



747022

CHAMBER ACTION

<u>Senate</u>	.	<u>House</u>
Comm: RCS	.	
4/15/2008	.	
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1 The Committee on Regulated Industries (Dean) recommended the  
 2 following **amendment to amendment (972338)**:

**Senate Amendment (with title amendment)**

Between line(s) 519 and 520

insert:

Section 10. Paragraph (d) of subsection (1) of section 34.01, Florida Statutes, is amended to read:

34.01 Jurisdiction of county court.--

(1) County courts shall have original jurisdiction:

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

Section 11. Subsection (2) of section 720.302, Florida Statutes, is amended to read:

720.302 Purposes, scope, and application.--

Bill No. SB 2504



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17 (2) The Legislature recognizes that it is not in the best  
18 interest of homeowners' associations or the individual  
19 association members thereof to create or impose a bureau or other  
20 agency of state government to regulate the affairs of homeowners'  
21 associations. However, in accordance with part IV of chapter 720  
22 ~~s. 720.311~~, the Legislature finds that homeowners' associations  
23 and their individual members will benefit from an expedited  
24 alternative process for resolution of ~~election and recall~~  
25 ~~disputes and presuit mediation of other~~ disputes involving  
26 covenant enforcement in homeowner's associations and deed  
27 restricted communities using the procedures provided in part IV  
28 of ~~and authorizes the department to hear, administer, and~~  
29 ~~determine these disputes as more fully set forth in this chapter.~~  
30 Further, the Legislature recognizes that certain contract rights  
31 have been created for the benefit of homeowners' associations and  
32 members thereof as well as deed restricted communities before the  
33 effective date of this act and that ch. 720 is ~~ss. 720.301-~~  
34 ~~720.407~~ are not intended to impair such contract rights,  
35 including, but not limited to, the rights of the developer to  
36 complete the community as initially contemplated.

37 Section 12. Section 720.311, Florida Statutes, is repealed  
38 for disputes subject to dispute resolution by the department  
39 under this section which arise after the effective date of this  
40 act.

41 Section 13. Part IV of chapter 720, Florida Statutes, to be  
42 entitled "Dispute Resolution" consisting of sections 720.501,  
43 720.502, 720.503, and 720.504, 720.505, 720.506, 720.507,  
44 720.508, 720.509, and 720.510, is created to read:

45 720.501 Short title.--This part may be cited as the "Home  
46 Court Advantage Dispute Resolution Act."



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47 720.502 Legislative findings.--The Legislature finds that  
48 alternative dispute resolution has made progress in reducing  
49 court dockets and trials and in offering a more efficient, cost-  
50 effective option to litigation.

51 720.503 Applicability of this part.--

52 (1) Unless otherwise provided in this part, before a  
53 dispute described herein between a homeowners' association and  
54 a parcel owner or owners, or a dispute between parcel owners  
55 within the same homeowners association, may be filed in court the  
56 dispute is subject to presuit mediation pursuant to s. 720.505 or  
57 presuit arbitration pursuant to s.720.507, at the option of the  
58 aggrieved party who initiates the first formal action of  
59 alternative dispute resolution under this part. The parties may  
60 mutually agree to participate in both presuit mediation and by  
61 presuit arbitration prior to suit being filed by either party.

62 (2) Unless otherwise provided in this part, the mediation  
63 and arbitration provisions of this part are limited to disputes  
64 between an association and a parcel owner or owners or between  
65 parcel owners regarding the use of or changes to the parcel or  
66 the common areas under the governing documents and other disputes  
67 involving violations of the recorded declaration of covenants or  
68 other governing documents, disputes arising concerning  
69 enforcement of the governing documents or any amendments thereto,  
70 and disputes involving access to the official records of the  
71 association. A dispute concerning title to any parcel or common  
72 area, interpretation or enforcement of any warranty, the levy of  
73 a fee or assessment, the collection of an assessment levied  
74 against a party, the eviction or other removal of a tenant from a  
75 parcel, alleged breaches of fiduciary duty by one or more  
76 directors, or any action to collect mortgage indebtedness or to



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77 foreclosure a mortgage shall not be subject to the provisions of  
78 this part.

79 (3) All disputes arising after the effective date of this  
80 part involving the election of the board of directors for an  
81 association or the recall of any member of the board or officer  
82 of the association shall not be eligible for presuit mediation  
83 under s. 720.505, but shall be subject to the provisions  
84 concerning presuit arbitration under s. 720.507.

85 (4) In any dispute subject to presuit mediation or presuit  
86 arbitration under this part for which emergency relief is  
87 required, a motion for temporary injunctive relief may be filed  
88 with the court without first complying with the presuit mediation  
89 or presuit arbitration requirements of this part. After any  
90 issues regarding emergency or temporary relief are resolved, the  
91 court may refer the parties to a mediation program administered  
92 by the courts or require mediation or arbitration under this  
93 part.

94 (5) The mailing of a statutory notice of presuit mediation  
95 or presuit arbitration as provided in this part shall toll the  
96 applicable statute of limitations during the pendency of the  
97 mediation or arbitration and for a period of 30 days following  
98 the conclusion of either proceeding. The 30 day period will start  
99 upon the filing of the mediator's notice of impasse or the  
100 arbitrator's written arbitration award. If the parties mutually  
101 agree to participate in both presuit mediation and presuit  
102 arbitration under this part, then the tolling of the applicable  
103 statute of limitations for each such alternative dispute  
104 resolution proceeding shall be consecutive.

105 720.504 Notice of violation.--Prior to giving the statutory  
106 notice to proceed under presuit medication or presuit arbitration



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107 under this part, the aggrieved association or parcel owner shall  
108 first provide written notice of the alleged violation to the  
109 alleged violator in the manner provided by this section.

110 (1) The notice of violation shall be delivered to the  
111 alleged violator by certified mail, return receipt requested, or  
112 the notice of violation may be hand delivered and the person  
113 making delivery shall file with their notice of mediation either  
114 the proof of receipt of mailing or an affidavit stating the date  
115 and time of the delivery of the notice of violation. If the  
116 notice is delivered by certified mail, return receipt requested  
117 and the alleged violator fails or refuses to accept delivery,  
118 notice shall be considered properly delivered for purposes of  
119 this section on the date of the first attempted delivery.

120 (2) The notice of violation shall state with specificity  
121 the nature of the alleged violation, including the date, time and  
122 location of each violation and the action requested to abate or  
123 otherwise correct the violation. The notice shall also include  
124 the text of any provision in the governing documents, including  
125 the rules and regulations, of the association that have allegedly  
126 been violated.

127 (3) Unless the parties otherwise agree in writing to a  
128 longer time period for abatement, the party receiving the notice  
129 of violation shall have 10 days from the date of receipt of  
130 notice to correct the violation. If the alleged violation has  
131 not been abated within or otherwise corrected within the 10-day  
132 period, the party alleging the violation may proceed under this  
133 part at any time thereafter within the applicable statute of  
134 limitations.

135 (4) A copy of the notice and the text of the provision in  
136 the governing documents or the rules and regulations of the



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137 association that has allegedly been violated, along with proof of  
 138 service of the notice of violation and a copy of any written  
 139 responses received from the alleged violator, shall be included  
 140 as an exhibit to any demand for mediation or arbitration under  
 141 this part.

142 720.505 Presuit mediation.--

143 (1) Disputes between an association and a parcel owner or  
 144 owners and between parcel owners must be submitted to presuit  
 145 mediation before the dispute may be filed in court, or at the  
 146 election of the party initiating the presuit procedures such  
 147 dispute may be submitted to presuit arbitration pursuant to s.  
 148 720.507, before the dispute may be filed in court. An aggrieved  
 149 party who elects to utilize the presuit mediation procedure under  
 150 this section shall serve on the responding party a written notice  
 151 of presuit mediation in substantially the following form:

152  
 153 STATUTORY NOTICE OF PRESUIT MEDIATION

154 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,

155 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE

156 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT MEDIATION

157 IN CONNECTION WITH A DISPUTE(S) WITH YOU, WHICH BY

158 STATUTE ARE OF A TYPE THAT ARE SUBJECT TO PRESUIT

159 MEDIATION:

160  
 161 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION

162 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO

163 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF A

164 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT

165 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING

166 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE



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167 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
168 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
169 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

170  
171 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
172 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
173 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
174 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
175 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT MEDIATION  
176 WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER TO ATTEMPT  
177 TO RESOLVE THIS DISPUTE WITHOUT COURT ACTION, AND THE  
178 AGGRIEVED PARTY DEMANDS THAT YOU PARTICIPATE IN THIS  
179 PROCESS. UNLESS YOU RESPOND TO THIS NOTICE BY FILING  
180 WITH THE AGGRIEVED PARTY A NOTICE OF OPTING OUT AND  
181 DEMAND FOR ARBITRATION UNDER S. 720.506, YOUR FAILURE  
182 TO PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A  
183 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT  
184 FURTHER NOTICE.

185  
186 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
187 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
188 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS THEM  
189 IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING PART  
190 OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE IN  
191 PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
192 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
193 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
194 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
195 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE



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196 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
197 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

198  
199 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
200 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
201 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
202 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE  
203 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
204 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
205 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN  
206 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
207 PARTY MAY PROCEED TO FILE A LAW SUIT ON ALL  
208 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
209 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION PROCESS,  
210 YOU WILL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES IF  
211 YOU PREVAIL IN A SUBSEQUENT COURT PROCEEDING INVOLVING  
212 THE SAME DISPUTE.

213  
214 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
215 ELIGIBLE QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
216 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
217 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
218 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE  
219 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE OF  
220 THE LISTED MEDIATORS DOES NOT MEAN THAT THE MEDIATOR  
221 CANNOT ACT AS A NEUTRAL AND IMPARTIAL FACILITATOR. THE  
222 NAMES OF THE MEDIATORS THAT THE AGGRIEVED PARTY HEREBY  
223 SUBMITS TO YOU FROM WHOM YOU MAY CHOOSE ONE, AND THEIR  
224 CURRENT ADDRESSES, TELEPHONE NUMBERS AND HOURLY RATES,  
225 ARE AS FOLLOWS:





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226  
227 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
228 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
229 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
230 BE INCLUDED AS AN ATTACHMENT.)

231  
232 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
233 CONFIRM THAT EACH OF THE ABOVE LISTED MEDIATORS WILL BE  
234 NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER  
235 PARTY. UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART  
236 IV OF CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
237 PARTIES SHARE THE COSTS OF PRESUIT MEDIATION EQUALLY,  
238 INCLUDING THE FEE CHARGED BY THE MEDIATOR. AN AVERAGE  
239 MEDIATION MAY REQUIRE 3 TO 4 HOURS OF THE MEDIATOR'S  
240 TIME, INCLUDING SOME PREPARATION TIME, AND THE PARTIES  
241 WOULD NEED TO EQUALLY SHARE THE MEDIATOR'S FEES AS WELL  
242 AS BE RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES  
243 IF THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
244 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
245 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE  
246 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
247 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY HEREBY  
248 AGREES TO PAY OR PREPAY ONE-HALF OF THE SELECTED  
249 MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS AMOUNT OR  
250 SUCH OTHER REASONABLE ADVANCE DEPOSITS AS THE MEDIATOR  
251 REQUIRES FOR THIS PURPOSE UPON THE SELECTION OF THE  
252 MEDIATOR. ANY FUNDS DEPOSITED WILL BE RETURNED TO YOU  
253 IF THESE FUNDS ARE IN EXCESS OF YOUR SHARE OF THE  
254 MEDIATOR FEES INCURRED.



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256 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO TRY  
257 TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER LEGAL  
258 ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE WHICH  
259 MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE MEDIATORS  
260 LISTED BY THE AGGRIEVED PARTY ABOVE.

261  
262 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE OF  
263 PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE YOU  
264 MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
265 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
266 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
267 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT MEDIATION  
268 OR WITHIN 90 DAYS AFTER THE DATE YOU WERE SERVED WITH A  
269 COPY OF THIS NOTICE. THE AGGRIEVED PARTY WILL THEN ASK  
270 THE MEDIATOR TO SCHEDULE A MUTUALLY CONVENIENT TIME AND  
271 PLACE FOR THE MEDIATION CONFERENCE TO BE HELD. IF YOU  
272 DO NOT PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
273 MEDIATOR IS AUTHORIZED TO SCHEDULE A MEDIATION  
274 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND CONVENIENCE  
275 INTO CONSIDERATION. IN NO EVENT SHALL THE MEDIATION  
276 CONFERENCE BE LATER THAN 90 DAYS AFTER THE NOTICE OF  
277 PRESUIT MEDIATION WAS FIRST SERVED UNLESS ALL PARTIES  
278 MUTUALLY AGREE OTHERWISE. IN THE EVENT THAT YOU FAIL  
279 TO RESPOND WITHIN 20 DAYS AFTER THE DATE OF THIS  
280 NOTICE, FAIL TO PROVIDE THE MEDIATOR WITH DATES AND  
281 TIMES IN WHICH YOU ARE AVAILABLE FOR THE MEDIATION  
282 CONFERENCE, FAIL TO AGREE TO AT LEAST ONE OF THE  
283 MEDIATORS THAT THE AGGRIEVED PARTY HAS LISTED, FAIL TO  
284 PAY OR PREPAY TO THE MEDIATOR ONE-HALF OF THE COSTS  
285 INVOLVED, OR FAIL TO APPEAR AND PARTICIPATE AT THE



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286 SCHEDULED MEDIATION, THE AGGRIEVED PARTY WILL BE  
 287 AUTHORIZED TO PROCEED WITH THE FILING OF A LAWSUIT  
 288 AGAINST YOU WITHOUT FURTHER NOTICE. IN ANY SUBSEQUENT  
 289 COURT ACTION, THE AGGRIEVED PARTY MAY SEEK AN AWARD OF  
 290 REASONABLE ATTORNEY'S FEES AND COSTS INCURRED IN  
 291 ATTEMPTING TO OBTAIN MEDIATION.

292  
 293 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 294 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
 295 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
 296 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE  
 297 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
 298 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
 299 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
 300 OF THIS NOTICE.

301  
 302 \_\_\_\_\_  
 303 SIGNATURE OF AGGRIEVED PARTY

304  
 305 \_\_\_\_\_  
 306 PRINTED NAME OF AGGRIEVED PARTY

307  
 308 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 309 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

310  
 311 AGREEMENT TO MEDIATE

312  
 313 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN PRESUIT  
 314 MEDIATION AND AGREES TO ATTEND A MEDIATION CONDUCTED BY



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315 THE FOLLOWING MEDIATOR(S) LISTED BELOW AS ACCEPTABLE  
316 TO MEDIATE THIS DISPUTE:

317  
318 (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE  
319 AGGRIEVED PARTY.)

320  
321 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN  
322 ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE  
323 FOLLOWING DATES AND TIMES:

324  
325 (LIST AT LEAST THREE AVAILABLE DATES AND TIMES WITHIN  
326 THE 90-DAY TIME LIMIT DESCRIBED ABOVE.)

327  
328 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
329 MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS AS  
330 THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

331  
332 \_\_\_\_\_  
333 SIGNATURE OF RESPONDING PARTY #1

334 \_\_\_\_\_  
335 TELEPHONE CONTACT INFORMATION

336 \_\_\_\_\_  
337 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
338 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
339 OWNED BY MORE THAN ONE PERSON, ALL PARCEL OWNERS OR  
340 UNIT OWNERS WHO ARE SUBJECT OF THE DISPUTE MUST SIGN OR  
341 HAVE A PERSON ACTING UNDER AUTHORITY OF A POWER OF  
342 ATTORNEY SIGN.

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344       (2) (a) Service of the notice of presuit mediation shall be  
345 effected either by personal service, as provided in chapter 48,  
346 or by certified mail, return receipt requested, in a letter in  
347 substantial conformity with the form provided in subsection (1),  
348 with an additional copy being sent by regular first-class mail,  
349 to the address of the responding party as it last appears on the  
350 books and records of the association or if not available, then as  
351 it last appears in the official records of the county property  
352 appraiser where the parcel in dispute is located. The responding  
353 party has either 20 days after the postmarked date of the mailing  
354 of the statutory notice or 20 days after the date the responding  
355 party is served with a copy of the notice to serve a written  
356 response to the aggrieved party. The response shall be served by  
357 certified mail, return receipt requested, with an additional copy  
358 being sent by regular first-class mail, to the address shown on  
359 the statutory notice. The date of the postmark on the envelope  
360 for the response shall constitute the date that the response is  
361 served. Once the parties have agreed on a mediator, the mediator  
362 may schedule or reschedule the mediation for a date and time  
363 mutually convenient to the parties within 90 days after the date  
364 of service of the statutory notice. After such 90-day period, the  
365 mediator may reschedule the mediation only upon the mutual  
366 written agreement of all the parties.

367       (b) The parties shall share the costs of presuit mediation  
368 equally, including the fee charged by the mediator, if any,  
369 unless the parties agree otherwise, and the mediator may require  
370 advance payment of his or her reasonable fees and costs. Each  
371 party shall be responsible for their own attorney's fees if a  
372 party chooses to be represented by an attorney at the mediation.



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373       (c) The party responding to the aggrieved party may either  
374 provide a notice of opting out under s. 720.506, and demand  
375 arbitration, or the responding party shall sign the agreement to  
376 mediate included in the notice of presuit mediation and clearly  
377 indicate the name of the mediator who is acceptable from the five  
378 names provided by the aggrieved party; and the responding party  
379 must provide in their response a list of dates and times in which  
380 the responding party is available to participate in the mediation  
381 within 90 days after the date the responding party was served,  
382 either by process server or by certified mail, with the statutory  
383 notice of presuit mediation.

384       (d) The mediator who has been selected and agreed to  
385 mediate must schedule the mediation conference at a mutually  
386 convenient time and place within that 90-day period, but if the  
387 responding party does not provide a list of available dates and  
388 times, the mediator is authorized to schedule a mediation  
389 conference without taking the responding party's schedule and  
390 convenience into consideration. Within 10 days after the  
391 designation of the mediator, the mediator shall coordinate with  
392 the parties and notify the parties in writing of the date, time,  
393 and place of the mediation conference.

394       (e) The mediation conference must be held on the scheduled  
395 date and may be rescheduled if a rescheduled date is approved by  
396 the mediator. However, in no event shall the mediation be held  
397 later than 90 days after the notice of presuit mediation was  
398 first served, unless all parties mutually agree in writing  
399 otherwise. If the presuit mediation is not completed within the  
400 required time limits the mediator shall declare an impasse unless  
401 the mediation date is extended by mutual written agreement by all  
402 parties and approved by the mediator.



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403       (f) If the responding party fails to respond within 30 days  
404 after the date of service of the statutory notice of presuit  
405 mediation, fails to agree either to at least one of the mediators  
406 listed by the aggrieved party in the notice, fails to pay or  
407 prepay to the mediator one-half of the costs of the mediator, or  
408 fails to appear and participate at the scheduled mediation, the  
409 aggrieved party shall be authorized to proceed with the filing of  
410 a lawsuit without further notice.

411       (g)1. The failure of any party to respond to the statutory  
412 notice of presuit mediation within 20 days, the failure to agree  
413 upon a mediator, the failure to provide a listing of dates and  
414 times in which the responding party is available to participate  
415 in the mediation within 90 days after the date the responding  
416 party was served with the statutory notice of presuit mediation,  
417 the failure to make payment of fees and costs within the time  
418 established by the mediator, or the failure to appear for a  
419 scheduled mediation session without the approval of the mediator,  
420 shall in each instance constitute a failure or refusal to  
421 participate in the mediation process and shall operate as an  
422 impasse in the presuit mediation by such party, entitling the  
423 other party to file a lawsuit in court and to seek an award of  
424 the costs and attorney's fees associated with the mediation.

425       2. Persons who fail or refuse to participate in the entire  
426 mediation process may not recover attorney's fees and costs in  
427 subsequent litigation relating to the same dispute between the  
428 same parties. If any presuit mediation session cannot be  
429 scheduled and conducted within 90 days after the offer to  
430 participate in mediation was filed, through no fault of either  
431 party, then an impasse shall be deemed to have occurred unless  
432 the parties mutually agree in writing to extend this deadline. In



433 the event of such impasse, each party will be responsible for its  
434 own costs and attorney's fees and one-half of any mediator fees  
435 and filing fees, and either party may file a lawsuit in court  
436 regarding the dispute.

437 720.506 Opt-out of presuit mediation. - A party served with  
438 a notice of presuit mediation under s. 720.505, may opt out of  
439 presuit mediation and demand that the dispute proceed under non-  
440 binding arbitration in the following manner provided in this  
441 section:

442 (1) In lieu of a response to the notice of presuit  
443 mediation as required under s. 720.505, the responding party may  
444 serve upon the aggrieved party in the same manner as the response  
445 to a notice for presuit mediation under s. 720.505, a notice of  
446 opting out of mediation and demand that the dispute instead  
447 proceed to presuit arbitration under s. 720.507.

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

451 (3) Except as otherwise provided in this part, the choice  
452 of which presuit alternative dispute resolution procedure is  
453 utilized shall be at the election of the aggrieved party who  
454 first initiated such proceeding after complying with the  
455 provisions of s. 720.504.

456 720.507 Presuit arbitration.--

457 (1) Disputes between an association and a parcel owner or  
458 owners and disputes between parcel owners are subject to a demand  
459 for presuit arbitration pursuant to s. 720.507, before the  
460 dispute may be filed in court. A party who elects to utilize the  
461 presuit arbitration procedure under this part shall serve on the





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462 responding party a written notice of presuit arbitration in  
463 substantially the following form:

464 STATUTORY NOTICE OF PRESUIT ARBITRATION

465  
466 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
467 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
468 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
469 ARBITRATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)  
470 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE  
471 SUBJECT TO PRESUIT ARBITRATION:

472  
473 (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
474 ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
475 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
476 LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING  
477 DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
478 PARTIES.)

479  
480 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
481 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
482 ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
483 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
484 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
485 ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
486 ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
487 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
488 PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO PARTICIPATE  
489 IN THE ARBITRATION PROCESS, A LAWSUIT MAY BE BROUGHT  
490 AGAINST YOU IN COURT WITHOUT FURTHER WARNING.  
491



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492 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
493 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY THE  
494 PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
495 "ARBITRATION AWARD" . PURSUANT TO S. 720.507, FLORIDA  
496 STATUTES, THE ARBITRATION AWARD SHALL BE FINAL UNLESS A  
497 LAWSUIT IS FILED IN A COURT OF COMPETENT JURISDICTION  
498 FOR THE JUDICIAL CIRCUIT IN WHICH THE PARCEL(S)  
499 GOVERNED BY THE HOMEOWNERS' ASSOCIATION IS/ARE LOCATED  
500 WITHIN 30 DAYS AFTER THE DATE THAT THE ARBITRATION  
501 AWARD.

502  
503 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
504 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
505 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
506 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
507 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR TO  
508 LITIGATE THESE ISSUES IN COURT AND SHALL BE THE SAME AS  
509 A SETTLEMENT AGREEMENT REACHED BETWEEN THE PARTIES  
510 UNDER S. 720.505, FLORIDA STATUTES. THE FAILURE OF A  
511 PARTY TO PARTICIPATE IN THE ARBITRATION PROCESS MAY  
512 RESULT IN THE ARBITRATOR ISSUING AN ARBITRATION AWARD  
513 BY DEFAULT IN THE ARBITRATION. IF YOU HAVE FAILED OR  
514 REFUSED TO PARTICIPATE IN THE ENTIRE ARBITRATION  
515 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER ATTORNEY'S  
516 FEEES, EVEN IF YOU PREVAIL IN A SUBSEQUENT COURT  
517 PROCEEDING INVOLVING THE SAME DISPUTE BETWEEN THE SAME  
518 PARTIES.

519  
520 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE  
521 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE



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522 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
523 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
524 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
525 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
526 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
527 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
528 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
529 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
530 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT  
531 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS AND  
532 HOURLY RATES, ARE AS FOLLOWS:

533  
534 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
535 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.

536  
537 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
538 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL AND  
539 WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.

540  
541 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF  
542 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
543 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION EQUALLY,  
544 INCLUDING THE FEE CHARGED BY THE ARBITRATOR. THE  
545 PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN ATTORNEY'S  
546 FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION  
547 WITH THE ARBITRATION. HOWEVER, USE OF AN ATTORNEY TO  
548 REPRESENT YOU FOR THE ARBITRATION IS NOT REQUIRED. THE  
549 ARBITRATOR SELECTED MAY REQUIRE THE ADVANCE PAYMENT OF  
550 SOME OR ALL OF THE ANTICIPATED FEES. THE AGGRIEVED  
551 PARTY HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE

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552 SELECTED ARBITRATOR'S ESTIMATED FEES AND TO FORWARD  
553 THIS AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS  
554 AS THE ARBITRATOR WHO IS SELECTED REQUIRES FOR THIS  
555 PURPOSE. ANY FUNDS DEPOSITED WILL BE RETURNED TO YOU IF  
556 THESE FUNDS ARE IN EXCESS OF YOUR SHARE OF THE FEES  
557 INCURRED.

558  
559 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND  
560 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS  
561 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE  
562 AGGRIEVED PARTY.

563  
564 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
565 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF  
566 PRESUIT ARBITRATION WAS EITHER PERSONALLY SERVED ON YOU  
567 OR 20 DAYS AFTER THE POSTMARKED DATE THAT THIS NOTICE  
568 OF PRESUIT ARBITRATION WAS SENT TO YOU BY CERTIFIED  
569 MAIL. YOU MUST ALSO PROVIDE A LIST OF AT LEAST THREE  
570 DATES AND TIMES IN WHICH YOU ARE AVAILABLE TO  
571 PARTICIPATE IN THE ARBITRATION THAT ARE WITHIN 90 DAYS  
572 AFTER EITHER THE DATE YOU WERE PERSONALLY SERVED OR 90  
573 DAYS AFTER THE POSTMARKED DATE OF THE CERTIFIED MAILING  
574 OF THIS STATUTORY NOTICE OF PRESUIT ARBITRATION. A COPY  
575 OF THIS NOTICE AND YOUR RESPONSE WILL BE PROVIDED BY  
576 THE AGGRIEVED PARTY TO THE ARBITRATOR SELECTED AND THE  
577 ARBITRATOR WILL SCHEDULE A MUTUALLY CONVENIENT TIME AND  
578 PLACE FOR THE ARBITRATION CONFERENCE TO BE HELD. IF YOU  
579 DO NOT PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
580 ARBITRATOR IS AUTHORIZED TO SCHEDULE AN ARBITRATION  
581 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND CONVENIENCE



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582 INTO CONSIDERATION. THE ARBITRATION CONFERENCE MUST BE  
583 HELD ON THE SCHEDULED DATE, OR ANY RESCHEDULED DATE  
584 APPROVED BY THE ARBITRATOR. IN NO EVENT SHALL THE  
585 ARBITRATION CONFERENCE BE LATER THAN 90 DAYS AFTER  
586 NOTICE OF THE PRESUIT ARBITRATION WAS FIRST SERVED,  
587 UNLESS ALL PARTIES MUTUALLY AGREE IN WRITING OTHERWISE.  
588 IF THE ARBITRATION IS NOT COMPLETED WITHIN THE  
589 REQUIRED TIME LIMITS, THE ARBITRATOR SHALL ISSUE AN  
590 ARBITRATION AWARD, UNLESS THE HEARING IS EXTENDED BY  
591 MUTUAL WRITTEN AGREEMENT OF THE PARTIES AND APPROVED BY  
592 THE ARBITRATOR. IN THE EVENT THAT YOU FAIL TO RESPOND  
593 WITHIN 20 DAYS AFTER THE DATE YOU WERE SERVED WITH A  
594 COPY OF THIS NOTICE, FAIL TO PROVIDE THE ARBITRATOR  
595 WITH DATES AND TIMES IN WHICH YOU ARE AVAILABLE FOR THE  
596 ARBITRATION CONFERENCE, FAIL TO AGREE EITHER TO ONE OF  
597 THE ARBITRATORS THAT THE AGGRIEVED PARTY HAS NAMED,  
598 FAIL TO PAY OR PREPAY TO THE ARBITRATOR ONE-HALF OF THE  
599 COSTS INVOLVED AS REQUIRED, OR FAIL TO APPEAR AND  
600 PARTICIPATE AT THE SCHEDULED ARBITRATION CONFERENCE,  
601 THE AGGRIEVED PARTY MAY REQUEST THE ARBITRATOR TO ISSUE  
602 AN ARBITRATION AWARD. IN THE SUBSEQUENT COURT ACTION,  
603 THE AGGRIEVED PARTY SHALL BE ENTITLED TO RECOVER AN  
604 AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS,  
605 INCLUDING ANY FEES PAID TO THE ARBITRATOR, INCURRED IN  
606 OBTAINING AN ARBITRATION AWARD PURSUANT TO S. 720.507,  
607 FLORIDA STATUTES.  
608  
609 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
610 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
611 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,



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612 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
613 ARBITRATION.

614 \_\_\_\_\_  
615 \_\_\_\_\_  
616 Signature of aggrieved party

617 \_\_\_\_\_  
618 \_\_\_\_\_  
619 PRINTED NAME OF AGGRIEVED PARTY

620 \_\_\_\_\_  
621 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
622 ACCEPTANCE OF THE AGREEMENT TO ARTITRATE.

623 \_\_\_\_\_  
624 AGREEMENT TO ARBITRATE

625 \_\_\_\_\_  
626 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN PRESUIT  
627 ARBITRATION AND AGREES TO ATTEND AN ARBITRATION  
628 CONDUCTED BY THE FOLLOWING ARBITRATOR LISTED BELOW AS  
629 SOMEONE WHO WOULD BE ACCEPTABLE TO ARBITRATE THIS  
630 DISPUTE:

631 \_\_\_\_\_  
632 (IN YOUR RESPONSE EITHER SELECT THE NAME OF ONE  
633 ARBITRATOR THAT IS ACCEPTABLE TO YOU FROM THOSE  
634 ARBITRATORS LISTED BY THE AGGRIEVED PARTY.)

635 \_\_\_\_\_  
636 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
637 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE  
638 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
639 AND TIMES:

640



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641 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
 642 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
 643 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
 644 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
 645 ARBITRATION.)

646  
 647 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
 648 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
 649 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

650  
 651 \_\_\_\_\_  
 652 SIGNATURE OF RESPONDING PARTY #1

653 \_\_\_\_\_  
 654 TELEPHONE CONTACT INFORMATION

655 \_\_\_\_\_  
 656 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
 657 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
 658 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN, OR  
 659 A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF A  
 660 VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

661  
 662 (2) (a) Service of the statutory notice of presuit  
 663 arbitration shall be effected either by personal service, as  
 664 provided in chapter 48, or by certified mail, return receipt  
 665 requested, in a letter in substantial conformity with the form  
 666 provided in subsection (1), with an additional copy being sent by  
 667 regular first-class mail, to the address of the responding party  
 668 as it last appears on the books and records of the association,  
 669 or if not available, the last address as it appears on the  
 670 official records of the county property appraiser for the county



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671 in which the property is situated that is subject to the  
672 association documents. The responding party has 20 days after the  
673 postmarked date of the certified mailing of the statutory notice  
674 of presuit arbitration or 20 days after the date the responding  
675 party is personally served with the statutory notice of presuit  
676 arbitration by to serve a written response to the aggrieved  
677 party. The response shall be served by certified mail, return  
678 receipt requested, with an additional copy being sent by regular  
679 first-class mail, to the address shown on the statutory notice of  
680 presuit arbitration. The postmarked date on the envelope of the  
681 response shall constitute the date the response was served.

682 (b) The parties shall share the costs of presuit  
683 arbitration equally, including the fee charged by the arbitrator,  
684 if any, unless the parties agree otherwise, and the arbitrator  
685 may require advance payment of his or her reasonable fees and  
686 costs. Each party shall be responsible for all of their own  
687 attorney's fees if a party chooses to be represented by an  
688 attorney for the arbitration proceedings.

689 (c)1. The party responding to the aggrieved party must sign  
690 the agreement to arbitrate included in the notice of presuit  
691 arbitration and clearly indicate the name of the arbitrator who  
692 is acceptable of those arbitrators listed by the aggrieved party.  
693 The responding party must provide a list of at least three dates  
694 and times in which the responding party is available to  
695 participate in the arbitration conference within 90 days after  
696 the date the responding party was served with the statutory  
697 notice of presuit arbitration.

698 2. The arbitrator must schedule the arbitration conference  
699 at a mutually convenient time and place, but if the responding  
700 party does not provide a list of available dates and times, the





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701 arbitrator is authorized to schedule an arbitration conference  
702 without taking the responding party's schedule and convenience  
703 into consideration. Within 10 days after the designation of the  
704 arbitrator, the arbitrator shall notify the parties in writing of  
705 the date, time, and place of the arbitration conference.

706 3. The arbitration conference must be held on the scheduled  
707 date and may be rescheduled if approved by the arbitrator.  
708 However, in no event shall the arbitration hearing be later than  
709 90 days after the notice of presuit arbitration was first served,  
710 unless all parties mutually agree in writing otherwise. If the  
711 arbitration hearing is not completed within the required time  
712 limits, the arbitrator may issue an arbitration award unless the  
713 time for the hearing is extended as provided herein. If the  
714 responding party fails to respond within 20 days after the date  
715 of statutory notice of presuit arbitration, fails to agree to at  
716 least one of the arbitrators that have been listed by the  
717 aggrieved party in the presuit notice of arbitration, fails to  
718 pay or prepay to the arbitrator one-half of the costs involved,  
719 or fails to appear and participate at the scheduled arbitration,  
720 the aggrieved party is authorized to proceed with a request that  
721 the arbitrator issue an arbitration award.

722 (d)1. The failure of any party to respond to the statutory  
723 notice of presuit arbitration within 20 days, the failure to  
724 either select one of the five arbitrators listed by the aggrieved  
725 party, the failure to provide a listing of dates and times in  
726 which the responding party is available to participate in the  
727 arbitration conference within 90 days after the date of the  
728 responding party being served with the statutory notice of  
729 presuit arbitration, the failure to make payment of fees and  
730 costs as required within the time established by the arbitrator,



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731 or the failure to appear for an arbitration conference without  
732 the approval of the arbitrator, shall entitle the other party to  
733 request the arbitrator to enter an arbitration award including an  
734 award of the reasonable costs and attorney's fees associated with  
735 the arbitration.

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

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

742 (b) An arbitrator in a proceeding initiated pursuant to the  
743 provisions of this part may shorten the time for discovery or  
744 otherwise limit discovery in a manner consistent with the policy  
745 goals of this part to reduce the time and expense of litigating  
746 homeowners' association disputes initiated pursuant to this  
747 chapter and promoting an expeditious alternative dispute  
748 resolution procedure for parties to such actions.

749 (4) At the request of any party to the arbitration, the  
750 arbitrator may issue subpoenas for the attendance of witnesses  
751 and the production of books, records, documents, and other  
752 evidence, and any party on whose behalf a subpoena is issued may  
753 apply to the court for orders compelling such attendance and  
754 production. Subpoenas shall be served and are enforceable in the  
755 manner provided by the Florida Rules of Civil Procedure.  
756 Discovery may, at the discretion of the arbitrator, be permitted  
757 in the manner provided by the Florida Rules of Civil Procedure.

758 (5) The final arbitration award shall be sent to the  
759 parties in writing no later than 30 days after the date of the  
760 arbitration hearing, absent extraordinary circumstances



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761 necessitating a later filing the reasons for which shall be  
762 stated in the final award if filed more than 30 days after the  
763 date of the final session of the arbitration conference. An  
764 agreed arbitration award is final in those disputes in which the  
765 parties have mutually agreed to be bound. An arbitration award  
766 decided by the arbitrator is final unless a lawsuit seeking a  
767 trial de novo is filed in a court of competent jurisdiction  
768 within 30 days after the date of the arbitration award. The  
769 right to file for a trial de novo entitles the parties to file a  
770 complaint in the appropriate trial court for a judicial  
771 resolution of the dispute. The prevailing party in an  
772 arbitration proceeding shall be awarded the costs of the  
773 arbitration and reasonable attorney's fees in an amount  
774 determined by the arbitrator.

775 (6) The party filing a motion for a trial de novo shall be  
776 assessed the other party's arbitration costs, court costs, and  
777 other reasonable costs, including attorney's fees, investigation  
778 expenses, and expenses for expert or other testimony or evidence  
779 incurred after the arbitration hearing if the judgment upon the  
780 trial de novo is not more favorable than the final arbitration  
781 award.

782 720.508 Rules of procedure.--

783 (1) Presuit mediation and presuit arbitration proceedings  
784 under this part must be conducted in accordance with the  
785 applicable Florida Rules of Civil Procedure and rules governing  
786 mediations and arbitrations under Ch 44, Florida Statutes, except  
787 this part shall be controlling to the extent of any conflict with  
788 other applicable rules or statutes. The arbitrator can shorten  
789 any applicable time period and otherwise limit the scope of  
790 discovery on request of the parties or within the discretion of



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791 the arbitrator exercised consistent with the purpose and  
792 objective of reducing the expense and expeditiously concluding  
793 proceedings under this part.

794 (2) Presuit mediation proceedings under s. 720.505 are  
795 privileged and confidential to the same extent as court-ordered  
796 mediation under ch. 44. An arbitrator or judge may not consider  
797 any information or evidence arising from the presuit mediation  
798 proceeding except in a proceeding to impose sanctions for failure  
799 to attend a presuit mediation session or to enforce a mediated  
800 settlement agreement.

801 (3) Persons who are not parties to the dispute may not  
802 attend the presuit mediation conference without consent of all  
803 parties, with the exception of counsel for the parties and a  
804 corporate representative designated by the association. Presuit  
805 mediations under this part are not a board meeting for purposes  
806 of notice and participation set forth in this chapter.

807 (4) Attendance at a mediation conference by the board of  
808 directors shall not require notice or participation by non-board  
809 members as otherwise required by this chapter for meetings of the  
810 board.

811 (5) Settlement agreements resulting from a mediation or  
812 arbitration proceeding do not have precedential value in  
813 proceedings involving parties other than those participating in  
814 the mediation or arbitration.

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

818 720.509 Mediators and arbitrators; qualifications and  
819 registration.--A person is authorized to conduct mediation or  
820 arbitration under this part if he or she has been certified as a



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821 circuit court civil mediator pursuant to the requirements adopted  
 822 pursuant to s. 44.106, is a member in good standing with The  
 823 Florida Bar, and otherwise meets all other requirements imposed  
 824 by ch. 44.

825 720.510 Enforcement of mediation agreement or arbitration  
 826 award.--

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

832 (2) Any party to an arbitration proceeding may enforce an  
 833 arbitration award by filing a petition in a court of competent  
 834 jurisdiction in which the homeowners' association is located.  
 835 The prevailing party in such proceeding shall be awarded  
 836 reasonable attorney's fees and costs incurred in such proceeding.

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

841  
 842 Renumber Subsequent Section

843  
 844 ===== T I T L E A M E N D M E N T =====

845 And the title is amended as follows:

846 On line(s) 559 after the semicolon  
 847 insert:

848 amending s. 34.01, F.S.; correcting a cross-reference to  
 849 conform; amending s. 720.302, F.S.; correcting a cross-  
 850 reference to conform; establishing legislative intent;

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851 | repealing s. 720.311, F.S.; repealing provision for  
852 | dispute resolution in homeowners associations; providing  
853 | that dispute resolution cases pending on the date of  
854 | repeal will continue under the repealed provisions;  
855 | creating part IV of ch. 720, F.S.; creating s. 720.501,  
856 | F.S.; creating a short title; creating s. 720.502, F.S.;  
857 | creating legislative findings; creating s. 720.503, F.S.;  
858 | setting applicability of provisions for mediation and  
859 | arbitration applicable to disputes in homeowners  
860 | associations; creating exceptions; proving applicability;  
861 | tolling applicable statutes of limitations; creating s.  
862 | 720.504, F.S.; requiring notice of violation before  
863 | referral to mediation; creating s. 720.505, F.S.; creating  
864 | a statutory notice form for referral to mediation;  
865 | requiring delivery by certified mail or personal delivery;  
866 | setting deadlines; requiring parties to share costs;  
867 | requiring the selection of a mediator and times to meet;  
868 | providing penalties for failure to mediate; creating s.  
869 | 720.506, F.S.; creating an opt-out provision; creating s.  
870 | 720.507, F.S.; creating a statutory notice form for  
871 | referral to arbitration; requiring delivery by certified  
872 | mail or personal delivery; setting deadlines; requiring  
873 | parties to share costs; requiring the selection of an  
874 | arbitrator and times to meet; providing penalties for  
875 | failure to arbitrate; creating s. 720.508, F.S.; providing  
876 | for rules of procedure; providing for confidentiality;  
877 | creating s. 720.509, F.S.; setting qualifications for  
878 | mediators and arbitrators; creating s. 720.510, F.S.;  
879 | providing for enforcement of mediation agreements and  
880 | arbitration awards;