

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

Division of Florida Condominiums, Timeshares, and Mobile Homes

RULE NO.: RULE TITLE:

61B-80.124 Department Fee.

PURPOSE AND EFFECT: This rule provides for the recovery of division fees and costs incurred in the implementation of the homeowners' association arbitration program.

SUMMARY: This rule addresses the alternative dispute resolution program administered by the Division of Florida Condominiums, Timeshares, and Mobile Homes for homeowner association election and recall disputes.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS: The agency has determined that this rule will not have an impact on small business. A SERC has not been prepared by the agency. Any person who wishes to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative, must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 720.311, FS.

LAW IMPLEMENTED: 720.311, FS.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE TIME, DATE AND PLACE SHOWN BELOW. IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD.

TIME AND DATE: September 21, 2009 at 9:00 a.m.

PLACE: The Northwood Centre, Suite 16, Conference Room, 1940 N. Monroe Street, Tallahassee, Florida.

THOSE PERSONS WHO CANNOT ATTEND IN PERSON MAY SUBMIT THEIR

COMMENTS IN WRITING TO SHARON A. MALLOY, SENIOR MANAGEMENT ANALYST II, DIVISION OF FLORIDA CONDOMINIUMS, TIMESHARES, AND MOBILE HOMES, 1940 NORTH MONROE STREET, TALLAHASSEE, FLORIDA 32399-1030, WITHIN 21 DAYS OF THIS NOTICE. WRITTEN COMMENTS RECEIVED AFTER THE HEARING MAY NOT BE CONSIDERED.

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/hearing/meeting is asked to advise the agency at least 48 hours before the workshop/hearing/meeting by contacting Sharon A. Malloy, Senior Management Analyst II at 850-488-1631. If you are hearing or speech impaired, please contact the agency by calling 1-800-955-8771.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Sharon A. Malloy, Senior Management Analyst II, Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street, Tallahassee, Florida 32311-1030, (850) 488-1631.

THE FULL TEXT OF THE PROPOSED RULE IS:

61B-80.124 Department Fee.

(1) The department fee will be an amount adequate to cover all costs and expenses incurred by the department in conducting an arbitration proceeding pursuant to section 720.311, F.S.

(2) The fee shall be the sum of the following costs:

(a) The sum of the "Labor Cost" for all employees who perform work on the case. The "Labor Cost" for an employee shall be calculated as follows: $[(P \times 1.35)/W] \times H$. Where P = the biweekly pay of the lowest pay grade for the employee's position title; 1.35 is a multiplier that takes into account the cost of pay and benefits for an employee; W = the biweekly contract hours for the employee; and H = hours directly related to the arbitration proceeding worked by the employee.

(b) The cost a contractor charges the department for any work directly related to the

arbitration proceeding.

(c) Other proceeding costs directly related to the proceeding. For example direct costs include, but are not limited to, travel, long distance charges and photocopy expenses.

(3) If the arbitration proceeding involves an election dispute, petitioner and respondent shall be charged an equal share of the department's fee. Where the arbitration dispute involves a recall dispute, only the association shall be charged the department's fee.

(4) The department will send the party or parties an invoice for the department's fee. The petitioner and respondent shall pay the fee within thirty days of the date of the invoice. The department's acceptance of less than full payment by a party shall not be considered a waiver of its right to the full amount of the fee. The department's acceptance of the payment by one party does not relieve the other party or parties from payment of their share of the fee.

(5) The department shall have the right to collect any unpaid fee to the fullest extent permitted by the laws of this state.

Specific Authority: 720.311(1), FS. Law Implemented: 720.311(1), FS. History—

New _____.

NAME OF PERSON ORIGINATING PROPOSED RULE: Michael Cochran, Director,
Division of Florida Condominiums, Timeshares, and Mobile Homes, 1940 North Monroe Street,
Tallahassee, Florida 32399-1030.

NAME OF THE AGENCY HEAD WHO APPROVED THE PROPOSED RULE:
Charles W. Drago, Secretary, Department of Business and Professional Regulation.

DATE PROPOSED RULE APPROVED BY THE AGENCY HEAD: August 14, 2009.

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAW: June 5,
2009