger
969 to the public requiring an immediate final order, it may issue
970 an emergency cease and desist order reciting with particularity
971 the facts underlying such findings. The emergency cease and
972 desist order is effective for 90 days. If the division begins
973 nonemergency cease and desist proceedings, the emergency cease
974 and desist order remains effective until the conclusion of the
975 proceedings under ss. 120.569 and 120.57.

976 3. If a developer fails to pay any restitution determined
977 by the division to be owed, plus any accrued interest at the
978 highest rate permitted by law, within 30 days after expiration
979 of any appellate time period of a final order requiring payment
980 of restitution or the conclusion of any appeal thereof,

981 | whichever is later, the division shall bring an action in
982 | circuit or county court on behalf of any association, class of
983 | unit owners, lessees, or purchasers for restitution, declaratory
984 | relief, injunctive relief, or any other available remedy. The
985 | division may also temporarily revoke its acceptance of the
986 | filing for the developer to which the restitution relates until
987 | payment of restitution is made.

988 | 4. The division may petition the court for the appointment
989 | of a receiver or conservator. If appointed, the receiver or
990 | conservator may take action to implement the court order to
991 | ensure the performance of the order and to remedy any breach
992 | thereof. In addition to all other means provided by law for the
993 | enforcement of an injunction or temporary restraining order, the
994 | circuit court may impound or sequester the property of a party
995 | defendant, including books, papers, documents, and related
996 | records, and allow the examination and use of the property by
997 | the division and a court-appointed receiver or conservator.

998 | 5. The division may apply to the circuit court for an
999 | order of restitution whereby the defendant in an action brought
1000 | pursuant to subparagraph 4. shall be ordered to make restitution
1001 | of those sums shown by the division to have been obtained by the
1002 | defendant in violation of this chapter. Such restitution shall,
1003 | at the option of the court, be payable to the conservator or
1004 | receiver appointed pursuant to subparagraph 4. or directly to
1005 | the persons whose funds or assets were obtained in violation of
1006 | this chapter.

1007 | 6. The division may impose a civil penalty against a
1008 | developer or association, or its assignee or agent, for any

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1009 violation of this chapter or a rule adopted under this chapter.
1010 The division may impose a civil penalty individually against any
1011 officer or board member who willfully and knowingly violates a
1012 provision of this chapter, adopted rule, or a final order of the
1013 division; may order the removal of such individual as an officer
1014 or from the board of administration or as an officer of the
1015 association; and may prohibit such individual from serving as an
1016 officer or on the board of a community association for a period
1017 of time. The term "willfully and knowingly" means that the
1018 division informed the officer or board member that his or her
1019 action or intended action violates this chapter, a rule adopted
1020 under this chapter, or a final order of the division and that
1021 the officer or board member refused to comply with the
1022 requirements of this chapter, a rule adopted under this chapter,
1023 or a final order of the division. The division, prior to
1024 initiating formal agency action under chapter 120, shall afford
1025 the officer or board member an opportunity to voluntarily comply
1026 with this chapter, a rule adopted under this chapter, or a final
1027 order of the division. An officer or board member who complies
1028 within 10 days is not subject to a civil penalty. A penalty may
1029 be imposed on the basis of each day of continuing violation, but
1030 in no event shall the penalty for any offense exceed \$5,000. By
1031 January 1, 1998, the division shall adopt, by rule, penalty
1032 guidelines applicable to possible violations or to categories of
1033 violations of this chapter or rules adopted by the division. The
1034 guidelines must specify a meaningful range of civil penalties
1035 for each such violation of the statute and rules and must be
1036 based upon the harm caused by the violation, the repetition of

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1037 the violation, and upon such other factors deemed relevant by
1038 the division. For example, the division may consider whether the
1039 violations were committed by a developer or owner-controlled
1040 association, the size of the association, and other factors. The
1041 guidelines must designate the possible mitigating or aggravating
1042 circumstances that justify a departure from the range of
1043 penalties provided by the rules. It is the legislative intent
1044 that minor violations be distinguished from those which endanger
1045 the health, safety, or welfare of the condominium residents or
1046 other persons and that such guidelines provide reasonable and
1047 meaningful notice to the public of likely penalties that may be
1048 imposed for proscribed conduct. This subsection does not limit
1049 the ability of the division to informally dispose of
1050 administrative actions or complaints by stipulation, agreed
1051 settlement, or consent order. All amounts collected shall be
1052 deposited with the Chief Financial Officer to the credit of the
1053 Division of Florida Condominiums, Timeshares, and Mobile Homes
1054 Trust Fund. If a developer fails to pay the civil penalty and
1055 the amount deemed to be owed to the association, the division
1056 shall issue an order directing that such developer cease and
1057 desist from further operation until such time as the civil
1058 penalty is paid or may pursue enforcement of the penalty in a
1059 court of competent jurisdiction. If an association fails to pay
1060 the civil penalty, the division shall pursue enforcement in a
1061 court of competent jurisdiction, and the order imposing the
1062 civil penalty or the cease and desist order will not become
1063 effective until 20 days after the date of such order. Any action
1064 commenced by the division shall be brought in the county in

1065 which the division has its executive offices or in the county
 1066 where the violation occurred.

1067 7. If a unit owner presents the division with proof that
 1068 the unit owner has requested access to official records in
 1069 writing by certified mail, and that after 10 days the unit owner
 1070 again made the same request for access to official records in
 1071 writing by certified mail, and that more than 10 days has
 1072 elapsed since the second request and the association has still
 1073 failed or refused to provide access to official records as
 1074 required by this chapter, the division shall issue a subpoena
 1075 requiring production of the requested records where the records
 1076 are kept pursuant to s. 718.112.

1077 8. In addition to subparagraph 6., the division may seek
 1078 the imposition of a civil penalty through the circuit court for
 1079 any violation for which the division may issue a notice to show
 1080 cause under paragraph (r). The civil penalty shall be at least
 1081 \$500 but no more than \$5,000 for each violation. The court may
 1082 also award to the prevailing party court costs and reasonable
 1083 attorney's fees and, if the division prevails, may also award
 1084 reasonable costs of investigation.

1085 9. Notwithstanding subparagraph 6., when the division
 1086 finds that an officer or director has intentionally falsified
 1087 association records with the intent to conceal material facts
 1088 from the division, the board, or unit owners, the division shall
 1089 prohibit the officer or director from acting as an officer or
 1090 director of any condominium, cooperative, or homeowners'
 1091 association for at least 1 year.

1092 10. When the division finds that any person has derived an

1093 improper personal benefit from a condominium association, the
1094 division shall order the person to pay restitution to the
1095 association and shall order the person to pay to the division
1096 the costs of investigation and prosecution.

1097 (e) The division may prepare and disseminate a prospectus
1098 and other information to assist prospective owners, purchasers,
1099 lessees, and developers of residential condominiums in assessing
1100 the rights, privileges, and duties pertaining thereto.

1101 (f) The division has authority to adopt rules pursuant to
1102 ss. 120.536(1) and 120.54 to implement and enforce the
1103 provisions of this chapter.

1104 (g) The division shall establish procedures for providing
1105 notice to an association and the developer during the period
1106 where the developer controls the association when the division
1107 is considering the issuance of a declaratory statement with
1108 respect to the declaration of condominium or any related
1109 document governing in such condominium community.

1110 (h) The division shall furnish each association which pays
1111 the fees required by paragraph (2) (a) a copy of this act,
1112 subsequent changes to this act on an annual basis, an amended
1113 version of this act as it becomes available from the Secretary
1114 of State's office on a biennial basis, and the rules adopted
1115 thereto on an annual basis.

1116 (i) The division shall annually provide each association
1117 with a summary of declaratory statements and formal legal
1118 opinions relating to the operations of condominiums which were
1119 rendered by the division during the previous year.

1120 (j) The division shall provide training and educational

1121 programs for condominium association board members and unit
1122 owners. The training may, in the division's discretion, include
1123 web-based electronic media, and live training and seminars in
1124 various locations throughout the state. The division shall have
1125 the authority to review and approve education and training
1126 programs for board members and unit owners offered by providers
1127 and shall maintain a current list of approved programs and
1128 providers and shall make such list available to board members
1129 and unit owners in a reasonable and cost-effective manner.

1130 (k) The division shall maintain a toll-free telephone
1131 number accessible to condominium unit owners.

1132 (l) The division shall develop a program to certify both
1133 volunteer and paid mediators to provide mediation of condominium
1134 disputes. The division shall provide, upon request, a list of
1135 such mediators to any association, unit owner, or other
1136 participant in arbitration proceedings under s. 718.1255
1137 requesting a copy of the list. The division shall include on the
1138 list of volunteer mediators only the names of persons who have
1139 received at least 20 hours of training in mediation techniques
1140 or who have mediated at least 20 disputes. In order to become
1141 initially certified by the division, paid mediators must be
1142 certified by the Supreme Court to mediate court cases in county
1143 or circuit courts. However, the division may adopt, by rule,
1144 additional factors for the certification of paid mediators,
1145 which factors must be related to experience, education, or
1146 background. Any person initially certified as a paid mediator by
1147 the division must, in order to continue to be certified, comply
1148 with the factors or requirements imposed by rules adopted by the

1149 | division.

1150 | (m) When a complaint is made, the division shall conduct
 1151 | its inquiry with due regard to the interests of the affected
 1152 | parties. Within 30 days after receipt of a complaint, the
 1153 | division shall acknowledge the complaint in writing and notify
 1154 | the complainant whether the complaint is within the jurisdiction
 1155 | of the division and whether additional information is needed by
 1156 | the division from the complainant. The division shall conduct
 1157 | its investigation and shall, within 90 days after receipt of the
 1158 | original complaint or of timely requested additional
 1159 | information, take action upon the complaint. However, the
 1160 | failure to complete the investigation within 90 days does not
 1161 | prevent the division from continuing the investigation,
 1162 | accepting or considering evidence obtained or received after 90
 1163 | days, or taking administrative action if reasonable cause exists
 1164 | to believe that a violation of this chapter or a rule of the
 1165 | division has occurred. If an investigation is not completed
 1166 | within the time limits established in this paragraph, the
 1167 | division shall, on a monthly basis, notify the complainant in
 1168 | writing of the status of the investigation. When reporting its
 1169 | action to the complainant, the division shall inform the
 1170 | complainant of any right to a hearing pursuant to ss. 120.569
 1171 | and 120.57.

1172 | (n) Condominium association directors, officers, and
 1173 | employees; condominium developers; community association
 1174 | managers; and community association management firms have an
 1175 | ongoing duty to reasonably cooperate with the division in any
 1176 | investigation pursuant to this section. The division shall refer

1177 to local law enforcement authorities any person whom the
 1178 division believes has altered, destroyed, concealed, or removed
 1179 any record, document, or thing required to be kept or maintained
 1180 by this chapter with the purpose to impair its verity or
 1181 availability in the department's investigation.

1182 (o) The division may:

1183 1. Contract with agencies in this state or other
 1184 jurisdictions to perform investigative functions; or

1185 2. Accept grants-in-aid from any source.

1186 (p) The division shall cooperate with similar agencies in
 1187 other jurisdictions to establish uniform filing procedures and
 1188 forms, public offering statements, advertising standards, and
 1189 rules and common administrative practices.

1190 (q) The division shall consider notice to a developer to
 1191 be complete when it is delivered to the developer's address
 1192 currently on file with the division.

1193 (r) In addition to its enforcement authority, the division
 1194 may issue a notice to show cause, which shall provide for a
 1195 hearing, upon written request, in accordance with chapter 120.

1196 (s) The division shall submit to the Governor, the
 1197 President of the Senate, the Speaker of the House of
 1198 Representatives, and the chairs of the legislative
 1199 appropriations committees an annual report that includes, but
 1200 need not be limited to, the number of training programs provided
 1201 for condominium association board members and unit owners, the
 1202 number of complaints received by type, the number and percent of
 1203 complaints acknowledged in writing within 30 days and the number
 1204 and percent of investigations acted upon within 90 days in

1205 accordance with paragraph (m), and the number of investigations
 1206 exceeding the 90-day requirement. The annual report shall also
 1207 include an evaluation of the division's core business processes
 1208 and make recommendations for improvements, including statutory
 1209 changes. The report shall be submitted by September 30 following
 1210 the end of the fiscal year.

1211 Section 12. Subsection (4) of section 718.5012, Florida
 1212 Statutes, is amended to read:

1213 718.5012 Ombudsman; powers and duties.—The ombudsman shall
 1214 have the powers that are necessary to carry out the duties of
 1215 his or her office, including the following specific powers:

1216 (4) To act as liaison between the division, unit owners,
 1217 boards of directors, board members, community association
 1218 managers, and other affected parties. The ombudsman shall
 1219 develop policies and procedures to assist unit owners, boards of
 1220 directors, board members, community association managers, and
 1221 other affected parties to understand their rights and
 1222 responsibilities as set forth in this chapter and the
 1223 condominium documents governing their respective association.
 1224 The ombudsman shall coordinate and assist in the preparation and
 1225 adoption of educational and reference material, and shall
 1226 endeavor to coordinate with private or volunteer providers of
 1227 these services, so that the availability of these resources is
 1228 made known to the largest possible audience. In conjunction with
 1229 the division, included in the preparation and adoption of
 1230 educational and reference materials shall be the publishing and
 1231 updating of a "Florida Condominium Handbook" to facilitate
 1232 understanding of this chapter, the contents of which are stated

1233 in a clear, conspicuous, and easily understandable manner. The
 1234 handbook shall be made publicly available on the ombudsman's
 1235 Internet website.

1236 Section 13. Part VII of chapter 718, Florida Statutes,
 1237 consisting of sections 718.701, 718.702, 718.703, 718.704,
 1238 718.705, 718.706, 718.707, and 718.708, is created to read:

1239 PART VII

1240 DISTRESSED CONDOMINIUM RELIEF

1241 718.701 Short title.—This part may be cited as the
 1242 "Distressed Condominium Relief Act."

1243 718.702 Legislative intent.—

1244 (1) The Legislature acknowledges the massive downturn in
 1245 the condominium market which has transpired throughout the state
 1246 and the impact of such downturn on developers, lenders, unit
 1247 owners, and condominium associations. Numerous condominium
 1248 projects have either failed or are in the process of failing,
 1249 whereby the condominium has a small percentage of third-party
 1250 unit owners as compared to the unsold inventory of units. As a
 1251 result of the inability to find purchasers for this inventory of
 1252 units, which results in part from the devaluing of real estate
 1253 in this state, developers are unable to satisfy the requirements
 1254 of their lenders, leading to defaults on mortgages.
 1255 Consequently, lenders are faced with the task of finding a
 1256 solution to the problem in order to be paid for their
 1257 investments.

1258 (2) The Legislature recognizes that all of the factors
 1259 listed in this section lead to condominiums becoming distressed,
 1260 resulting in detriment to the unit owners and the condominium

1261 association on account of the resulting shortage of assessment
1262 moneys available to support the financial requirements for
1263 proper maintenance of the condominium. Such shortage and the
1264 resulting lack of proper maintenance further erode property
1265 values. The Legislature finds that individuals and entities
1266 within Florida and in other states have expressed interest in
1267 purchasing unsold inventory in one or more condominium projects,
1268 but are reticent to do so because of accompanying liabilities
1269 inherited from the original developer, which are by definition
1270 imputed to the successor purchaser, including a foreclosing
1271 mortgagee. This results in the potential purchaser having
1272 unknown and unquantifiable risks, and potential successor
1273 purchasers are unwilling to accept such risks. The result is
1274 that condominium projects stagnate, leaving all parties involved
1275 at an impasse without the ability to find a solution.

1276 (3) The Legislature finds and declares that it is the
1277 public policy of this state to protect the interests of
1278 developers, lenders, unit owners, and condominium associations
1279 with regard to distressed condominiums, and that there is a need
1280 for relief from certain provisions of the Florida Condominium
1281 Act geared toward enabling economic opportunities within these
1282 condominiums for successor purchasers, including foreclosing
1283 mortgagees. Such relief would benefit existing unit owners and
1284 condominium associations. The Legislature further finds and
1285 declares that this situation cannot be open-ended without
1286 potentially prejudicing the rights of unit owners and
1287 condominium associations, and thereby declares that the
1288 provisions of this part shall be used by purchasers of

1289 condominium inventory for a specific and defined period.
 1290 718.703 Definitions.—As used in this part, the term:
 1291 (1) "Bulk assignee" means a person who:
 1292 (a) Acquires more than seven condominium parcels as set
 1293 forth in s. 718.707; and
 1294 (b) Receives an assignment of some or all of the rights of
 1295 the developer as are set forth in the declaration of condominium
 1296 or in this chapter by a written instrument recorded as an
 1297 exhibit to the deed or as a separate instrument in the public
 1298 records of the county in which the condominium is located.
 1299 (2) "Bulk buyer" means a person who acquires more than
 1300 seven condominium parcels as set forth in s. 718.707 but who
 1301 does not receive an assignment of any developer rights other
 1302 than the right to conduct sales, leasing, and marketing
 1303 activities within the condominium.
 1304 718.704 Assignment of developer rights to and assumption
 1305 of developer rights by bulk assignee; bulk buyer.—
 1306 (1) A bulk assignee shall be deemed to have assumed and is
 1307 liable for all duties and responsibilities of the developer
 1308 under the declaration and this chapter, except:
 1309 (a) Warranties of the developer under s. 718.203(1) or s.
 1310 718.618, except for design, construction, development, or repair
 1311 work performed by or on behalf of such bulk assignee.
 1312 (b) The obligation to:
 1313 1. Fund converter reserves under s. 718.618 for a unit
 1314 which was not acquired by the bulk assignee; or
 1315 2. Provide converter warranties on any portion of the
 1316 condominium property except as may be expressly provided by the

1317 bulk assignee in the contract for purchase and sale executed
 1318 with a purchaser and pertaining to any design, construction,
 1319 development, or repair work performed by or on behalf of the
 1320 bulk assignee.

1321 (c) The requirement to provide the association with a
 1322 cumulative audit of the association's finances from the date of
 1323 formation of the condominium association as required by s.
 1324 718.301. However, the bulk assignee shall provide an audit for
 1325 the period for which the bulk assignee elects a majority of the
 1326 members of the board of administration.

1327 (d) Any liability arising out of or in connection with
 1328 actions taken by the board of administration or the developer-
 1329 appointed directors before the bulk assignee elects a majority
 1330 of the members of the board of administration.

1331 (e) Any liability for or arising out of the developer's
 1332 failure to fund previous assessments or to resolve budgetary
 1333 deficits in relation to a developer's right to guarantee
 1334 assessments, except as otherwise provided in subsection (2).

1335
 1336 Further, the bulk assignee is responsible for delivering
 1337 documents and materials in accordance with s. 718.705(3). A bulk
 1338 assignee may expressly assume some or all of the obligations of
 1339 the developer described in paragraphs (a)-(e).

1340 (2) A bulk assignee receiving the assignment of the rights
 1341 of the developer to guarantee the level of assessments and fund
 1342 budgetary deficits pursuant to s. 718.116 shall be deemed to
 1343 have assumed and is liable for all obligations of the developer
 1344 with respect to such guarantee, including any applicable funding

1345 of reserves to the extent required by law, for as long as the
1346 guarantee remains in effect. A bulk assignee not receiving an
1347 assignment of the right of the developer to guarantee the level
1348 of assessments and fund budgetary deficits pursuant to s.
1349 718.116 or a bulk buyer is not deemed to have assumed and is not
1350 liable for the obligations of the developer with respect to such
1351 guarantee, but is responsible for payment of assessments in the
1352 same manner as all other owners of condominium parcels.

1353 (3) A bulk buyer is liable for the duties and
1354 responsibilities of the developer under the declaration and this
1355 chapter only to the extent provided in this part, together with
1356 any other duties or responsibilities of the developer expressly
1357 assumed in writing by the bulk buyer.

1358 (4) An acquirer of condominium parcels is not considered a
1359 bulk assignee or a bulk buyer if the transfer to such acquirer
1360 was made with the intent to hinder, delay, or defraud any
1361 purchaser, unit owner, or the association, or if the acquirer is
1362 a person who would constitute an insider under s. 726.102(7).

1363 (5) An assignment of developer rights to a bulk assignee
1364 may be made by the developer, a previous bulk assignee, or a
1365 court of competent jurisdiction acting on behalf of the
1366 developer or the previous bulk assignee. At any particular time,
1367 there may be no more than one bulk assignee within a
1368 condominium, but there may be more than one bulk buyer. If more
1369 than one acquirer of condominium parcels receives an assignment
1370 of developer rights from the same person, the bulk assignee is
1371 the acquirer whose instrument of assignment is recorded first in
1372 applicable public records.

1373 718.705 Board of administration; transfer of control.—

1374 (1) For purposes of determining the timing for transfer of
1375 control of the board of administration of the association to
1376 unit owners other than the developer under s. 718.301(1)(a) or
1377 (b), if a bulk assignee is entitled to elect a majority of the
1378 members of the board, a condominium parcel acquired by the bulk
1379 assignee shall not be deemed to be conveyed to a purchaser, or
1380 to be owned by an owner other than the developer, until such
1381 condominium parcel is conveyed to an owner who is not a bulk
1382 assignee.

1383 (2) Unless control of the board of administration of the
1384 association has already been relinquished pursuant to s.
1385 718.301(1), the bulk assignee is obligated to relinquish control
1386 of the association in accordance with s. 718.301 and this part.

1387 (3) When a bulk assignee relinquishes control of the board
1388 of administration as set forth in s. 718.301, the bulk assignee
1389 shall deliver all of those items required by s. 718.301(4).
1390 However, the bulk assignee is not required to deliver items and
1391 documents not in the possession of the bulk assignee during the
1392 period during which the bulk assignee was the owner of
1393 condominium parcels. In conjunction with the acquisition of
1394 condominium parcels, a bulk assignee shall undertake a good
1395 faith effort to obtain the documents and materials required to
1396 be provided to the association pursuant to s. 718.301(4). To the
1397 extent the bulk assignee is not able to obtain all of such
1398 documents and materials, the bulk assignee shall certify in
1399 writing to the association the names or descriptions of the
1400 documents and materials that were not obtainable by the bulk

1401 assignee. Delivery of the certificate relieves the bulk assignee
 1402 of responsibility for the delivery of the documents and
 1403 materials referenced in the certificate as otherwise required
 1404 under ss. 718.112 and 718.301 and this part. The responsibility
 1405 of the bulk assignee for the audit required by s. 718.301(4)
 1406 shall commence as of the date on which the bulk assignee elected
 1407 a majority of the members of the board of administration.

1408 (4) If a conflict arises between the provisions or
 1409 application of this section and s. 718.301, this section shall
 1410 prevail.

1411 (5) Failure of a bulk assignee or bulk buyer to comply
 1412 with all the requirements contained in this part shall result in
 1413 the loss of any and all protections or exemptions provided under
 1414 this part.

1415 718.706 Specific provisions pertaining to offering of
 1416 units by a bulk assignee or bulk buyer.—

1417 (1) Before offering any units for sale or for lease for a
 1418 term exceeding 5 years, a bulk assignee or bulk buyer must file
 1419 the following documents with the division and provide such
 1420 documents to a prospective purchaser:

1421 (a) An updated prospectus or offering circular, or a
 1422 supplement to the prospectus or offering circular, filed by the
 1423 creating developer prepared in accordance with s. 718.504, which
 1424 shall include the form of contract for purchase and sale in
 1425 compliance with s. 718.503(2).

1426 (b) An updated Frequently Asked Questions and Answers
 1427 sheet.

1428 (c) The executed escrow agreement if required under s.

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1429 718.202.

1430 (d) The financial information required by s. 718.111(13).
1431 However, if a financial information report does not exist for
1432 the fiscal year before acquisition of title by the bulk assignee
1433 or bulk buyer, or accounting records cannot be obtained in good
1434 faith by the bulk assignee or bulk buyer which would permit
1435 preparation of the required financial information report, the
1436 bulk assignee or bulk buyer is excused from the requirement of
1437 this paragraph. However, the bulk assignee or bulk buyer must
1438 include in the purchase contract the following statement in
1439 conspicuous type:

1440
1441 THE FINANCIAL INFORMATION REPORT REQUIRED UNDER
1442 SECTION 718.111(13), FLORIDA STATUTES, FOR THE
1443 IMMEDIATELY PRECEDING FISCAL YEAR OF THE ASSOCIATION
1444 IS NOT AVAILABLE OR CANNOT BE CREATED BY THE SELLER AS
1445 A RESULT OF INSUFFICIENT ACCOUNTING RECORDS OF THE
1446 ASSOCIATION.

1447
1448 (2) Before offering any units for sale or for lease for a
1449 term exceeding 5 years, a bulk assignee must file with the
1450 division and provide to a prospective purchaser a disclosure
1451 statement that must include, but is not limited to:

1452 (a) A description to the purchaser of any rights of the
1453 developer which have been assigned to the bulk assignee.

1454 (b) The following statement in conspicuous type:

1455
1456 SELLER IS NOT OBLIGATED FOR ANY WARRANTIES OF THE

1457 DEVELOPER UNDER SECTION 718.203(1) OR SECTION 718.618,
 1458 FLORIDA STATUTES, AS APPLICABLE, EXCEPT FOR DESIGN,
 1459 CONSTRUCTION, DEVELOPMENT, OR REPAIR WORK PERFORMED BY
 1460 OR ON BEHALF OF SELLER.

1461
 1462 (c) If the condominium is a conversion subject to part VI,
 1463 the following statement in conspicuous type:

1464
 1465 SELLER HAS NO OBLIGATION TO FUND CONVERTER
 1466 RESERVES OR TO PROVIDE CONVERTER WARRANTIES UNDER
 1467 SECTION 718.618, FLORIDA STATUTES, ON ANY PORTION OF
 1468 THE CONDOMINIUM PROPERTY EXCEPT AS MAY BE EXPRESSLY
 1469 REQUIRED OF THE SELLER IN THE CONTRACT FOR PURCHASE
 1470 AND SALE EXECUTED BY THE SELLER AND THE PREVIOUS
 1471 DEVELOPER AND PERTAINING TO ANY DESIGN, CONSTRUCTION,
 1472 DEVELOPMENT, OR REPAIR WORK PERFORMED BY OR ON BEHALF
 1473 OF THE SELLER.

1474
 1475 (3) In addition to the requirements set forth in
 1476 subsection (1), a bulk assignee or bulk buyer must comply with
 1477 the nondeveloper disclosure requirements set forth in s.
 1478 718.503(2) before offering any units for sale or for lease for a
 1479 term exceeding 5 years.

1480 (4) A bulk assignee, while in control of the board of
 1481 administration of the association, may not authorize, on behalf
 1482 of the association:

1483 (a) The waiver of reserves or the reduction of funding of
 1484 the reserves in accordance with s. 718.112(2)(f)2., unless

1485 approved by a majority of the voting interests not controlled by
 1486 the developer, bulk assignee, or bulk buyer; or

1487 (b) The use of reserve expenditures for other purposes in
 1488 accordance with s. 718.112(2)(f)3., unless approved by a
 1489 majority of the voting interests not controlled by the
 1490 developer, bulk assignee, or bulk buyer.

1491 (5) A bulk assignee, while in control of the board of
 1492 administration of the association, must comply with the
 1493 requirements imposed upon developers to transfer control of the
 1494 association to the unit owners in accordance with s. 718.301.

1495 (6) A bulk assignee or bulk buyer must comply with all the
 1496 requirements of s. 718.302 regarding any contracts entered into
 1497 by the association during the period the bulk assignee or bulk
 1498 buyer maintains control of the board of administration. Unit
 1499 owners shall be afforded all the protections contained in s.
 1500 718.302 regarding agreements entered into by the association
 1501 before unit owners other than the developer, bulk assignee, or
 1502 bulk buyer elected a majority of the board of administration.

1503 (7) A bulk buyer must comply with the requirements
 1504 contained in the declaration regarding any transfer of a unit,
 1505 including sales, leases, and subleases. A bulk buyer is not
 1506 entitled to any exemptions afforded a developer or successor
 1507 developer under this chapter regarding any transfer of a unit,
 1508 including sales, leases, or subleases.

1509 718.707 Time limitation for classification as bulk
 1510 assignee or bulk buyer.—A person acquiring condominium parcels
 1511 may not be classified as a bulk assignee or bulk buyer unless
 1512 the condominium parcels were acquired before July 1, 2012. The

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1513 date of such acquisition shall be determined by the date of
1514 recording of a deed or other instrument of conveyance for such
1515 parcels in the public records of the county in which the
1516 condominium is located or by the date of issuance of a
1517 certificate of title in a foreclosure proceeding with respect to
1518 such condominium parcels.

1519 718.708 Liability of developers and others.—An assignment
1520 of developer rights to a bulk assignee or bulk buyer does not
1521 release the developer from any liabilities under the declaration
1522 or this chapter. This part does not limit the liability of the
1523 developer for claims brought by unit owners, bulk assignees, or
1524 bulk buyers for violations of this chapter by the developer,
1525 unless specifically excluded in this part. Nothing contained
1526 within this part waives, releases, compromises, or limits the
1527 liability of contractors, subcontractors, materialmen,
1528 manufacturers, architects, engineers, or any participant in the
1529 design or construction of a condominium for any claim brought by
1530 an association, unit owners, bulk assignees, or bulk buyers
1531 arising from the design of the condominium, construction
1532 defects, misrepresentations associated with condominium
1533 property, or violations of this chapter, unless specifically
1534 excluded in this part.

1535 Section 14. Subsection (2) of section 720.302, Florida
1536 Statutes, is amended to read:

1537 720.302 Purposes, scope, and application.—

1538 (2) The Legislature recognizes that it is not in the best
1539 interest of homeowners' associations or the individual
1540 association members thereof to create or impose a bureau or

1541 other agency of state government to regulate the affairs of
 1542 homeowners' associations. However, in accordance with part IV of
 1543 this chapter ~~s. 720.311~~, the Legislature finds that homeowners'
 1544 associations and their individual members will benefit from an
 1545 expedited alternative process for resolution of ~~election and~~
 1546 ~~recall disputes and presuit mediation of other~~ disputes
 1547 involving covenant enforcement in homeowners' associations and
 1548 deed-restricted communities using the procedures provided in
 1549 part IV of ~~and authorizes the department to hear, administer,~~
 1550 ~~and determine these disputes as more fully set forth in this~~
 1551 chapter. Further, the Legislature recognizes that certain
 1552 contract rights have been created for the benefit of homeowners'
 1553 associations and members thereof as well as deed-restricted
 1554 communities before the effective date of this act and that part
 1555 IV of this chapter is ~~ss. 720.301-720.407~~ are not intended to
 1556 impair such contract rights, including, but not limited to, the
 1557 rights of the developer to complete the community as initially
 1558 contemplated.

1559 Section 15. Paragraph (b) of subsection (2), paragraph (g)
 1560 of subsection(4), paragraphs (a) and (c) of subsection (5),
 1561 paragraphs (b), (c), (d), (f), and (g) of subsection (6), and
 1562 paragraphs (c) and (d) of subsection (10) of section 720.303,
 1563 Florida Statutes, are amended, and subsections (12), (13), and
 1564 (14) are added to that section, to read:

1565 720.303 Association powers and duties; meetings of board;
 1566 official records; budgets; financial reporting; association
 1567 funds; recalls; prohibited compensation; borrowing; transfer
 1568 fees.—

1569 (2) BOARD MEETINGS.—
 1570 (b) Members have the right to attend all meetings of the
 1571 board and to speak on any matter placed on the agenda by
 1572 petition of the voting interests for at least 3 minutes. The
 1573 association may adopt written reasonable rules expanding the
 1574 right of members to speak and governing the frequency, duration,
 1575 and other manner of member statements, which rules must be
 1576 consistent with this paragraph and may include a sign-up sheet
 1577 for members wishing to speak. Notwithstanding any other law, ~~the~~
 1578 ~~requirement that board meetings and committee meetings be open~~
 1579 ~~to the members is inapplicable to meetings between the board or~~
 1580 a committee and the association's attorney to discuss proposed
 1581 or pending litigation, ~~or with respect to~~ meetings of the board
 1582 held for the purpose of discussing personnel matters are not
 1583 required to be open to the members.

1584 (4) OFFICIAL RECORDS.—The association shall maintain each
 1585 of the following items, when applicable, which constitute the
 1586 official records of the association:

1587 (g) A current roster of all members and their mailing
 1588 addresses and parcel identifications. The association shall also
 1589 maintain the electronic mailing addresses and the numbers
 1590 designated by members for receiving notice sent by electronic
 1591 transmission of those members consenting to receive notice by
 1592 electronic transmission. The electronic mailing addresses and
 1593 numbers provided by parcel ~~unit~~ owners to receive notice by
 1594 electronic transmission shall be removed from association
 1595 records when consent to receive notice by electronic
 1596 transmission is revoked. However, the association is not liable

1597 | for an erroneous disclosure of the electronic mail address or
 1598 | the number for receiving electronic transmission of notices.

1599 | (5) INSPECTION AND COPYING OF RECORDS.—The official
 1600 | records shall be maintained within the state and must be open to
 1601 | inspection and available for photocopying by members or their
 1602 | authorized agents at reasonable times and places within 10
 1603 | business days after receipt of a written request for access.
 1604 | This subsection may be complied with by having a copy of the
 1605 | official records available for inspection or copying in the
 1606 | community. If the association has a photocopy machine available
 1607 | where the records are maintained, it must provide parcel owners
 1608 | with copies on request during the inspection if the entire
 1609 | request is limited to no more than 25 pages.

1610 | (a) The failure of an association to provide access to the
 1611 | records within 10 business days after receipt of a written
 1612 | request submitted by certified mail, return receipt requested,
 1613 | creates a rebuttable presumption that the association willfully
 1614 | failed to comply with this subsection.

1615 | (c) The association may adopt reasonable written rules
 1616 | governing the frequency, time, location, notice, records to be
 1617 | inspected, and manner of inspections, but may not require ~~impose~~
 1618 | ~~a requirement that~~ a parcel owner to demonstrate any proper
 1619 | purpose for the inspection, state any reason for the inspection,
 1620 | or limit a parcel owner's right to inspect records to less than
 1621 | one 8-hour business day per month. The association may impose
 1622 | fees to cover the costs of providing copies of the official
 1623 | records, including, without limitation, the costs of copying.
 1624 | The association may charge up to 50 cents per page for copies

1625 made on the association's photocopier. If the association does
 1626 not have a photocopy machine available where the records are
 1627 kept, or if the records requested to be copied exceed 25 pages
 1628 in length, the association may have copies made by an outside
 1629 vendor or association management company personnel and may
 1630 charge the actual cost of copying, including any reasonable
 1631 costs involving personnel fees and charges at an hourly rate for
 1632 employee time to cover administrative costs to the association.

1633 The association shall maintain an adequate number of copies of
 1634 the recorded governing documents, to ensure their availability
 1635 to members and prospective members. Notwithstanding the
 1636 provisions of this paragraph, the following records are ~~shall~~
 1637 not ~~be~~ accessible to members or parcel owners:

1638 1. Any record protected by the lawyer-client privilege as
 1639 described in s. 90.502 and any record protected by the work-
 1640 product privilege, including, but not limited to, any record
 1641 prepared by an association attorney or prepared at the
 1642 attorney's express direction which reflects a mental impression,
 1643 conclusion, litigation strategy, or legal theory of the attorney
 1644 or the association and which was prepared exclusively for civil
 1645 or criminal litigation or for adversarial administrative
 1646 proceedings or which was prepared in anticipation of imminent
 1647 civil or criminal litigation or imminent adversarial
 1648 administrative proceedings until the conclusion of the
 1649 litigation or ~~adversarial~~ administrative proceedings.

1650 2. Information obtained by an association in connection
 1651 with the approval of the lease, sale, or other transfer of a
 1652 parcel.

1653 3. Disciplinary, health, insurance, and personnel records
 1654 of the association's employees.

1655 4. Medical records of parcel owners or community
 1656 residents.

1657 (6) BUDGETS.—

1658 (b) In addition to annual operating expenses, the budget
 1659 may include reserve accounts for capital expenditures and
 1660 deferred maintenance for which the association is responsible.
 1661 If reserve accounts are not established pursuant to paragraph
 1662 (d), funding of such reserves shall be limited to the extent
 1663 that the governing documents do not limit increases in
 1664 assessments, including reserves. If the budget of the
 1665 association includes reserve accounts established pursuant to
 1666 paragraph (d), such reserves shall be determined, maintained,
 1667 and waived in the manner provided in this subsection. Once an
 1668 association provides for reserve accounts pursuant to paragraph
 1669 (d) in the budget, the association shall thereafter determine,
 1670 maintain, and waive reserves in compliance with this subsection.
 1671 This section does not preclude the termination of a reserve
 1672 account established pursuant to this paragraph upon approval of
 1673 a majority of the voting interests of the association. Upon such
 1674 approval, the terminating reserve account shall be removed from
 1675 the budget.

1676 (c)1. If the budget of the association does not provide
 1677 for reserve accounts pursuant to paragraph (d) ~~governed by this~~
 1678 ~~subsection~~ and the association is responsible for the repair and
 1679 maintenance of capital improvements that may result in a special
 1680 assessment if reserves are not provided, each financial report

1681 for the preceding fiscal year required under ~~by~~ subsection (7)
 1682 shall contain the following statement in conspicuous type:

1684 THE BUDGET OF THE ASSOCIATION DOES NOT PROVIDE FOR
 1685 RESERVE ACCOUNTS FOR CAPITAL EXPENDITURES AND DEFERRED
 1686 MAINTENANCE THAT MAY RESULT IN SPECIAL ASSESSMENTS.
 1687 OWNERS MAY ELECT TO PROVIDE FOR RESERVE ACCOUNTS
 1688 PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),
 1689 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT~~
 1690 ~~LESS THAN~~ A MAJORITY OF THE TOTAL VOTING INTERESTS OF
 1691 THE ASSOCIATION BY VOTE OF THE MEMBERS AT A MEETING OR
 1692 BY WRITTEN CONSENT.

1694 2. If the budget of the association does provide for
 1695 funding accounts for deferred expenditures, including, but not
 1696 limited to, funds for capital expenditures and deferred
 1697 maintenance, but such accounts are not created or established
 1698 pursuant to paragraph (d), each financial report for the
 1699 preceding fiscal year required under subsection (7) must also
 1700 contain the following statement in conspicuous type:

1702 THE BUDGET OF THE ASSOCIATION DOES PROVIDE FOR LIMITED
 1703 VOLUNTARY DEFERRED EXPENDITURE ACCOUNTS, INCLUDING
 1704 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE, SUBJECT
 1705 TO LIMITS ON FUNDING CONTAINED IN OUR GOVERNING
 1706 DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO
 1707 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION
 1708 720.303(6), FLORIDA STATUTES, THESE FUNDS ARE NOT

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1709 SUBJECT TO THE RESTRICTIONS ON USE OF SUCH FUNDS SET
1710 FORTH IN THAT STATUTE, NOR ARE RESERVES CALCULATED IN
1711 ACCORDANCE WITH THAT STATUTE.

1712
1713 (d) An association shall be deemed to have provided for
1714 reserve accounts if ~~when~~ reserve accounts have been initially
1715 established by the developer or if ~~when~~ the membership of the
1716 association affirmatively elects to provide for reserves. If
1717 reserve accounts are not initially provided for by the
1718 developer, the membership of the association may elect to do so
1719 upon the affirmative approval of ~~not less than~~ a majority of the
1720 total voting interests of the association. Such approval may be
1721 obtained ~~attained~~ by vote of the members at a duly called
1722 meeting of the membership or by the ~~upon a~~ written consent of
1723 ~~executed by not less than~~ a majority of the total voting
1724 interests in the community. The approval action of the
1725 membership shall state that reserve accounts shall be provided
1726 for in the budget and shall designate the components for which
1727 the reserve accounts are to be established. Upon approval by the
1728 membership, the board of directors shall include ~~provide for~~ the
1729 required reserve accounts ~~for inclusion~~ in the budget in the
1730 next fiscal year following the approval and ~~in~~ each year
1731 thereafter. Once established as provided in this subsection, the
1732 reserve accounts shall be funded or maintained or shall have
1733 their funding waived in the manner provided in paragraph (f).

1734 (f) After one or more ~~Once a reserve account or~~ reserve
1735 accounts are established, the membership of the association,
1736 upon a majority vote at a meeting at which a quorum is present,

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1737 may provide for no reserves or less reserves than required by
 1738 this section. If a meeting of the parcel ~~unit~~ owners has been
 1739 called to determine whether to waive or reduce the funding of
 1740 reserves and no such result is achieved or a quorum is not
 1741 present, the reserves as included in the budget shall go into
 1742 effect. After the turnover, the developer may vote its voting
 1743 interest to waive or reduce the funding of reserves. Any vote
 1744 taken pursuant to this subsection to waive or reduce reserves is
 1745 ~~shall be~~ applicable only to one budget year.

1746 (g) Funding formulas for reserves authorized by this
 1747 section shall be based on either a separate analysis of each of
 1748 the required assets or a pooled analysis of two or more of the
 1749 required assets.

1750 1. If the association maintains separate reserve accounts
 1751 for each of the required assets, the amount of the contribution
 1752 to each reserve account is ~~shall be~~ the sum of the following two
 1753 calculations:

1754 a. The total amount necessary, if any, to bring a negative
 1755 component balance to zero.

1756 b. The total estimated deferred maintenance expense or
 1757 estimated replacement cost of the reserve component less the
 1758 estimated balance of the reserve component as of the beginning
 1759 of the period ~~for which~~ the budget will be in effect. The
 1760 remainder, if greater than zero, shall be divided by the
 1761 estimated remaining useful life of the component.

1762
 1763 The formula may be adjusted each year for changes in estimates
 1764 and deferred maintenance performed during the year and may

1765 include factors such as inflation and earnings on invested
 1766 funds.

1767 2. If the association maintains a pooled account of two or
 1768 more of the required reserve assets, the amount of the
 1769 contribution to the pooled reserve account as disclosed on the
 1770 proposed budget may ~~shall~~ not be less than that required to
 1771 ensure that the balance on hand at the beginning of the period
 1772 ~~for which~~ the budget will go into effect plus the projected
 1773 annual cash inflows over the remaining estimated useful life of
 1774 all of the assets that make up the reserve pool are equal to or
 1775 greater than the projected annual cash outflows over the
 1776 remaining estimated useful lives of all ~~of~~ the assets that make
 1777 up the reserve pool, based on the current reserve analysis. The
 1778 projected annual cash inflows may include estimated earnings
 1779 from investment of principal and accounts receivable minus the
 1780 allowance for doubtful accounts. The reserve funding formula may
 1781 ~~shall~~ not include any type of balloon payments.

1782 (10) RECALL OF DIRECTORS.—

1783 (c)1. If the declaration, articles of incorporation, or
 1784 bylaws specifically provide, the members may also recall and
 1785 remove a board director or directors by a vote taken at a
 1786 meeting. If so provided in the governing documents, a special
 1787 meeting of the members to recall a director or directors of the
 1788 board of administration may be called by 10 percent of the
 1789 voting interests giving notice of the meeting as required for a
 1790 meeting of members, and the notice shall state the purpose of
 1791 the meeting. Electronic transmission may not be used as a method

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1792 of giving notice of a meeting called in whole or in part for
1793 this purpose.

1794 2. The board shall duly notice and hold a board meeting
1795 within 5 full business days after the adjournment of the member
1796 meeting to recall one or more directors. At the meeting, the
1797 board shall certify the recall, in which case such member or
1798 members shall be recalled effective immediately and shall turn
1799 over to the board within 5 full business days any and all
1800 records and property of the association in their possession, or
1801 shall proceed as set forth in paragraph ~~subparagraph~~ (d).

1802 (d) If the board determines not to certify the written
1803 agreement or written ballots to recall a director or directors
1804 of the board or does not certify the recall by a vote at a
1805 meeting, the board shall, within 5 full business days after the
1806 meeting, initiate ~~file with the department a petition for~~
1807 binding arbitration pursuant to the applicable procedures in s.
1808 720.507 ~~ss. 718.112(2)(j) and 718.1255 and the rules adopted~~
1809 ~~thereunder~~. For the purposes of this section, the members who
1810 voted at the meeting or who executed the agreement in writing
1811 shall constitute one party under the petition for arbitration.
1812 If the arbitrator certifies the recall as to any director or
1813 directors of the board, the recall will be effective upon
1814 mailing of the final order of arbitration to the association.
1815 The director or directors so recalled shall deliver to the board
1816 any and all records of the association in their possession
1817 within 5 full business days after the effective date of the
1818 recall.

1819 (12) COMPENSATION PROHIBITED.—A director, officer, or
 1820 committee member of the association may not receive, directly or
 1821 indirectly, any salary or compensation from the association for
 1822 the performance of duties as a director, officer, or committee
 1823 member and may not in any other way benefit financially from
 1824 service to the association. This subsection does not preclude:

1825 (a) Participation by such person in a financial benefit
 1826 accruing to all or a significant number of members as a result
 1827 of actions lawfully taken by the board or a committee of which
 1828 he or she is a member, including, but not limited to, routine
 1829 maintenance, repair, or replacement of community assets.

1830 (b) Reimbursement for out-of-pocket expenses incurred by
 1831 such person on behalf of the association, subject to approval in
 1832 accordance with procedures established by the association's
 1833 governing documents or, in the absence of such procedures, in
 1834 accordance with an approval process established by the board.

1835 (c) Any recovery of insurance proceeds derived from a
 1836 policy of insurance maintained by the association for the
 1837 benefit of its members.

1838 (d) Any fee or compensation authorized in the governing
 1839 documents.

1840 (e) Any fee or compensation authorized in advance by a
 1841 vote of a majority of the voting interests voting in person or
 1842 by proxy at a meeting of the members.

1843 (f) A developer or its representative from serving as a
 1844 director, officer, or committee member of the association and
 1845 benefiting financially from service to the association.

1846 (13) BORROWING.—The borrowing of funds or committing to a

1847 line of credit by the board of administration shall be
 1848 considered a special assessment, and any meeting of the board of
 1849 administration to discuss such matters must be noticed as
 1850 provided in paragraph (2) (c). The board may not borrow funds or
 1851 enter into a line of credit for any purpose unless the specific
 1852 use of the funds from the loan or line of credit is set forth in
 1853 the notice of meeting with the same specificity as required for
 1854 a special assessment or unless the borrowing or line of credit
 1855 has received the prior approval of at least two-thirds of the
 1856 voting interests of the association.

1857 (14) TRANSFER FEES.—No charge may be made by the
 1858 association or anyone on its behalf in connection with the sale,
 1859 mortgage, lease, sublease, or other transfer of a parcel.
 1860 Nothing in this subsection may be construed to prohibit an
 1861 association from requiring as a condition to permitting the
 1862 letting or renting of a parcel, when the association has such
 1863 authority in the documents, the depositing into an escrow
 1864 account maintained by the association of a security deposit in
 1865 an amount not to exceed the equivalent of 1 month's rent. The
 1866 security deposit shall protect against damages to the common
 1867 areas or association property. Within 15 days after a tenant
 1868 vacates the premises, the association shall refund the full
 1869 security deposit or give written notice to the tenant of any
 1870 claim made against the security. Disputes under this subsection
 1871 shall be handled in the same fashion as disputes concerning
 1872 security deposits under s. 83.49.

1873 Section 16. Paragraph (a) of subsection (2) of section
 1874 720.304, Florida Statutes, is amended to read:

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1875 720.304 Right of owners to peaceably assemble; display of
 1876 flag; SLAPP suits prohibited.—

1877 (2) (a) Any homeowner may display within the boundaries of
 1878 the homeowner's parcel one portable, removable United States
 1879 ~~flag or official flag of the State of Florida in a respectful~~
 1880 ~~manner, and one portable, removable official flag,~~ in a
 1881 respectful way and, on Armed Forces Day, Memorial Day, Flag Day,
 1882 Independence Day, and Veterans' Day, may display in a respectful
 1883 way portable, removable official flags ~~manner,~~ not larger than 4
 1884 1/2 feet by 6 feet, that represent ~~which represents~~ the United
 1885 States Army, Navy, Air Force, Marine Corps, or Coast Guard, ~~or a~~
 1886 ~~POW-MIA flag,~~ regardless of any declaration ~~covenants,~~
 1887 ~~restrictions, bylaws, rules,~~ or requirements dealing with flags
 1888 or decorations ~~of the association.~~

1889 Section 17. Subsection (2) of section 720.305, Florida
 1890 Statutes, is amended to read:

1891 720.305 Obligations of members; remedies at law or in
 1892 equity; levy of fines and suspension of use rights.—

1893 (2) If the governing documents so provide, an association
 1894 may suspend, for a reasonable period of time, the rights of a
 1895 member or a member's tenants, guests, or invitees, or both, to
 1896 use common areas and facilities and may levy reasonable fines of
 1897 up to, ~~not to exceed~~ \$100 per violation, against any member or
 1898 any tenant, guest, or invitee. A fine may be levied on the basis
 1899 of each day of a continuing violation, with a single notice and
 1900 opportunity for hearing, except that no ~~such~~ fine may ~~shall~~
 1901 exceed \$1,000 in the aggregate unless otherwise provided in the
 1902 governing documents. A fine of less than \$1,000 may ~~shall~~ not

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1903 become a lien against a parcel. In any action to recover a fine,
 1904 the prevailing party is entitled to collect its reasonable
 1905 attorney's fees and costs from the nonprevailing party as
 1906 determined by the court.

1907 (a) A fine or suspension may not be imposed without ~~notice~~
 1908 ~~of~~ at least 14 days' notice ~~days~~ to the person sought to be
 1909 fined or suspended and an opportunity for a hearing before a
 1910 committee of at least three members appointed by the board who
 1911 are not officers, directors, or employees of the association, or
 1912 the spouse, parent, child, brother, or sister of an officer,
 1913 director, or employee. If the committee, by majority vote, does
 1914 not approve a proposed fine or suspension, it may not be
 1915 imposed.

1916 (b) The requirements of this subsection do not apply to
 1917 the imposition of suspensions or fines upon any member because
 1918 of the failure of the member to pay assessments or other charges
 1919 when due if such action is authorized by the governing
 1920 documents.

1921 (c) Suspension of common-area-use rights do ~~shall~~ not
 1922 impair the right of an owner or tenant of a parcel to have
 1923 vehicular and pedestrian ingress to and egress from the parcel,
 1924 including, but not limited to, the right to park.

1925 Section 18. Subsections (8) and (9) of section 720.306,
 1926 Florida Statutes, are amended to read:

1927 720.306 Meetings of members; voting and election
 1928 procedures; amendments.—

1929 (8) PROXY VOTING.—The members have the right, unless
 1930 otherwise provided in this subsection or in the governing
 1931 documents, to vote in person or by proxy.

1932 (a) To be valid, a proxy must be dated, must state the
 1933 date, time, and place of the meeting for which it was given, and
 1934 must be signed by the authorized person who executed the proxy.
 1935 A proxy is effective only for the specific meeting for which it
 1936 was originally given, as the meeting may lawfully be adjourned
 1937 and reconvened from time to time, and automatically expires 90
 1938 days after the date of the meeting for which it was originally
 1939 given. A proxy is revocable at any time at the pleasure of the
 1940 person who executes it. If the proxy form expressly so provides,
 1941 any proxy holder may appoint, in writing, a substitute to act in
 1942 his or her place.

1943 (b) If the governing documents permit voting by secret
 1944 ballot by members who are not in attendance at a meeting of the
 1945 members for the election of directors, such ballots shall be
 1946 placed in an inner envelope with no identifying markings and
 1947 mailed or delivered to the association in an outer envelope
 1948 bearing identifying information reflecting the name of the
 1949 member, the lot or parcel for which the vote is being cast, and
 1950 the signature of the lot or parcel owner casting that ballot.
 1951 After the eligibility of the member to vote and confirmation
 1952 that no other ballot has been submitted for that lot or parcel,
 1953 the inner envelope shall be removed from the outer envelope
 1954 bearing the identification information, placed with the ballots
 1955 which were personally cast, and opened when the ballots are
 1956 counted. If more than one ballot is submitted for a lot or

1957 parcel, the ballots for that lot or parcel shall be
 1958 disqualified. Any vote by ballot received after the closing of
 1959 the balloting may not be considered.

1960 (9) ELECTIONS; BOARD MEMBER CERTIFICATION.—

1961 (a) Elections of directors must be conducted in accordance
 1962 with the procedures set forth in the governing documents of the
 1963 association. All members of the association are ~~shall be~~
 1964 eligible to serve on the board of directors, and a member may
 1965 nominate himself or herself as a candidate for the board at a
 1966 meeting where the election is to be held or, if the election
 1967 process allows voting by absentee ballot, in advance of the
 1968 balloting. Except as otherwise provided in the governing
 1969 documents, boards of directors must be elected by a plurality of
 1970 the votes cast by eligible voters. Any election dispute between
 1971 a member and an association must be submitted to mandatory
 1972 binding arbitration with the division. Such proceedings shall be
 1973 conducted in the manner provided by s. 720.507 ~~718.1255~~ and the
 1974 ~~procedural rules adopted by the division.~~

1975 (b) Within 30 days after being elected to the board of
 1976 directors, a new director shall certify in writing to the
 1977 secretary of the association that he or she has read the
 1978 association's declarations of covenants and restrictions,
 1979 articles of incorporation, bylaws, and current written policies
 1980 and that he or she will work to uphold each to the best of his
 1981 or her ability and will faithfully discharge his or her
 1982 fiduciary responsibility to the association's members. Failure
 1983 to timely file such statement shall automatically disqualify the
 1984 director from service on the association's board of directors.

1985 The secretary shall cause the association to retain a director's
 1986 certification for inspection by the members for 5 years after a
 1987 director's election. Failure to have such certification on file
 1988 does not affect the validity of any appropriate action.

1989 Section 19. Section (8) is added to section 720.3085,
 1990 Florida Statutes, to read:

1991 720.3085 Payment for assessments; lien claims.—

1992 (8) During the pendency of any foreclosure action of a
 1993 parcel within a homeowners' association, if the home is occupied
 1994 by a tenant and the parcel owner is delinquent in the payment of
 1995 regular assessments, the association may demand that the tenant
 1996 pay to the association the future regular assessments related to
 1997 the parcel. The demand shall be continuing in nature, and upon
 1998 demand the tenant shall continue to pay the regular assessments
 1999 to the association until the association releases the tenant or
 2000 the tenant discontinues tenancy in the home. The association
 2001 shall mail written notice to the parcel owner of the
 2002 association's demand that the tenant pay regular assessments to
 2003 the association. The tenant shall not be liable for increases in
 2004 the amount of the regular assessment due unless the tenant was
 2005 reasonably notified of the increase prior to the day that the
 2006 rent is due. The tenant shall be given a credit against rents
 2007 due to the parcel owner in the amount of assessments paid to the
 2008 association. The association shall, upon request, provide the
 2009 tenant with written receipts for payments made. The association
 2010 may issue notices under s. 83.56 and may sue for eviction under
 2011 ss. 83.59-83.625 as if the association were a landlord under
 2012 part II of chapter 83 should the tenant fail to pay an

2013 assessment. However, the association shall not otherwise be
 2014 considered a landlord under chapter 83 and shall specifically
 2015 not have any duty under s. 83.51. The tenant shall not, by
 2016 virtue of payment of assessments, have any of the rights of a
 2017 parcel owner to vote in any election or to examine the books and
 2018 records of the association. A court may supersede the effect of
 2019 this subsection by appointing a receiver. Payments made by a
 2020 tenant pursuant to this subsection in lieu of or as a credit
 2021 against rent shall not be considered a breach of any lease
 2022 between the tenant and the parcel owner nor serve as cause for
 2023 eviction or other action for failure to pay rent. Under no
 2024 circumstances shall the amount of assessments for which a tenant
 2025 is held responsible under this subsection exceed the amount owed
 2026 in rent to the parcel owner.

2027 Section 20. Section 720.3095, Florida Statutes, is created
 2028 to read:

2029 720.3095 Management and maintenance agreements entered
 2030 into by the association.—

2031 (1) A written contract between a party contracting to
 2032 provide maintenance or management services and an association
 2033 which provides for operation, maintenance, or management of a
 2034 homeowners' association is not valid or enforceable unless the
 2035 contract:

2036 (a) Specifies the services, obligations, and
 2037 responsibilities of the party contracting to provide maintenance
 2038 or management services to the parcel owners.

2039 (b) Specifies those costs incurred in the performance of
 2040 those services, obligations, or responsibilities which are to be

2041 reimbursed by the association to the party contracting to
 2042 provide maintenance or management services.

2043 (c) Provides an indication of how often each service,
 2044 obligation, or responsibility is to be performed, whether stated
 2045 for each service, obligation, or responsibility or in categories
 2046 thereof.

2047 (d) Specifies a minimum number of personnel to be employed
 2048 by the party contracting to provide maintenance or management
 2049 services for the purpose of providing service to the
 2050 association.

2051 (e) Discloses any financial or ownership interest which
 2052 the developer, if the developer is in control of the
 2053 association, holds with regard to the party contracting to
 2054 provide maintenance or management services.

2055 (f) Discloses any financial or ownership interest a board
 2056 member or any party providing maintenance or management services
 2057 to the association holds with the contracting party.

2058 (2) In any case in which the party contracting to provide
 2059 maintenance or management services fails to provide such
 2060 services in accordance with the contract, the association is
 2061 authorized to procure such services from some other party and
 2062 shall be entitled to collect any fees or charges paid for
 2063 services performed by another party from the party contracting
 2064 to provide maintenance or management services.

2065 (3) Any services or obligations not stated on the face of
 2066 the contract shall be unenforceable.

2067 (4) Notwithstanding the fact that certain vendors contract
 2068 with associations to maintain equipment or property which is

2069 made available to serve parcel owners, it is the intent of the
 2070 Legislature that this section applies to contracts for
 2071 maintenance or management services for which the association
 2072 pays compensation. This section does not apply to contracts for
 2073 services or property made available for the convenience of
 2074 parcel owners by lessees or licensees of the association, such
 2075 as coin-operated laundry, food, soft drink, or telephone
 2076 vendors; cable television operators; retail store operators;
 2077 businesses; restaurants; or similar vendors.

2078 Section 21. Section 720.3096, Florida Statutes, is created
 2079 to read:

2080 720.3096 Limitation on agreements entered into by the
 2081 association.—As to any contract or other transaction between an
 2082 association and one or more of its directors or any other
 2083 corporation, firm, association, or entity in which one or more
 2084 of its directors are directors or officers or are financially
 2085 interested:

2086 (1) The association must comply with the requirements of
 2087 s. 617.0832.

2088 (2) The disclosures required by s. 617.0832 must be
 2089 entered into the written minutes of the meeting.

2090 (3) Approval of the contract or other transaction requires
 2091 an affirmative vote of at least two-thirds of the directors
 2092 present.

2093 (4) At the next regular or special meeting of the members,
 2094 the existence of the contract or other transaction must be
 2095 disclosed to the members. Upon motion of any member, the
 2096 contract or transaction shall be brought up for a vote and may

2097 be canceled by a majority vote of the members present. If the
 2098 members cancel the contract, the association is liable for only
 2099 the reasonable value of goods and services provided up to the
 2100 time of cancellation and is not liable for any termination fee,
 2101 liquidated damages, or other form of penalty for such
 2102 cancellation.

2103 Section 22. Section 720.311, Florida Statutes, is
 2104 repealed.

2105 Section 23. Paragraph (a) of subsection (1) of section
 2106 720.401, Florida Statutes, is amended to read:

2107 720.401 Prospective purchasers subject to association
 2108 membership requirement; disclosure required; covenants;
 2109 assessments; contract cancellation.—

2110 (1) (a) A prospective parcel owner in a community must be
 2111 presented a disclosure summary before executing the contract for
 2112 sale. The disclosure summary must be in a form substantially
 2113 similar to the following form:

2114
 2115 DISCLOSURE SUMMARY
 2116 FOR
 2117 (NAME OF COMMUNITY)
 2118

2119 1. AS A PURCHASER OF PROPERTY IN THIS COMMUNITY, YOU WILL
 2120 BE OBLIGATED TO BE A MEMBER OF A HOMEOWNERS' ASSOCIATION.

2121 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE
 2122 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS
 2123 COMMUNITY.

2124 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE
 2125 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF
 2126 APPLICABLE, THE CURRENT AMOUNT IS \$ _____ PER _____. YOU WILL
 2127 ALSO BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE
 2128 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.
 2129 IF APPLICABLE, THE CURRENT AMOUNT IS \$ _____ PER _____.

2130 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE
 2131 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL
 2132 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

2133 5. YOUR FAILURE TO PAY SPECIAL ASSESSMENTS OR ASSESSMENTS
 2134 LEVIED BY A MANDATORY HOMEOWNERS' ASSOCIATION MAY ~~COULD~~ RESULT
 2135 IN A LIEN ON YOUR PROPERTY.

2136 6. THERE MAY BE AN OBLIGATION TO PAY RENT OR LAND USE FEES
 2137 FOR RECREATIONAL OR OTHER COMMONLY USED FACILITIES AS AN
 2138 OBLIGATION OF MEMBERSHIP IN THE HOMEOWNERS' ASSOCIATION. IF
 2139 APPLICABLE, THE CURRENT AMOUNT IS \$ _____ PER _____.

2140 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE
 2141 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE
 2142 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION
 2143 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

2144 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE
 2145 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU
 2146 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING
 2147 DOCUMENTS BEFORE PURCHASING PROPERTY.

2148 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND
 2149 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE
 2150 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE
 2151 OBTAINED FROM THE DEVELOPER.

2179 720.502 Legislative findings.—The Legislature finds that
 2180 alternative dispute resolution has made progress in reducing
 2181 court dockets and trials and in offering a more efficient, cost-
 2182 effective option to litigation.

2183 720.503 Applicability of this part.—

2184 (1) Unless otherwise provided in this part, before a
 2185 dispute described in this part between a homeowners' association
 2186 and a parcel owner or owners, or a dispute between parcel owners
 2187 within the same homeowners' association, may be filed in court,
 2188 the dispute is subject to presuit mediation pursuant to s.
 2189 720.505 or presuit arbitration pursuant to s. 720.507, at the
 2190 option of the aggrieved party who initiates the first formal
 2191 action of alternative dispute resolution under this part. The
 2192 parties may mutually agree to participate in both presuit
 2193 mediation and presuit arbitration prior to suit being filed by
 2194 either party.

2195 (2) Unless otherwise provided in this part, the mediation
 2196 and arbitration provisions of this part are limited to disputes
 2197 between an association and a parcel owner or owners or between
 2198 parcel owners regarding the use of or changes to the parcel or
 2199 the common areas under the governing documents and other
 2200 disputes involving violations of the recorded declaration of
 2201 covenants or other governing documents, disputes arising
 2202 concerning enforcement of the governing documents or any
 2203 amendments thereto, and disputes involving access to the
 2204 official records of the association. A dispute concerning title
 2205 to any parcel or common area, interpretation or enforcement of
 2206 any warranty, the levy of a fee or assessment, the collection of

2207 an assessment levied against a party, the eviction or other
 2208 removal of a tenant from a parcel, alleged breaches of fiduciary
 2209 duty by one or more directors, or any action to collect mortgage
 2210 indebtedness or to foreclosure a mortgage shall not be subject
 2211 to the provisions of this part.

2212 (3) A dispute arising after the effective date of this
 2213 part involving the election of the board of directors for an
 2214 association or the recall of any member of the board or officer
 2215 of the association is ineligible for presuit mediation under s.
 2216 720.505 and subject to presuit arbitration under s. 720.507.

2217 (4) In any dispute subject to presuit mediation or presuit
 2218 arbitration under this part for which emergency relief is
 2219 required, a motion for temporary injunctive relief may be filed
 2220 with the court without first complying with the presuit
 2221 mediation or presuit arbitration requirements of this part.
 2222 After any issues regarding emergency or temporary relief are
 2223 resolved, the court may refer the parties to a mediation program
 2224 administered by the courts or require mediation or arbitration
 2225 under this part.

2226 (5) The mailing of a statutory notice of presuit mediation
 2227 or presuit arbitration as provided in this part shall toll the
 2228 applicable statute of limitations during the pendency of the
 2229 mediation or arbitration and for a period of 30 days following
 2230 the conclusion of either proceeding. The 30-day period shall
 2231 start upon the filing of the mediator's notice of impasse or the
 2232 arbitrator's written arbitration award. If the parties mutually
 2233 agree to participate in both presuit mediation and presuit
 2234 arbitration under this part, the tolling of the applicable

2235 statute of limitations for each such alternative dispute
 2236 resolution proceeding shall be consecutive.

2237 720.504 Notice of dispute.—Prior to giving the statutory
 2238 notice to proceed under presuit mediation or presuit arbitration
 2239 under this part, the aggrieved association or parcel owner must
 2240 first provide written notice of the dispute to the responding
 2241 party in the manner provided by this section.

2242 (1) The notice of dispute shall be delivered to the
 2243 responding party by certified mail, return receipt requested, or
 2244 in person, and the person making delivery shall file with the
 2245 notice of mediation either the proof of receipt of mailing or an
 2246 affidavit stating the date and time of the delivery of the
 2247 notice of dispute. If the notice is delivered by certified mail,
 2248 return receipt requested, and the responding party fails or
 2249 refuses to accept delivery, notice shall be considered properly
 2250 delivered for purposes of this section on the date of the first
 2251 attempted delivery.

2252 (2) The notice of dispute shall state with specificity the
 2253 nature of the dispute, including the date, time, and location of
 2254 each event that is the subject of the dispute and the action
 2255 requested to resolve the dispute. The notice shall also include
 2256 the text of any provision in the governing documents, including
 2257 the rules and regulations, of the association which form the
 2258 basis of the dispute.

2259 (3) Unless the parties otherwise agree in writing to a
 2260 longer time period, the party receiving the notice of dispute
 2261 shall have 10 days following the date of receipt of notice to
 2262 resolve the dispute. If the alleged dispute has not been

2263 resolved within the 10-day period, the aggrieved party may
 2264 proceed under this part at any time thereafter within the
 2265 applicable statute of limitations.

2266 (4) A copy of the notice and the text of the provision in
 2267 the governing documents, or the rules and regulations, of the
 2268 association which are the basis of the dispute, along with proof
 2269 of service of the notice of dispute and a copy of any written
 2270 responses received from the responding party, shall be included
 2271 as an exhibit to any demand for mediation or arbitration under
 2272 this part.

2273 720.505 Presuit mediation.-

2274 (1) Disputes between an association and a parcel owner or
 2275 owners or between parcel owners must be submitted to presuit
 2276 mediation before the dispute may be filed in court; or, at the
 2277 election of the party initiating the presuit procedures, such
 2278 dispute may be submitted to presuit arbitration pursuant to s.
 2279 720.507 before the dispute may be filed in court. An aggrieved
 2280 party who elects to use the presuit mediation procedure under
 2281 this section shall serve on the responding party a written
 2282 notice of presuit mediation in substantially the following form:

2284 STATUTORY NOTICE OF PRESUIT MEDIATION

2286 THE ALLEGED AGGRIEVED PARTY, _____,
 2287 HEREBY DEMANDS THAT _____, AS THE
 2288 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT
 2289 MEDIATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)

2290 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE
 2291 SUBJECT TO PRESUIT MEDIATION:
 2292
 2293 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION
 2294 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO
 2295 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF
 2296 A VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT
 2297 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING
 2298 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE
 2299 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE
 2300 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN
 2301 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.
 2302
 2303 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,
 2304 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT
 2305 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED
 2306 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,
 2307 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT
 2308 MEDIATION WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER
 2309 TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT
 2310 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU
 2311 PARTICIPATE IN THIS PROCESS. UNLESS YOU RESPOND TO
 2312 THIS NOTICE BY FILING WITH THE AGGRIEVED PARTY A
 2313 NOTICE OF OPTING OUT AND DEMAND FOR ARBITRATION UNDER
 2314 SECTION 720.506, FLORIDA STATUTES, YOUR FAILURE TO
 2315 PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A
 2316 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT
 2317 FURTHER NOTICE.

2318
2319 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED
2320 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-
2321 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS
2322 THEM IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING
2323 PART OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE
2324 IN PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO
2325 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO
2326 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO
2327 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A
2328 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE
2329 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR
2330 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

2331
2332 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO
2333 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT
2334 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE
2335 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE
2336 THESE ISSUES IN COURT. THE FAILURE TO REACH AN
2337 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN
2338 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN
2339 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED
2340 PARTY MAY PROCEED TO FILE A LAWSUIT ON ALL
2341 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR
2342 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION
2343 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER
2344 ATTORNEY'S FEES IF YOU PREVAIL IN A SUBSEQUENT COURT
2345 PROCEEDING INVOLVING THE SAME DISPUTE.

2346
2347 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF
2348 ELIGIBLE, QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED
2349 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE
2350 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE
2351 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE
2352 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE
2353 OF THE LISTED MEDIATORS DOES NOT MEAN THAT THE
2354 MEDIATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL
2355 FACILITATOR. THE NAMES OF THE MEDIATORS THAT THE
2356 AGGRIEVED PARTY HEREBY SUBMITS TO YOU FROM WHOM YOU
2357 MAY CHOOSE ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE
2358 NUMBERS, AND HOURLY RATES ARE AS FOLLOWS:

2359
2360 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND
2361 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT
2362 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY
2363 BE INCLUDED AS AN ATTACHMENT.)

2364
2365 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO
2366 CONFIRM THAT EACH OF THE ABOVE-LISTED MEDIATORS WILL
2367 BE NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD
2368 EITHER PARTY. UNLESS OTHERWISE AGREED TO BY THE
2369 PARTIES, PART IV OF CHAPTER 720, FLORIDA STATUTES,
2370 REQUIRES THAT THE PARTIES SHARE THE COSTS OF PRESUIT
2371 MEDIATION EQUALLY, INCLUDING THE FEE CHARGED BY THE
2372 MEDIATOR. AN AVERAGE MEDIATION MAY REQUIRE 3 TO 4
2373 HOURS OF THE MEDIATOR'S TIME, INCLUDING SOME

2374 PREPARATION TIME, AND THE PARTIES WOULD NEED TO
 2375 EQUALLY SHARE THE MEDIATOR'S FEES AS WELL AS BE
 2376 RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES IF
 2377 THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH
 2378 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT
 2379 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE
 2380 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR
 2381 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY
 2382 HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE
 2383 SELECTED MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS
 2384 AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS AS
 2385 THE MEDIATOR REQUIRES FOR THIS PURPOSE UPON THE
 2386 SELECTION OF THE MEDIATOR. ANY FUNDS DEPOSITED WILL BE
 2387 RETURNED TO YOU IF THESE FUNDS ARE IN EXCESS OF YOUR
 2388 SHARE OF THE MEDIATOR FEES INCURRED.

2389
 2390 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO
 2391 TRY TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER
 2392 LEGAL ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE
 2393 WHICH MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE
 2394 MEDIATORS LISTED BY THE AGGRIEVED PARTY ABOVE.

2395
 2396 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE
 2397 OF PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE
 2398 YOU MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND
 2399 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE
 2400 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED
 2401 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT

2402 MEDIATION OR WITHIN 90 DAYS AFTER THE DATE YOU WERE
 2403 SERVED WITH A COPY OF THIS NOTICE. THE AGGRIEVED PARTY
 2404 WILL THEN ASK THE MEDIATOR TO SCHEDULE A MUTUALLY
 2405 CONVENIENT TIME AND PLACE FOR THE MEDIATION CONFERENCE
 2406 TO BE HELD. IF YOU DO NOT PROVIDE A LIST OF AVAILABLE
 2407 DATES AND TIMES, THE MEDIATOR IS AUTHORIZED TO
 2408 SCHEDULE A MEDIATION CONFERENCE WITHOUT TAKING YOUR
 2409 SCHEDULE AND CONVENIENCE INTO CONSIDERATION. IN NO
 2410 EVENT SHALL THE MEDIATION CONFERENCE BE LATER THAN 90
 2411 DAYS AFTER THE NOTICE OF PRESUIT MEDIATION WAS FIRST
 2412 SERVED UNLESS ALL PARTIES MUTUALLY AGREE OTHERWISE. IN
 2413 THE EVENT THAT YOU FAIL TO RESPOND WITHIN 20 DAYS
 2414 AFTER THE DATE OF THIS NOTICE, FAIL TO PROVIDE THE
 2415 MEDIATOR WITH DATES AND TIMES IN WHICH YOU ARE
 2416 AVAILABLE FOR THE MEDIATION CONFERENCE, FAIL TO AGREE
 2417 TO ONE OF THE MEDIATORS THAT THE AGGRIEVED PARTY HAS
 2418 LISTED, FAIL TO PAY OR PREPAY TO THE MEDIATOR ONE-HALF
 2419 OF THE COSTS INVOLVED, OR FAIL TO APPEAR AND
 2420 PARTICIPATE AT THE SCHEDULED MEDIATION, THE AGGRIEVED
 2421 PARTY WILL BE AUTHORIZED TO PROCEED WITH THE FILING OF
 2422 A LAWSUIT AGAINST YOU WITHOUT FURTHER NOTICE. IN ANY
 2423 SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY MAY SEEK
 2424 AN AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS
 2425 INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

2426

2427 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY
 2428 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-
 2429 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED

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2430 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE
 2431 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF
 2432 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS
 2433 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY
 2434 OF THIS NOTICE.

2435 _____
 2436 _____
 2437 SIGNATURE OF AGGRIEVED PARTY

2438 _____
 2439 _____
 2440 PRINTED NAME OF AGGRIEVED PARTY

2441 _____
 2442 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR
 2443 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

2444 _____
 2445 AGREEMENT TO MEDIATE

2446 _____
 2447 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN
 2448 PRESUIT MEDIATION AND AGREES TO ATTEND A MEDIATION
 2449 CONDUCTED BY THE MEDIATOR LISTED BELOW AS ACCEPTABLE
 2450 TO MEDIATE THIS DISPUTE:

2451 _____
 2452 (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE
 2453 AGGRIEVED PARTY.)

2454 _____
 2455 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN
 2456 ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE
 2457 FOLLOWING DATES AND TIMES:

2458
 2459 (LIST AT LEAST THREE AVAILABLE DATES AND TIMES WITHIN
 2460 THE 90-DAY TIME LIMIT DESCRIBED ABOVE.)

2461
 2462 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE
 2463 MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS
 2464 AS THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

2465
 2466 _____
 2467 SIGNATURE OF RESPONDING PARTY #1

2468 _____
 2469 TELEPHONE CONTACT INFORMATION

2470
 2471 _____
 2472 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF
 2473 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS
 2474 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,
 2475 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF
 2476 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

2477
 2478 (2) (a) Service of the notice of presuit mediation shall be
 2479 effected either by personal service, as provided in chapter 48,
 2480 or by certified mail, return receipt requested, in a letter in
 2481 substantial conformity with the form provided in subsection (1),
 2482 with an additional copy being sent by regular first-class mail,
 2483 to the address of the responding party as it last appears on the
 2484 books and records of the association or, if not available, then
 2485 as it last appears in the official records of the county

2486 property appraiser where the parcel in dispute is located. The
2487 responding party has 20 days after the postmarked date of the
2488 mailing of the statutory notice or the date the responding party
2489 is served with a copy of the notice to serve a written response
2490 to the aggrieved party. The response shall be served by
2491 certified mail, return receipt requested, with an additional
2492 copy being sent by regular first-class mail, to the address
2493 shown on the statutory notice. The date of the postmark on the
2494 envelope for the response shall constitute the date that the
2495 response is served. Once the parties have agreed on a mediator,
2496 the mediator may schedule or reschedule the mediation for a date
2497 and time mutually convenient to the parties within 90 days after
2498 the date of service of the statutory notice. After such 90-day
2499 period, the mediator may reschedule the mediation only upon the
2500 mutual written agreement of all the parties.

2501 (b) The parties shall share the costs of presuit mediation
2502 equally, including the fee charged by the mediator, if any,
2503 unless the parties agree otherwise, and the mediator may require
2504 advance payment of his or her reasonable fees and costs. Each
2505 party shall be responsible for that party's own attorney's fees
2506 if a party chooses to be represented by an attorney at the
2507 mediation.

2508 (c) The party responding to the aggrieved party may
2509 provide a notice of opting out under s. 720.506 and demand
2510 arbitration or may sign the agreement to mediate included in the
2511 notice of presuit mediation. A responding party signing the
2512 agreement to mediate must clearly indicate the name of the
2513 mediator who is acceptable from the five names provided by the

2514 aggrieved party and must provide a list of dates and times in
2515 which the responding party is available to participate in the
2516 mediation within 90 days after the date the responding party was
2517 served, either by process server or by certified mail, with the
2518 statutory notice of presuit mediation.

2519 (d) The mediator who has been selected and agreed to
2520 mediate must schedule the mediation conference at a mutually
2521 convenient time and place within that 90-day period; but, if the
2522 responding party does not provide a list of available dates and
2523 times, the mediator is authorized to schedule a mediation
2524 conference without taking the responding party's schedule and
2525 convenience into consideration. Within 10 days after the
2526 designation of the mediator, the mediator shall coordinate with
2527 the parties and notify the parties in writing of the date, time,
2528 and place of the mediation conference.

2529 (e) The mediation conference must be held on the scheduled
2530 date and may be rescheduled if a rescheduled date is approved by
2531 the mediator. However, in no event shall the mediation be held
2532 later than 90 days after the notice of presuit mediation was
2533 first served, unless all parties mutually agree in writing
2534 otherwise. If the presuit mediation is not completed within the
2535 required time limits, the mediator shall declare an impasse
2536 unless the mediation date is extended by mutual written
2537 agreement by all parties and approved by the mediator.

2538 (f) If the responding party fails to respond within 20
2539 days after the date of service of the statutory notice of
2540 presuit mediation, fails to agree to at least one of the
2541 mediators listed by the aggrieved party in the notice, fails to

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2542 pay or prepay to the mediator one-half of the costs of the
2543 mediator, or fails to appear and participate at the scheduled
2544 mediation, the aggrieved party shall be authorized to proceed
2545 with the filing of a lawsuit without further notice.

2546 (g)1. The failure of any party to respond to the statutory
2547 notice of presuit mediation within 20 days, the failure to agree
2548 upon a mediator, the failure to provide a listing of dates and
2549 times in which the responding party is available to participate
2550 in the mediation within 90 days after the date the responding
2551 party was served with the statutory notice of presuit mediation,
2552 the failure to make payment of fees and costs within the time
2553 established by the mediator, or the failure to appear for a
2554 scheduled mediation session without the approval of the mediator
2555 shall in each instance constitute a failure or refusal to
2556 participate in the mediation process and shall operate as an
2557 impasse in the presuit mediation by such party, entitling the
2558 other party to file a lawsuit in court and to seek an award of
2559 the costs and attorney's fees associated with the mediation.

2560 2. Persons who fail or refuse to participate in the entire
2561 mediation process may not recover attorney's fees and costs in
2562 subsequent litigation relating to the same dispute between the
2563 same parties. If any presuit mediation session cannot be
2564 scheduled and conducted within 90 days after the offer to
2565 participate in mediation was filed, through no fault of either
2566 party, then an impasse shall be deemed to have occurred unless
2567 the parties mutually agree in writing to extend this deadline.
2568 In the event of such impasse, each party shall be responsible
2569 for its own costs and attorney's fees and one-half of any

2570 mediator fees and filing fees, and either party may file a
 2571 lawsuit in court regarding the dispute.

2572 720.506 Opt-out of presuit mediation.—A party served with
 2573 a notice of presuit mediation under s. 720.505 may opt out of
 2574 presuit mediation and demand that the dispute proceed under
 2575 nonbinding arbitration as follows:

2576 (1) In lieu of a response to the notice of presuit
 2577 mediation as required under s. 720.505, the responding party may
 2578 serve upon the aggrieved party, in the same manner as the
 2579 response to a notice for presuit mediation under s. 720.505, a
 2580 notice of opting out of mediation and demand that the dispute
 2581 instead proceed to presuit arbitration under s. 720.507.

2582 (2) The aggrieved party shall be relieved from having to
 2583 satisfy the requirements of s. 720.504 as a condition precedent
 2584 to filing the demand for presuit arbitration.

2585 (3) Except as otherwise provided in this part, the choice
 2586 of which presuit alternative dispute resolution procedure is
 2587 used shall be at the election of the aggrieved party who first
 2588 initiated such proceeding after complying with the provisions of
 2589 s. 720.504.

2590 720.507 Presuit arbitration.—

2591 (1) Disputes between an association and a parcel owner or
 2592 owners or between parcel owners are subject to a demand for
 2593 presuit arbitration pursuant to this section before the dispute
 2594 may be filed in court. A party who elects to use the presuit
 2595 arbitration procedure under this part shall serve on the
 2596 responding party a written notice of presuit arbitration in
 2597 substantially the following form:

2598
2599
2600
2601
2602
2603
2604
2605
2606
2607
2608
2609
2610
2611
2612
2613
2614
2615
2616
2617
2618
2619
2620
2621
2622
2623
2624

STATUTORY NOTICE OF PRESUIT ARBITRATION

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

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

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

2625 BE BROUGHT AGAINST YOU IN COURT WITHOUT FURTHER
 2626 WARNING.
 2627
 2628 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD
 2629 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY
 2630 THE PARTIES AND RENDERS A WRITTEN DECISION CALLED AN
 2631 "ARBITRATION AWARD." PURSUANT TO SECTION 720.507,
 2632 FLORIDA STATUTES, THE ARBITRATION AWARD SHALL BE FINAL
 2633 UNLESS A LAWSUIT IS FILED IN A COURT OF COMPETENT
 2634 JURISDICTION FOR THE JUDICIAL CIRCUIT IN WHICH THE
 2635 PARCEL(S) GOVERNED BY THE HOMEOWNERS' ASSOCIATION
 2636 IS/ARE LOCATED WITHIN 30 DAYS AFTER THE DATE OF THE
 2637 ARBITRATION AWARD.
 2638
 2639 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE
 2640 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND
 2641 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE
 2642 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS
 2643 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR
 2644 TO LITIGATE THESE ISSUES IN COURT AND SHALL BE THE
 2645 SAME AS A SETTLEMENT AGREEMENT REACHED BETWEEN THE
 2646 PARTIES UNDER SECTION 720.505, FLORIDA STATUTES. THE
 2647 FAILURE OF A PARTY TO PARTICIPATE IN THE ARBITRATION
 2648 PROCESS MAY RESULT IN THE ARBITRATOR ISSUING AN
 2649 ARBITRATION AWARD BY DEFAULT IN THE ARBITRATION. IF
 2650 YOU HAVE FAILED OR REFUSED TO PARTICIPATE IN THE
 2651 ENTIRE ARBITRATION PROCESS, YOU WILL NOT BE ENTITLED
 2652 TO RECOVER ATTORNEY'S FEES IF YOU PREVAIL IN A

2653 SUBSEQUENT COURT PROCEEDING INVOLVING THE SAME
 2654 DISPUTE.
 2655
 2656 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE
 2657 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE
 2658 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU
 2659 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.
 2660 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR
 2661 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE
 2662 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL
 2663 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS
 2664 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT
 2665 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE
 2666 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT
 2667 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,
 2668 AND HOURLY RATES, ARE AS FOLLOWS:
 2669
 2670 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND
 2671 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.)
 2672
 2673 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO
 2674 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL
 2675 AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.
 2676
 2677 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF
 2678 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE
 2679 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION
 2680 EQUALLY, INCLUDING THE FEE CHARGED BY THE ARBITRATOR.

2681 THE PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN
 2682 ATTORNEY'S FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY
 2683 IN CONNECTION WITH THE ARBITRATION. HOWEVER, USE OF AN
 2684 ATTORNEY TO REPRESENT YOU FOR THE ARBITRATION IS NOT
 2685 REQUIRED. THE ARBITRATOR SELECTED MAY REQUIRE THE
 2686 ADVANCE PAYMENT OF SOME OR ALL OF THE ANTICIPATED
 2687 FEES. THE AGGRIEVED PARTY HEREBY AGREES TO PAY OR
 2688 PREPAY ONE-HALF OF THE SELECTED ARBITRATOR'S ESTIMATED
 2689 FEES AND TO FORWARD THIS AMOUNT OR SUCH OTHER
 2690 REASONABLE ADVANCE DEPOSITS AS THE ARBITRATOR WHO IS
 2691 SELECTED REQUIRES FOR THIS PURPOSE. ANY FUNDS
 2692 DEPOSITED WILL BE RETURNED TO YOU IF THESE FUNDS ARE
 2693 IN EXCESS OF YOUR SHARE OF THE FEES INCURRED.

2694
 2695 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND
 2696 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS
 2697 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE
 2698 AGGRIEVED PARTY.

2699
 2700 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE
 2701 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF
 2702 PRESUIT ARBITRATION WAS PERSONALLY SERVED ON YOU OR
 2703 THE POSTMARKED DATE THAT THIS NOTICE OF PRESUIT
 2704 ARBITRATION WAS SENT TO YOU BY CERTIFIED MAIL. YOU
 2705 MUST ALSO PROVIDE A LIST OF AT LEAST THREE DATES AND
 2706 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE
 2707 ARBITRATION THAT ARE WITHIN 90 DAYS AFTER THE DATE YOU
 2708 WERE PERSONALLY SERVED OR WITHIN 90 DAYS AFTER THE

2709 POSTMARKED DATE OF THE CERTIFIED MAILING OF THIS
 2710 STATUTORY NOTICE OF PRESUIT ARBITRATION. A COPY OF
 2711 THIS NOTICE AND YOUR RESPONSE WILL BE PROVIDED BY THE
 2712 AGGRIEVED PARTY TO THE ARBITRATOR SELECTED, AND THE
 2713 ARBITRATOR WILL SCHEDULE A MUTUALLY CONVENIENT TIME
 2714 AND PLACE FOR THE ARBITRATION CONFERENCE TO BE HELD.
 2715 IF YOU DO NOT PROVIDE A LIST OF AVAILABLE DATES AND
 2716 TIMES, THE ARBITRATOR IS AUTHORIZED TO SCHEDULE AN
 2717 ARBITRATION CONFERENCE WITHOUT TAKING YOUR SCHEDULE
 2718 AND CONVENIENCE INTO CONSIDERATION. THE ARBITRATION
 2719 CONFERENCE MUST BE HELD ON THE SCHEDULED DATE, OR ANY
 2720 RESCHEDULED DATE APPROVED BY THE ARBITRATOR. IN NO
 2721 EVENT SHALL THE ARBITRATION CONFERENCE BE LATER THAN
 2722 90 DAYS AFTER NOTICE OF THE PRESUIT ARBITRATION WAS
 2723 FIRST SERVED, UNLESS ALL PARTIES MUTUALLY AGREE IN
 2724 WRITING OTHERWISE. IF THE ARBITRATION IS NOT COMPLETED
 2725 WITHIN THE REQUIRED TIME LIMITS, THE ARBITRATOR SHALL
 2726 ISSUE AN ARBITRATION AWARD, UNLESS THE HEARING IS
 2727 EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES
 2728 AND APPROVED BY THE ARBITRATOR. IN THE EVENT THAT YOU
 2729 FAIL TO RESPOND WITHIN 20 DAYS AFTER THE DATE YOU WERE
 2730 SERVED WITH A COPY OF THIS NOTICE, FAIL TO PROVIDE THE
 2731 ARBITRATOR WITH DATES AND TIMES IN WHICH YOU ARE
 2732 AVAILABLE FOR THE ARBITRATION CONFERENCE, FAIL TO
 2733 AGREE TO ONE OF THE ARBITRATORS THAT THE AGGRIEVED
 2734 PARTY HAS NAMED, FAIL TO PAY OR PREPAY TO THE
 2735 ARBITRATOR ONE-HALF OF THE COSTS INVOLVED AS REQUIRED,
 2736 OR FAIL TO APPEAR AND PARTICIPATE AT THE SCHEDULED

2737 ARBITRATION CONFERENCE, THE AGGRIEVED PARTY MAY
 2738 REQUEST THE ARBITRATOR TO ISSUE AN ARBITRATION AWARD.
 2739 IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY
 2740 SHALL BE ENTITLED TO RECOVER AN AWARD OF REASONABLE
 2741 ATTORNEY'S FEES AND COSTS, INCLUDING ANY FEES PAID TO
 2742 THE ARBITRATOR, INCURRED IN OBTAINING AN ARBITRATION
 2743 AWARD PURSUANT TO SECTION 720.507, FLORIDA STATUTES.

2744
 2745 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY
 2746 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY
 2747 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,
 2748 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT
 2749 ARBITRATION.

2750
 2751 _____
 2752 SIGNATURE OF AGGRIEVED PARTY

2753
 2754 _____
 2755 PRINTED NAME OF AGGRIEVED PARTY

2756
 2757 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR
 2758 ACCEPTANCE OF THE AGREEMENT TO ARBITRATE.

2759
 2760 AGREEMENT TO ARBITRATE

2761
 2762 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN
 2763 PRESUIT ARBITRATION AND AGREES TO ATTEND AN
 2764 ARBITRATION CONDUCTED BY THE FOLLOWING ARBITRATOR

2765 LISTED BELOW AS SOMEONE WHO WOULD BE ACCEPTABLE TO
 2766 ARBITRATE THIS DISPUTE:

2767
 2768 (IN YOUR RESPONSE, SELECT THE NAME OF ONE ARBITRATOR
 2769 THAT IS ACCEPTABLE TO YOU FROM THOSE ARBITRATORS
 2770 LISTED BY THE AGGRIEVED PARTY.)

2771
 2772 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS
 2773 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE
 2774 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES
 2775 AND TIMES:

2776
 2777 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE
 2778 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE
 2779 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR
 2780 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT
 2781 ARBITRATION.)

2782
 2783 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE
 2784 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS
 2785 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

2786
 2787 _____
 2788 SIGNATURE OF RESPONDING PARTY #1

2789 _____
 2790 TELEPHONE CONTACT INFORMATION

2791 _____
 2792 _____

2793 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF
 2794 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS
 2795 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,
 2796 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF
 2797 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

2798
 2799 (2) (a) Service of the notice of presuit arbitration shall
 2800 be effected either by personal service, as provided in chapter
 2801 48, or by certified mail, return receipt requested, in a letter
 2802 in substantial conformity with the form provided in subsection
 2803 (1), with an additional copy being sent by regular first-class
 2804 mail, to the address of the responding party as it last appears
 2805 on the books and records of the association or, if not
 2806 available, the last address as it appears on the official
 2807 records of the county property appraiser for the county in which
 2808 the property is situated that is subject to the association
 2809 documents. The responding party has 20 days after the postmarked
 2810 date of the certified mailing of the statutory notice of presuit
 2811 arbitration or the date the responding party is personally
 2812 served with the statutory notice of presuit arbitration to serve
 2813 a written response to the aggrieved party. The response shall be
 2814 served by certified mail, return receipt requested, with an
 2815 additional copy being sent by regular first-class mail, to the
 2816 address shown on the statutory notice of presuit arbitration.
 2817 The postmarked date on the envelope of the response shall
 2818 constitute the date the response was served.

2819 (b) The parties shall share the costs of presuit
 2820 arbitration equally, including the fee charged by the

2821 arbitrator, if any, unless the parties agree otherwise, and the
2822 arbitrator may require advance payment of his or her reasonable
2823 fees and costs. Each party shall be responsible for that party's
2824 own attorney's fees if a party chooses to be represented by an
2825 attorney for the arbitration proceedings.

2826 (c)1. The party responding to the aggrieved party must
2827 sign the agreement to arbitrate included in the notice of
2828 presuit arbitration and clearly indicate the name of the
2829 arbitrator who is acceptable of those arbitrators listed by the
2830 aggrieved party. The responding party must provide a list of at
2831 least three dates and times in which the responding party is
2832 available to participate in the arbitration conference within 90
2833 days after the date the responding party was served with the
2834 statutory notice of presuit arbitration.

2835 2. The arbitrator must schedule the arbitration conference
2836 at a mutually convenient time and place, but if the responding
2837 party does not provide a list of available dates and times, the
2838 arbitrator is authorized to schedule an arbitration conference
2839 without taking the responding party's schedule and convenience
2840 into consideration. Within 10 days after the designation of the
2841 arbitrator, the arbitrator shall notify the parties in writing
2842 of the date, time, and place of the arbitration conference.

2843 3. The arbitration conference must be held on the
2844 scheduled date and may be rescheduled if approved by the
2845 arbitrator. However, in no event shall the arbitration hearing
2846 be later than 90 days after the notice of presuit arbitration
2847 was first served, unless all parties mutually agree in writing
2848 otherwise. If the arbitration hearing is not completed within

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2849 the required time limits, the arbitrator may issue an
2850 arbitration award unless the time for the hearing is extended as
2851 provided herein.

2852 4. If the responding party fails to respond within 20 days
2853 after the date of statutory notice of presuit arbitration, fails
2854 to agree to at least one of the arbitrators that have been
2855 listed by the aggrieved party in the presuit notice of
2856 arbitration, fails to pay or prepay to the arbitrator one-half
2857 of the costs involved, or fails to appear and participate at the
2858 scheduled arbitration, the aggrieved party is authorized to
2859 proceed with a request that the arbitrator issue an arbitration
2860 award.

2861 (d)1. The failure of any party to respond to the statutory
2862 notice of presuit arbitration within 20 days, the failure to
2863 select one of the arbitrators listed by the aggrieved party, the
2864 failure to provide a listing of dates and times in which the
2865 responding party is available to participate in the arbitration
2866 conference within 90 days after the date of the responding party
2867 being served with the statutory notice of presuit arbitration,
2868 the failure to make payment of fees and costs as required within
2869 the time established by the arbitrator, or the failure to appear
2870 for an arbitration conference without the approval of the
2871 arbitrator shall entitle the other party to request the
2872 arbitrator to enter an arbitration award, including an award of
2873 the reasonable costs and attorney's fees associated with the
2874 arbitration.

2875 2. Persons who fail or refuse to participate in the entire
2876 arbitration process may not recover attorney's fees and costs in

2877 any subsequent litigation proceeding relating to the same
 2878 dispute involving the same parties.

2879 (3) (a) In an arbitration proceeding, the arbitrator may
 2880 not consider any unsuccessful mediation of the dispute.

2881 (b) An arbitrator in a proceeding initiated pursuant to
 2882 this part may shorten the time for discovery or otherwise limit
 2883 discovery in a manner consistent with the policy goals of this
 2884 part to reduce the time and expense of litigating homeowners'
 2885 association disputes initiated pursuant to this chapter and to
 2886 promote an expeditious alternative dispute resolution procedure
 2887 for parties to such actions.

2888 (4) At the request of any party to the arbitration, the
 2889 arbitrator may issue subpoenas for the attendance of witnesses
 2890 and the production of books, records, documents, and other
 2891 evidence, and any party on whose behalf a subpoena is issued may
 2892 apply to the court for orders compelling such attendance and
 2893 production. Subpoenas shall be served and are enforceable in the
 2894 manner provided by the Florida Rules of Civil Procedure.
 2895 Discovery may, at the discretion of the arbitrator, be permitted
 2896 in the manner provided by the Florida Rules of Civil Procedure.

2897 (5) The final arbitration award shall be sent to the
 2898 parties in writing no later than 30 days after the date of the
 2899 arbitration hearing, absent extraordinary circumstances
 2900 necessitating a later filing the reasons for which shall be
 2901 stated in the final award if filed more than 30 days after the
 2902 date of the final session of the arbitration conference. An
 2903 agreed arbitration award is final in those disputes in which the
 2904 parties have mutually agreed to be bound. An arbitration award

2905 decided by the arbitrator is final unless a lawsuit seeking a
 2906 trial de novo is filed in a court of competent jurisdiction
 2907 within 30 days after the date of the arbitration award. The
 2908 right to file for a trial de novo entitles the parties to file a
 2909 complaint in the appropriate trial court for a judicial
 2910 resolution of the dispute. The prevailing party in an
 2911 arbitration proceeding shall be awarded the costs of the
 2912 arbitration and reasonable attorney's fees in an amount
 2913 determined by the arbitrator.

2914 (6) The party filing a motion for a trial de novo shall be
 2915 assessed the other party's arbitration costs, court costs, and
 2916 other reasonable costs, including attorney's fees, investigation
 2917 expenses, and expenses for expert or other testimony or evidence
 2918 incurred after the arbitration hearing, if the judgment upon the
 2919 trial de novo is not more favorable than the final arbitration
 2920 award.

2921 720.508 Rules of procedure.—

2922 (1) Presuit mediation and presuit arbitration proceedings
 2923 under this part must be conducted in accordance with the
 2924 applicable Florida Rules of Civil Procedure and rules governing
 2925 mediations and arbitrations under chapter 44, except that this
 2926 part shall be controlling to the extent of any conflict with
 2927 other applicable rules or statutes. The arbitrator may shorten
 2928 any applicable time period and otherwise limit the scope of
 2929 discovery on request of the parties or within the discretion of
 2930 the arbitrator exercised consistent with the purpose and
 2931 objective of reducing the expense and expeditiously concluding
 2932 proceedings under this part.

2933 (2) Presuit mediation proceedings under s. 720.505 are
2934 privileged and confidential to the same extent as court-ordered
2935 mediation under chapter 44. An arbitrator or judge may not
2936 consider any information or evidence arising from the presuit
2937 mediation proceeding except in a proceeding to impose sanctions
2938 for failure to attend a presuit mediation session or to enforce
2939 a mediated settlement agreement.

2940 (3) Persons who are not parties to the dispute may not
2941 attend the presuit mediation conference without consent of all
2942 parties, with the exception of counsel for the parties and a
2943 corporate representative designated by the association. Presuit
2944 mediations under this part are not a board meeting for purposes
2945 of notice and participation set forth in this chapter.

2946 (4) Attendance at a mediation conference by the board of
2947 directors shall not require notice or participation by nonboard
2948 members as otherwise required by this chapter for meetings of
2949 the board.

2950 (5) Settlement agreements resulting from a mediation or
2951 arbitration proceeding do not have precedential value in
2952 proceedings involving parties other than those participating in
2953 the mediation or arbitration.

2954 (6) Arbitration awards by an arbitrator shall have
2955 precedential value in other proceedings involving the same
2956 association or with respect to the same parcel owner.

2957 720.509 Mediators and arbitrators; qualifications.—A
2958 person is authorized to conduct mediation or arbitration under
2959 this part if he or she has been certified as a circuit court
2960 civil mediator under the requirements adopted pursuant to s.

2961 44.106, is a member in good standing with The Florida Bar, and
 2962 otherwise meets all other requirements imposed by chapter 44.

2963 720.510 Enforcement of mediation agreement or arbitration
 2964 award.—

2965 (1) A mediation settlement may be enforced through the
 2966 county or circuit court, as applicable, and any costs and
 2967 attorney's fees incurred in the enforcement of a settlement
 2968 agreement reached at mediation shall be awarded to the
 2969 prevailing party in any enforcement action.

2970 (2) Any party to an arbitration proceeding may enforce an
 2971 arbitration award by filing a petition in a court of competent
 2972 jurisdiction in which the homeowners' association is located.
 2973 The prevailing party in such proceeding shall be awarded
 2974 reasonable attorney's fees and costs incurred in such
 2975 proceeding.

2976 (3) If a complaint is filed seeking a trial de novo, the
 2977 arbitration award shall be stayed and a petition to enforce the
 2978 award may not be granted. Such award, however, shall be
 2979 admissible in the court proceeding seeking a trial de novo.

2980 Section 25. All new residential construction in any deed-
 2981 restricted community that requires mandatory membership in the
 2982 association under chapter 718, chapter 719, or chapter 720,
 2983 Florida Statutes, must comply with the provisions of Pub. L. No.
 2984 110-140, Title XIV, ss. 1402 to 1406, 15 U.S.C. ss. 8001-8005.

2985 Section 26. This act shall take effect July 1, 2010.