

# ALTERNATIVE DISPUTE RESOLUTION OPTIONS

A GUIDE TO RESOLVING INSURANCE CLAIM DISPUTES PRIOR TO LEGAL ACTION



FLORIDA'S INSURANCE CONSUMER  
**ADVOCATE**  
FLORIDA DEPARTMENT OF FINANCIAL SERVICES

— *Tasha Carter* —

# Alternative Dispute Resolution Options

While attempting to resolve an insurance claim, there are times when you and your insurance company cannot agree on the cause of the loss, or the cost to repair, rebuild or replace your property. To help you and your insurance company reach an agreement regarding your claim, there are various alternative dispute resolution options available. These programs may help you resolve your claim dispute prior to seeking the services of an attorney or taking legal action.

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Florida Department of Financial Services

Division of Consumer Services' Alternative Dispute Resolution Unit

1-877-MY-FL-CFO (693-5236) [www.MyFloridaCFO.com/Division/Consumers/Mediation](http://www.MyFloridaCFO.com/Division/Consumers/Mediation)

## Mediation

Offered by the Department of Financial Services, mediation is a non-adversarial process that allows you to meet with your insurance company in an informal setting (conference) with a certified, neutral mediator to assist in resolving your claim.

- Mediation is non-binding, which means none of the parties are required to accept the outcome of the mediation.
- If a settlement is reached, you have three days to rescind the agreement as long as you have not cashed the check.
- Choosing mediation as an option does not prohibit you from participating in other dispute resolution options or going to court later.

The Department of Financial Services offers four mediation programs and Sinkhole Neutral Evaluation:

- Personal Residential Property Mediation
- Commercial Residential Property Mediation
- Automobile Mediation
- Continuing Care Retirement Community (CCRC) Mediation

# Personal Residential Property Mediation

**Personal Residential Property Mediation allows you to settle disputes regarding all residential property claims resulting from damage to your house, dwelling, mobile home, or condominium. Mediation is mandatory, if requested.**

## **AUTHORIZED REQUESTOR**

You; your insurance company; or a 3rd party, as an assignee of the policy benefits. Mediation is mandatory, if requested. However, your insurance company is not required to participate in mediation requested by a 3rd party assignee of the policy benefits.

## **ELIGIBILITY**

- Dispute must be \$500 or more after the deductible is applied.
- The dispute must be a disagreement over what actually caused the damage or involve an unsatisfactory settlement offer - meaning you do not agree with the amount the company offered to repair the damages.

- If the dispute does not meet the aforementioned eligibility requirements yet both parties agree to participate in mediation, written documentation is required for the Department of Financial Services to proceed.

## **The following types of claims are not eligible for mediation:**

1. Claims that an insurance company suspects involves fraud;
2. Claims that arise from a cause of loss not covered in the policy;
3. National Flood Insurance Program claims; or
4. Claims currently in litigation or appraisal.

## **COST**

The insurance company pays the entire cost of the mediation unless you fail to appear at the mediation conference and want to reschedule the mediation. You must pay the \$350 mediation cost to reschedule the mediation conference.



# Commercial Residential Property Mediation



Commercial Residential Property Mediation allows you to settle disputes regarding commercial residential property claims resulting from damage covered under condominium association master policies, policies covering rental property, apartment buildings, and other residential commercial properties. Mediation is mandatory, if requested.

## AUTHORIZED REQUESTOR

You; your insurance company; or a 3rd party, as an assignee of the policy benefits. Mediation is mandatory, if requested. However, an insurance company is not required to participate in mediation requested by a 3rd party assignee of the policy benefits.

## ELIGIBILITY

- Dispute must be \$500 or more after the deductible is applied.
- The dispute must be a disagreement over what actually caused the damage or involve an unsatisfactory settlement offer - meaning you do not agree with the amount the company offered to repair the damages.
- If the dispute does not meet the aforementioned eligibility requirements yet both parties agree to participate in mediation, written documentation is required for the Department of Financial Services to proceed.

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1. Claims that an insurance company suspects involves fraud;
2. Claims that arise from a cause of loss not covered in the policy;
3. National Flood Insurance Program claims; or
4. Claims currently in litigation or appraisal.

## COST

The insurance company pays the entire cost of the mediation unless you fail to appear at the mediation conference and want to reschedule the mediation. You must pay the cost to reschedule the mediation conference.

# Automobile Mediation

Automobile Mediation allows you to settle disputes for property damage claims in any amount or for bodily injury claims up to \$10,000 caused by the ownership, operation, use, or maintenance of a motor vehicle. Claims against your insurance company and claims against the other party's insurance company are both eligible for mediation. Automobile mediation is voluntary.

## AUTHORIZED REQUESTOR

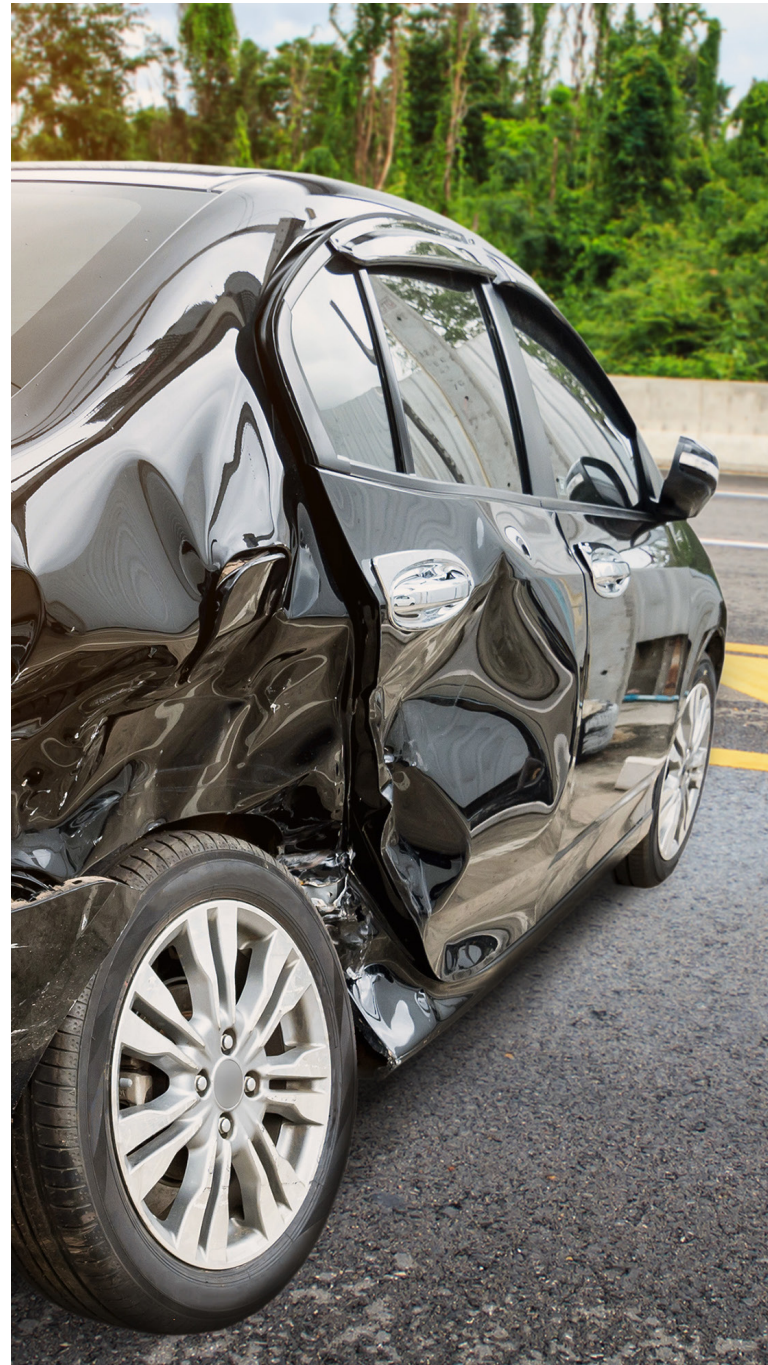
- You, as a 1st party claimant, can request mediation with your insurance company or a 3rd party can request mediation with your insurance company.
- The insurance company may also request mediation.
- Automobile Mediation is voluntary and you nor the insurance company are required to participate. However, if you or the insurance company choose not to participate in mediation, that party must notify the Department of Financial Services in writing of the specific reasons for not participating.

## ELIGIBILITY

- Disputes must be \$10,000 or less for bodily injury claims and any amount for property damage.

## COST

The total cost of the mediation is \$200. Both you and the insurance company are required to pay \$100 each for the cost of the mediation.



# Continuing Care Retirement Community (CCRC) Mediation

Continuing Care Retirement Community (CCRC) Mediation allows you, the resident, to settle disputes with the CCRC, also known as the provider, in an informal conference with a trained mediator. The mediator will not dictate the outcome but will aim to obtain an agreement for both parties. Mediation is mandatory, if requested.

## AUTHORIZED REQUESTOR

You, as a resident of a CCRC, or a provider.

## ELIGIBILITY

- Disputes between you and a provider other than increases in monthly maintenance fees are eligible.
- A CCRC complaint form must be completed.
- You and the provider will have 21 days to resolve the issue.

The timeframe may be extended up to an additional 14 days for good cause. Good cause includes you not being available due to health reasons, the inability to contact you, or other uncontrolled issues you may incur that hinders the ability to reasonably resolve the matter within the initial 21 days.

- If the dispute is not resolved between you and the provider, the provider will notify the Department of Financial Services, in writing, that the issue remains unresolved. A copy of the notification will be provided to you and you will be advised of your right to mediate the dispute.

## COST

The provider pays the cost of mediation for the first mediation request. However, if the provider feels the complaint is not warranted, the provider may advise in its notification to you that the matter remains unresolved and reasons why the provider feels the complaint is not warranted. If you choose to proceed with mediation and the mediator determines that your complaint is not warranted, you will be responsible for paying the cost of the mediation, not the provider.

If you submit a 2nd or subsequent mediation request within a 12-month period, you are required to pay the costs. If you elect more than 3 mediations in any time period, the cost of the 4th and all subsequent mediations will be divided between you and the provider equally.





## Other Dispute Resolution Options

The Department of Financial Services Additional Dispute Resolution Option:

- Sinkhole Neutral Evaluation

Options not administered by the Department of Financial Services:

- Appraisal
- Arbitration



# Sinkhole Neutral Evaluation

Sinkhole Neutral Evaluation helps you to resolve disputes related to sinkhole claims.

## AUTHORIZED REQUESTOR

You or your insurance company can request neutral evaluation if a sinkhole report has been issued. Neutral evaluation is mandatory if requested by you or your insurance company.

## COST

The insurance company is required to pay the costs associated with the neutral evaluation. However, if you choose to hire a court reporter or stenographer to record and document the neutral evaluation, you must pay the costs of those services.



## ELIGIBILITY

- If you have sinkhole coverage on your policy, you must submit the sinkhole claim to your insurance company within 2 years after you were aware of or reasonably should have known about the sinkhole loss.
- After the claim has been submitted, the insurance company must inspect the property to determine if there is structural damage. If the company's inspection verifies you have sinkhole damage to your structure or if it cannot determine what caused the damage, the insurance company must request additional testing to determine if the damage was caused by a sinkhole and a sinkhole report will be issued to you.
- The Neutral Evaluation Program requires a professional engineer or a professional geologist, which is considered the neutral evaluator, to determine the existence of a sinkhole loss and how the sinkhole damage should be repaired.
- The Department of Financial Services will provide a list of neutral evaluators to you and your insurance company. You and your insurance company will have 14 business days to agree upon a neutral evaluator. If you and your insurance company do



not agree on a neutral evaluator from the list within the required timeframe, the Department of Financial Services will assign a neutral evaluator.

- You must allow the neutral evaluator access to both the inside and outside of your home and also provide the neutral evaluator with any reports you already have. The neutral evaluator will notify you and your insurance company within 14 business days of the date, time, and place of the neutral evaluation conference.
- If the neutral evaluator verifies there is a sinkhole loss that caused structural damage, a report indicating the estimated costs to stabilize the land and repair the buildings will be sent to you, your insurance company, and the Department of Financial Services within 14 days after the neutral evaluation conference.

For more information on the Department of Financial Service's alternative dispute resolution options, contact the Division of Consumer Services' Alternative Dispute Resolution Unit:

**1-877-MY-FL-CFO (693-5236)**

**[www.MyFloridaCFO.com/Division/Consumers/Mediation](http://www.MyFloridaCFO.com/Division/Consumers/Mediation)**

# Appraisal

**Appraisal is an option that provides a method to resolve claim disputes concerning the value or scope of damage in a property loss. However, appraisal is not required to be offered by the insurance company and may not be available to you.**

To determine if appraisal is an option available to you, check to see if there is an appraisal clause in your insurance policy or contact your insurance company directly to request this option.

Depending on the policy language, you or your insurance company may be required to participate in appraisal if either party requests it.

If you and your insurance company agree to participate in appraisal, you nor your insurance company will be able to participate in mediation later.

The results of the appraisal are final and both you and your insurance company must comply with the terms of the appraisal including any settlement awards.

## **AUTHORIZED REQUESTOR**

You or your insurance company may request appraisal if your policy includes it as an option.

## **ELIGIBILITY**

Requirements and guidance on invoking and participating in appraisal are outlined in your insurance policy.

## **COST**

There are two appraisers. One appraiser will represent you and one appraiser will represent your insurance company. Each party pays for its own appraiser. The appraiser may charge a percentage of the amount you are awarded or may charge a set dollar amount for services rendered. The cost of the umpire, if needed, and other expenses of the appraisal are divided between you and your insurance company equally.



# Arbitration



Arbitration differs from appraisal. Appraisal addresses disputes regarding the amount of loss in a claim but not coverage disputes. Additionally, arbitration is more of a legal process in which an arbitrator (a neutral party) performs a role similar to that of a judge in a court of law to address all disputes in a property claim.

You and your insurance company will each have the opportunity to present your case to the arbitrator. During arbitration, the arbitrator listens to and reviews evidence regarding the claim from both you and the insurance company and determines the outcome of the dispute.

The arbitrator may be a retired judge, lawyer or another party that you and your insurance company agree on.

If you and your insurance company participate in arbitration, neither can request mediation or appraisal later.

The results of the arbitration are final and both you and your insurance company must comply with the terms of the arbitration.

## **AUTHORIZED REQUESTOR**

Either you or your insurance company may request arbitration if your policy includes it as an option.

## **ELIGIBILITY**

- Similar to appraisal, requirements and guidance on invoking and participating in arbitration are outlined in your insurance policy.

## **COST**

The cost associated with arbitration can vary and may include arbitrator fees, administrative fees, and other related expenses and fees. The insurance company may pay the full cost of the arbitration or the cost may be divided between you and the insurance company based on the arbitration clause within your insurance policy.

## Do You Have Additional Questions Regarding Your Alternative Dispute Resolution Options?

For assistance with any questions or concerns regarding your alternative dispute resolution options, you may contact the Florida Department of Financial Services' Division of Consumer Services' toll-free Insurance Consumer Helpline at **1-877-MY-FL-CFO (693-5236)**.



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