

By the Committee on Regulated Industries; and Senators Posey and Fasano

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1                   A bill to be entitled  
2           An act relating to residential properties; amending s.  
3           514.011, F.S.; defining the term "homeowners'  
4           association"; amending s. 514.0115, F.S.; providing for  
5           the regulation and exemption from regulation for  
6           homeowners' association swimming pools; amending s.  
7           515.25, F.S.; conforming a cross-reference; amending s.  
8           720.303, F.S.; revising provisions relating to homeowners'  
9           association board meetings, inspection and copying of  
10          records, and reserve accounts of budgets; prohibiting a  
11          salary or compensation for certain association personnel;  
12          providing exceptions; amending s. 720.305, F.S.;  
13          authorizing fines assessed against members which exceed a  
14          certain amount to become a lien against a parcel; amending  
15          s. 720.306, F.S.; providing requirements for secret  
16          ballots; requiring newly elected members of a board of  
17          directors to make certain certifications in writing to the  
18          association; providing for disqualification for failure to  
19          make such certifications; requiring an association to  
20          retain certifications for a specified time; amending s.  
21          720.401, F.S.; requiring that the disclosure summary to  
22          prospective parcel owners include additional provisions;  
23          amending s. 34.01, F.S.; correcting a cross-reference to  
24          conform; amending s. 720.302, F.S.; correcting a cross-  
25          reference to conform; establishing legislative intent;  
26          repealing s. 720.311, F.S., relating to a procedure for  
27          dispute resolution in homeowners' associations; providing  
28          that dispute resolution cases pending on the date of  
29          repeal will continue under the repealed provisions;

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30 creating part IV of ch. 720, F.S.; creating s. 720.501,  
31 F.S.; providing a short title; creating s. 720.502, F.S.;  
32 creating legislative findings; creating s. 720.503, F.S.;  
33 setting applicability of provisions for mediation and  
34 arbitration applicable to disputes in homeowners'  
35 associations; creating exceptions; proving applicability;  
36 tolling applicable statutes of limitations; creating s.  
37 720.504, F.S.; requiring that the notice of dispute be  
38 delivered before referral to mediation; creating s.  
39 720.505, F.S.; creating a statutory notice form for  
40 referral to mediation; requiring delivery by certified  
41 mail or personal delivery; setting deadlines; requiring  
42 parties to share costs; requiring the selection of a  
43 mediator and times to meet; providing penalties for  
44 failure to mediate; creating s. 720.506, F.S.; creating an  
45 opt-out provision; creating s. 720.507, F.S.; creating a  
46 statutory notice form for referral to arbitration;  
47 requiring delivery by certified mail or personal delivery;  
48 setting deadlines; requiring parties to share costs;  
49 requiring the selection of an arbitrator and times to  
50 meet; providing penalties for failure to arbitrate;  
51 creating s. 720.508, F.S.; providing for rules of  
52 procedure; providing for confidentiality; creating s.  
53 720.509, F.S.; setting qualifications for mediators and  
54 arbitrators; creating s. 720.510, F.S.; providing for  
55 enforcement of mediation agreements and arbitration  
56 awards; providing an effective date.

57  
58 Be It Enacted by the Legislature of the State of Florida:

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59  
60 Section 1. Section 514.011, Florida Statutes, is amended to  
61 read:

62 514.011 Definitions.--As used in this chapter, the term:

63 (1) "Department" means the Department of Health.

64 (2) "Homeowners' association" has the same meaning as in s.  
65 720.301.

66 (3)~~(5)~~ "Portable pool" means a pool or spa, and related  
67 equipment systems of any kind, which is designed or intended to  
68 be movable from location to location.

69 (4)~~(3)~~ "Private pool" means a facility used only by an  
70 individual, family, or living unit members and their guests which  
71 does not serve any type of cooperative housing or joint tenancy  
72 of five or more living units.

73 (5)~~(4)~~ "Public bathing place" means a body of water,  
74 natural or modified by humans, for swimming, diving, and  
75 recreational bathing, together with adjacent shoreline or land  
76 area, buildings, equipment, and appurtenances pertaining thereto,  
77 used by consent of the owner or owners and held out to the public  
78 by any person or public body, irrespective of whether a fee is  
79 charged for the use thereof. The bathing water areas of public  
80 bathing places include, but are not limited to, lakes, ponds,  
81 rivers, streams, artificial impoundments, and waters along the  
82 coastal and intracoastal beaches and shores of the state.

83 (6)~~(2)~~ "Public swimming pool" or "public pool" means a  
84 watertight structure of concrete, masonry, or other approved  
85 materials, which is located ~~either~~ indoors or outdoors, used for  
86 bathing or swimming by humans, and filled with a filtered and  
87 disinfected water supply, together with buildings, appurtenances,

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88 and equipment used in connection therewith. A public swimming  
89 pool or public pool shall mean a conventional pool, spa-type  
90 pool, wading pool, special purpose pool, or water recreation  
91 attraction, to which admission may be gained with or without  
92 payment of a fee and includes, but is not limited to, pools  
93 operated by or serving camps, churches, cities, counties, day  
94 care centers, group home facilities for eight or more clients,  
95 health spas, institutions, parks, state agencies, schools,  
96 subdivisions, or the cooperative living-type projects of five or  
97 more living units, such as apartments, boardinghouses, hotels,  
98 mobile home parks, motels, recreational vehicle parks, and  
99 townhouses.

100 Section 2. Subsection (2) of section 514.0115, Florida  
101 Statutes, is amended to read:

102 514.0115 Exemptions from supervision or regulation;  
103 variances.--

104 (2) (a) Pools serving no more than 32 condominium or  
105 cooperative units or 32 parcels governed by a homeowners'  
106 association which are not operated as a public lodging  
107 establishment are ~~shall be~~ exempt from supervision under this  
108 chapter, except for water quality.

109 (b) Pools serving condominium or cooperative associations  
110 of more than 32 units or a homeowners' association of more than  
111 32 parcels and whose recorded documents prohibit the rental or  
112 sublease of the units for ~~periods of~~ less than 60 days are exempt  
113 from supervision under this chapter, except that the condominium  
114 or cooperative owner or association or homeowners' association  
115 must file an application ~~applications~~ with the department and  
116 obtain construction plan ~~plans~~ approval and receive an initial

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117 | operating permit. The department shall inspect the swimming pools  
118 | ~~at such places~~ annually, at the fee set forth in s. 514.033(3),  
119 | or upon request by a unit owner, to determine compliance with  
120 | department rules relating to water quality and lifesaving  
121 | equipment. The department may not require compliance with rules  
122 | relating to swimming pool lifeguard standards.

123 |       Section 3. Subsection (9) of section 515.25, Florida  
124 | Statutes, is amended to read:

125 |       515.25 Definitions.--As used in this chapter, the term:

126 |       (9) "Public swimming pool" means a swimming pool, as  
127 | defined in s. 515.011 ~~514.011(2)~~, which is operated, with or  
128 | without charge, for the use of the general public; however, the  
129 | term does not include a swimming pool located on the grounds of a  
130 | private residence.

131 |       Section 4. Paragraph (b) of subsection (2), paragraphs (a)  
132 | and (c) of subsection (5), paragraphs (b), (c), (d), (f), and (g)  
133 | of subsection (6) of section 720.303, Florida Statutes, are  
134 | amended, and subsection (12) is added to that section, to read:

135 |       720.303 Association powers and duties; meetings of board;  
136 | official records; budgets; financial reporting; association  
137 | funds; recalls.--

138 |       (2) BOARD MEETINGS.--

139 |       (b) Members have the right to attend all meetings of the  
140 | board and to speak on any matter placed on the agenda by petition  
141 | of the voting interests for at least 3 minutes. The association  
142 | may adopt written reasonable rules expanding the right of members  
143 | to speak and governing the frequency, duration, and other manner  
144 | of member statements, which rules must be consistent with this  
145 | paragraph and may include a sign-up sheet for members wishing to

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146 speak. Notwithstanding any other law, ~~the requirement that board~~  
147 ~~meetings and committee meetings be open to the members is~~  
148 ~~inapplicable to~~ meetings between the board or a committee to  
149 discuss proposed or pending litigation with ~~and~~ the association's  
150 attorney, or ~~with respect to~~ meetings of the board held for the  
151 purpose of discussing personnel matters are not required to be  
152 open to the members.

153 (5) INSPECTION AND COPYING OF RECORDS.--The official  
154 records shall be maintained within the state and must be open to  
155 inspection and available for photocopying by members or their  
156 authorized agents at reasonable times and places within 10  
157 business days after receipt of a written request for access. This  
158 subsection may be complied with by having a copy of the official  
159 records available for inspection or copying in the community. If  
160 the association has a photocopy machine available where the  
161 records are maintained, it must provide parcel owners with copies  
162 on request during the inspection if the entire request is limited  
163 to no more than 25 pages.

164 (a) The failure of an association to provide access to the  
165 records within 10 business days after receipt of a written  
166 request submitted by certified mail, return receipt requested,  
167 creates a rebuttable presumption that the association willfully  
168 failed to comply with this subsection.

169 (c) The association may adopt reasonable written rules  
170 governing the frequency, time, location, notice, records to be  
171 inspected, and manner of inspections, but may not require ~~impose~~  
172 ~~a requirement that~~ a parcel owner to demonstrate any proper  
173 purpose for the inspection, state any reason for the inspection,  
174 or limit a parcel owner's right to inspect records to less than

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175 one 8-hour business day per month. The association may impose  
176 fees to cover the costs of providing copies of the official  
177 records, including, without limitation, the costs of copying. The  
178 association may charge up to 50 cents per page for copies made on  
179 the association's photocopier. If the association does not have a  
180 photocopy machine available where the records are kept, or if the  
181 records requested to be copied exceed 25 pages in length, the  
182 association may have copies made by an outside vendor or  
183 association management company personnel and may charge the  
184 actual cost of copying, including any reasonable costs involving  
185 personnel fees and charges at an hourly rate for employee time to  
186 cover administrative costs to the association. The association  
187 shall maintain an adequate number of copies of the recorded  
188 governing documents, to ensure their availability to members and  
189 prospective members. Notwithstanding the provisions of this  
190 paragraph, the following records are ~~shall~~ not be accessible to  
191 members or parcel owners:

192 1. Any record protected by the lawyer-client privilege as  
193 described in s. 90.502 and any record protected by the work-  
194 product privilege, including, but not limited to, any record  
195 prepared by an association attorney or prepared at the attorney's  
196 express direction which reflects a mental impression, conclusion,  
197 litigation strategy, or legal theory of the attorney or the  
198 association and which was prepared exclusively for civil or  
199 criminal litigation or for adversarial administrative proceedings  
200 or which was prepared in anticipation of imminent civil or  
201 criminal litigation or imminent adversarial administrative  
202 proceedings until the conclusion of the litigation or ~~adversarial~~  
203 administrative proceedings.

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204           2. Information obtained by an association in connection  
205 with the approval of the lease, sale, or other transfer of a  
206 parcel.

207           3. Disciplinary, health, insurance, and personnel records  
208 of the association's employees.

209           4. Medical records of parcel owners or community residents.

210           (6) BUDGETS.--

211           (b) In addition to annual operating expenses, the budget  
212 may include reserve accounts for capital expenditures and  
213 deferred maintenance for which the association is responsible. If  
214 reserve accounts are not established pursuant to paragraph (d),  
215 funding of such reserves shall be limited to the extent that the  
216 governing documents ~~do not~~ limit increases in assessments,  
217 including reserves. If the budget of the association includes  
218 reserve accounts established pursuant to paragraph (d), such  
219 reserves shall be determined, maintained, and waived in the  
220 manner provided in this subsection. Once an association provides  
221 for reserve accounts pursuant to paragraph (d) in the budget, the  
222 association shall thereafter determine, maintain, and waive  
223 reserves in compliance with this subsection. The provisions of  
224 this section do not preclude the termination of a reserve account  
225 established pursuant to this paragraph upon approval of a  
226 majority of the voting interests of the association. Upon such  
227 approval, the terminating reserve account shall be removed from  
228 the budget.

229           (c) 1. If the budget of the association does not provide for  
230 reserve accounts pursuant to paragraph (d) ~~governed by this~~  
231 ~~subsection~~ and the association is responsible for the repair and  
232 maintenance of capital improvements that may result in a special



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233 assessment if reserves are not provided, each financial report  
234 for the preceding fiscal year required by subsection (7) shall  
235 contain the following statement in conspicuous type: THE BUDGET  
236 OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR  
237 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN  
238 SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE  
239 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
240 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF NOT LESS THAN A  
241 MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE  
242 OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

243 2. If the budget of the association does provide for  
244 funding accounts for deferred expenditures, including, but not  
245 limited to, funds for capital expenditures and deferred  
246 maintenance, but such accounts are not created or established  
247 pursuant to paragraph (d), each financial report for the  
248 preceding fiscal year required under subsection (7) must also  
249 contain the following statement in conspicuous type: THE BUDGET  
250 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
251 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND DEFERRED  
252 MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN OUR  
253 GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
254 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),  
255 FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE RESTRICTIONS  
256 ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR ARE RESERVES  
257 CALCULATED IN ACCORDANCE WITH THAT STATUTE.

258 (d) An association shall be deemed to have provided for  
259 reserve accounts if ~~when~~ reserve accounts have been initially  
260 established by the developer or if ~~when~~ the membership of the  
261 association affirmatively elects to provide for reserves. If

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262 reserve accounts are not initially provided for by the developer,  
263 the membership of the association may elect to do so upon the  
264 affirmative approval of ~~not less than~~ a majority of the total  
265 voting interests of the association. Such approval may be  
266 obtained ~~attained~~ by vote of the members at a duly called meeting  
267 of the membership or by the ~~upon a~~ written consent of ~~executed by~~  
268 ~~not less than~~ a majority of the total voting interests in the  
269 community. The approval action of the membership shall state that  
270 reserve accounts shall be provided for in the budget and shall  
271 designate the components for which the reserve accounts are to be  
272 established. Upon approval by the membership, the board of  
273 directors shall include ~~provide for~~ the required reserve accounts  
274 ~~for inclusion~~ in the budget in the next fiscal year following the  
275 approval and ~~in~~ each year thereafter. Once established as  
276 provided in this subsection, the reserve accounts shall be funded  
277 or maintained or shall have their funding waived in the manner  
278 provided in paragraph (f).

279 (f) After one or more ~~Once a reserve account or~~ reserve  
280 accounts are established, the membership of the association, upon  
281 a majority vote at a meeting at which a quorum is present, may  
282 provide for no reserves or less reserves than required by this  
283 section. If a meeting of the unit owners has been called to  
284 determine whether to waive or reduce the funding of reserves and  
285 no such result is achieved or a quorum is not present, the  
286 reserves as included in the budget shall go into effect. After  
287 the turnover, the developer may vote its voting interest to waive  
288 or reduce the funding of reserves. Any vote taken pursuant to  
289 this subsection to waive or reduce reserves is ~~shall be~~  
290 applicable only to one budget year.

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291 (g) Funding formulas for reserves authorized by this  
292 section shall be based on either a separate analysis of each of  
293 the required assets or a pooled analysis of two or more of the  
294 required assets.

295 1. If the association maintains separate reserve accounts  
296 for each of the required assets, the amount of the contribution  
297 to each reserve account is ~~shall be~~ the sum of the following two  
298 calculations:

299 a. The total amount necessary, if any, to bring a negative  
300 component balance to zero.

301 b. The total estimated deferred maintenance expense or  
302 estimated replacement cost of the reserve component less the  
303 estimated balance of the reserve component as of the beginning of  
304 the period ~~for which~~ the budget will be in effect. The remainder,  
305 if greater than zero, shall be divided by the estimated remaining  
306 useful life of the component.

307  
308 The formula may be adjusted each year for changes in estimates  
309 and deferred maintenance performed during the year and may  
310 include factors such as inflation and earnings on invested funds.

311 2. If the association maintains a pooled account of two or  
312 more of the required reserve assets, the amount of the  
313 contribution to the pooled reserve account as disclosed on the  
314 proposed budget may ~~shall~~ not be less than that required to  
315 ensure that the balance on hand at the beginning of the period  
316 ~~for which~~ the budget will go into effect plus the projected  
317 annual cash inflows over the remaining estimated useful life of  
318 all of the assets that make up the reserve pool are equal to or  
319 greater than the projected annual cash outflows over the

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320 remaining estimated useful lives of all ~~of~~ the assets that make  
321 up the reserve pool, based on the current reserve analysis. The  
322 projected annual cash inflows may include estimated earnings from  
323 investment of principal and accounts receivable minus the  
324 allowance for doubtful accounts. The reserve funding formula may  
325 ~~shall~~ not include any type of balloon payments.

326 (12) COMPENSATION PROHIBITED.--A director, officer, or  
327 committee member of the association may not receive directly or  
328 indirectly any salary or compensation from the association for  
329 the performance of duties as a director, officer, or committee  
330 member and may not in any other way benefit financially from  
331 service to the association. This subsection does not preclude:

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

337 (b) Reimbursement for out-of-pocket expenses incurred by  
338 such person on behalf of the association, subject to approval in  
339 accordance with procedures established by the association's  
340 governing documents or, in the absence of such procedures, in  
341 accordance with an approval process established by the board.

342 (c) Any recovery of insurance proceeds derived from a  
343 policy of insurance maintained by the association for the benefit  
344 of its members.

345 (d) Any fee or compensation authorized in the governing  
346 documents.

347 (e) Any fee or compensation authorized in advance by a vote  
348 of a majority of the voting interests voting in person or by

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349 proxy at a meeting of the members.

350 Section 5. Subsection (2) of section 720.305, Florida  
351 Statutes, are amended to read:

352 720.305 Obligations of members; remedies at law or in  
353 equity; levy of fines and suspension of use rights; failure to  
354 fill sufficient number of vacancies on board of directors to  
355 constitute a quorum; appointment of receiver upon petition of any  
356 member.--

357 (2) If the governing documents so provide, an association  
358 may suspend, for a reasonable period of time, the rights of a  
359 member or a member's tenants, guests, or invitees, or both, to  
360 use common areas and facilities and may levy reasonable fines of  
361 up to, ~~not to exceed~~ \$100 per violation, against any member or  
362 any tenant, guest, or invitee. A fine may be levied on the basis  
363 of each day of a continuing violation, with a single notice and  
364 opportunity for hearing, except that no ~~such~~ fine may ~~shall~~  
365 exceed \$1,000 in the aggregate unless otherwise provided in the  
366 governing documents. A fine of less than \$1,000 may ~~shall~~ not  
367 become a lien against a parcel. In any action to recover a fine,  
368 the prevailing party is entitled to collect its reasonable  
369 attorney's fees and costs from the nonprevailing party as  
370 determined by the court.

371 (a) A fine or suspension may not be imposed without ~~notice~~  
372 ~~of~~ at least 14 days notice to the person sought to be fined or  
373 suspended and an opportunity for a hearing before a committee of  
374 at least three members appointed by the board who are not  
375 officers, directors, or employees of the association, or the  
376 spouse, parent, child, brother, or sister of an officer,  
377 director, or employee. If the committee, by majority vote, does

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378 | not approve a proposed fine or suspension, it may not be imposed.

379 |       (b) The requirements of this subsection do not apply to the  
380 | imposition of suspensions or fines upon any member because of the  
381 | failure of the member to pay assessments or other charges when  
382 | due if such action is authorized by the governing documents.

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

387 |       Section 6. Subsections (8) and (9) of section 720.306,  
388 | Florida Statutes, are amended to read:

389 |       720.306 Meetings of members; voting and election  
390 | procedures; amendments.--

391 |       (8) PROXY VOTING.--The members have the right, unless  
392 | otherwise provided in this subsection or in the governing  
393 | documents, to vote in person or by proxy.

394 |       (a) To be valid, a proxy must be dated, must state the  
395 | date, time, and place of the meeting for which it was given, and  
396 | must be signed by the authorized person who executed the proxy. A  
397 | proxy is effective only for the specific meeting for which it was  
398 | originally given, as the meeting may lawfully be adjourned and  
399 | reconvened from time to time, and automatically expires 90 days  
400 | after the date of the meeting for which it was originally given.  
401 | A proxy is revocable at any time at the pleasure of the person  
402 | who executes it. If the proxy form expressly so provides, any  
403 | proxy holder may appoint, in writing, a substitute to act in his  
404 | or her place.

405 |       (b) If the governing documents permit voting by secret  
406 | ballot by members who are not in attendance at a meeting of the

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407 members for the election of directors, such ballots shall be  
408 placed in an inner envelope with no identifying markings and  
409 mailed or delivered to the association in an outer envelope  
410 bearing identifying information reflecting the name of the  
411 member, the lot or parcel for which the vote is being cast, and  
412 the signature of the lot or parcel owner casting that ballot.  
413 After the eligibility of the member to vote and confirmation that  
414 no other ballot has been submitted for that lot or parcel, the  
415 inner envelope shall be removed from the outer envelope bearing  
416 the identification information, placed with the ballots which  
417 were personally cast, and opened when the ballots are counted. If  
418 more than one ballot is submitted for a lot or parcel, the  
419 ballots for that lot or parcel shall be disqualified. Any vote by  
420 ballot received after the closing of the balloting may not be  
421 considered.

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

423 (a) Elections of directors must be conducted in accordance  
424 with the procedures set forth in the governing documents of the  
425 association. All members of the association are ~~shall be~~ eligible  
426 to serve on the board of directors, and a member may nominate  
427 himself or herself as a candidate for the board at a meeting  
428 where the election is to be held or, if the election process  
429 allows voting by absentee ballot, in advance of the balloting.  
430 Except as otherwise provided in the governing documents, boards  
431 of directors must be elected by a plurality of the votes cast by  
432 eligible voters. Any election dispute between a member and an  
433 association must be submitted to mandatory binding arbitration  
434 with the division. Such proceedings shall be conducted in the  
435 manner provided by s. 718.1255 and the procedural rules adopted

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436 by the division.

437 (b) Within 30 days after being elected to the board of  
438 directors, a new director shall certify in writing to the  
439 secretary of the association that he or she has read the  
440 association's declarations of covenants and restrictions,  
441 articles of incorporation, bylaws, and current written policies  
442 and that he or she will work to uphold each to the best of his or  
443 her ability and will faithfully discharge his or her fiduciary  
444 responsibility to the association's members. Failure to timely  
445 file such statement shall automatically disqualify the director  
446 from service on the association's board of directors. The  
447 secretary shall cause the association to retain a director's  
448 certification for inspection by the members for 5 years after a  
449 director's election. Failure to have such certification on file  
450 does not affect the validity of any appropriate action.

451 Section 7. Paragraph (a) of subsection (1) of section  
452 720.401, Florida Statutes, is amended to read:

453 720.401 Prospective purchasers subject to association  
454 membership requirement; disclosure required; covenants;  
455 assessments; contract cancellation.--

456 (1) (a) A prospective parcel owner in a community must be  
457 presented a disclosure summary before executing the contract for  
458 sale. The disclosure summary must be in a form substantially  
459 similar to the following form:

460  
461 DISCLOSURE SUMMARY

462 FOR

463 (NAME OF COMMUNITY)

464



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

467 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE  
468 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS  
469 COMMUNITY.

470 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
471 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
472 APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. YOU WILL ALSO  
473 BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
474 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
475 IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

476 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
477 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
478 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

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

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

486 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE  
487 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
488 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
489 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

490 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
491 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
492 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
493 DOCUMENTS BEFORE PURCHASING PROPERTY.

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494 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND  
 495 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
 496 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE OBTAINED  
 497 FROM THE DEVELOPER.

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

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

505  
 506 DATE:

PURCHASER:

507 PURCHASER:

508 The disclosure must be supplied by the developer, or by the  
 509 parcel owner if the sale is by an owner that is not the  
 510 developer. Any contract or agreement for sale shall refer to and  
 511 incorporate the disclosure summary and shall include, in  
 512 prominent language, a statement that the potential buyer should  
 513 not execute the contract or agreement until he or she has ~~they~~  
 514 ~~have~~ received and read the disclosure summary required by this  
 515 section.

516 Section 8. Paragraph (d) of subsection (1) of section  
 517 34.01, Florida Statutes, is amended to read:

518 34.01 Jurisdiction of county court.--

519 (1) County courts shall have original jurisdiction:

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

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523 Section 9. Subsection (2) of section 720.302, Florida  
524 Statutes, is amended to read:

525 720.302 Purposes, scope, and application.--

526 (2) The Legislature recognizes that it is not in the best  
527 interest of homeowners' associations or the individual  
528 association members thereof to create or impose a bureau or other  
529 agency of state government to regulate the affairs of homeowners'  
530 associations. However, in accordance with part IV of chapter 720  
531 ~~s. 720.311~~, the Legislature finds that homeowners' associations  
532 and their individual members will benefit from an expedited  
533 alternative process for resolution of ~~election and recall~~  
534 ~~disputes and presuit mediation of other~~ disputes involving  
535 covenant enforcement in homeowner's associations and deed  
536 restricted communities using the procedures provided in part IV  
537 of and ~~authorizes the department to hear, administer, and~~  
538 ~~determine these disputes as more fully set forth in~~ this chapter.  
539 Further, the Legislature recognizes that certain contract rights  
540 have been created for the benefit of homeowners' associations and  
541 members thereof as well as deed-restricted communities before the  
542 effective date of this act and that part IV of chapter 720 is ss.  
543 ~~720.301-720.407~~ are not intended to impair such contract rights,  
544 including, but not limited to, the rights of the developer to  
545 complete the community as initially contemplated.

546 Section 10. Section 720.311, Florida Statutes, is repealed.

547 Section 11. Part IV of chapter 720, Florida Statutes, to be  
548 entitled "Dispute Resolution" consisting of sections 720.501,  
549 720.502, 720.503, 720.504, 720.505, 720.506, 720.507, 720.508,  
550 720.509, and 720.510, is created to read:

551 720.501 Short title.--This part may be cited as the "Home

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552 Court Advantage Dispute Resolution Act."

553 720.502 Legislative findings.--The Legislature finds that  
554 alternative dispute resolution has made progress in reducing  
555 court dockets and trials and in offering a more efficient, cost-  
556 effective option to litigation.

557 720.503 Applicability of this part.--

558 (1) Unless otherwise provided in this part, before a  
559 dispute described herein between a homeowners' association and  
560 a parcel owner or owners, or a dispute between parcel owners  
561 within the same homeowners' association, may be filed in court  
562 the dispute is subject to presuit mediation pursuant to s.  
563 720.505 or presuit arbitration pursuant to s. 720.507, at the  
564 option of the aggrieved party who initiates the first formal  
565 action of alternative dispute resolution under this part. The  
566 parties may mutually agree to participate in both presuit  
567 mediation and presuit arbitration prior to suit being filed by  
568 either party.

569 (2) Unless otherwise provided in this part, the mediation  
570 and arbitration provisions of this part are limited to disputes  
571 between an association and a parcel owner or owners or between  
572 parcel owners regarding the use of or changes to the parcel or  
573 the common areas under the governing documents and other disputes  
574 involving violations of the recorded declaration of covenants or  
575 other governing documents, disputes arising concerning  
576 enforcement of the governing documents or any amendments thereto,  
577 and disputes involving access to the official records of the  
578 association. A dispute concerning title to any parcel or common  
579 area, interpretation or enforcement of any warranty, the levy of  
580 a fee or assessment, the collection of an assessment levied

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581 against a party, the eviction or other removal of a tenant from a  
582 parcel, alleged breaches of fiduciary duty by one or more  
583 directors, or any action to collect mortgage indebtedness or to  
584 foreclosure a mortgage shall not be subject to the provisions of  
585 this part.

586 (3) All disputes arising after the effective date of this  
587 part involving the election of the board of directors for an  
588 association or the recall of any member of the board or officer  
589 of the association shall not be eligible for presuit mediation  
590 under s. 720.505, but shall be subject to the provisions  
591 concerning presuit arbitration under s. 720.507.

592 (4) In any dispute subject to presuit mediation or presuit  
593 arbitration under this part for which emergency relief is  
594 required, a motion for temporary injunctive relief may be filed  
595 with the court without first complying with the presuit mediation  
596 or presuit arbitration requirements of this part. After any  
597 issues regarding emergency or temporary relief are resolved, the  
598 court may refer the parties to a mediation program administered  
599 by the courts or require mediation or arbitration under this  
600 part.

601 (5) The mailing of a statutory notice of presuit mediation  
602 or presuit arbitration as provided in this part shall toll the  
603 applicable statute of limitations during the pendency of the  
604 mediation or arbitration and for a period of 30 days following  
605 the conclusion of either proceeding. The 30-day period shall  
606 start upon the filing of the mediator's notice of impasse or the  
607 arbitrator's written arbitration award. If the parties mutually  
608 agree to participate in both presuit mediation and presuit  
609 arbitration under this part, the tolling of the applicable

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610 statute of limitations for each such alternative dispute  
611 resolution proceeding shall be consecutive.

612 720.504 Notice of dispute.--Prior to giving the statutory  
613 notice to proceed under presuit mediation or presuit arbitration  
614 under this part, the aggrieved association or parcel owner shall  
615 first provide written notice of the dispute to the responding  
616 party in the manner provided by this section.

617 (1) The notice of dispute shall be delivered to the  
618 responding party by certified mail, return receipt requested, or  
619 the notice of dispute may be hand delivered and the person making  
620 delivery shall file with their notice of mediation either the  
621 proof of receipt of mailing or an affidavit stating the date and  
622 time of the delivery of the notice of dispute. If the notice is  
623 delivered by certified mail, return receipt requested, and the  
624 responding party fails or refuses to accept delivery, notice  
625 shall be considered properly delivered for purposes of this  
626 section on the date of the first attempted delivery.

627 (2) The notice of dispute shall state with specificity the  
628 nature of the dispute, including the date, time, and location of  
629 each event that is the subject of the dispute and the action  
630 requested to resolve the dispute. The notice shall also include  
631 the text of any provision in the governing documents, including  
632 the rules and regulations, of the association which form the  
633 basis of the dispute.

634 (3) Unless the parties otherwise agree in writing to a  
635 longer time period, the party receiving the notice of dispute  
636 shall have 10 days following the date of receipt of notice to  
637 resolve the dispute. If the alleged dispute has not been resolved  
638 within the 10-day period, the aggrieved party may proceed under

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639 this part at any time thereafter within the applicable statute of  
 640 limitations.

641 (4) A copy of the notice and the text of the provision in  
 642 the governing documents or the rules and regulations of the  
 643 association which are the basis of the dispute, along with proof  
 644 of service of the notice of dispute and a copy of any written  
 645 responses received from the responding party, shall be included  
 646 as an exhibit to any demand for mediation or arbitration under  
 647 this part.

648 720.505 Presuit mediation.--

649 (1) Disputes between an association and a parcel owner or  
 650 owners and between parcel owners must be submitted to presuit  
 651 mediation before the dispute may be filed in court or, at the  
 652 election of the party initiating the presuit procedures, such  
 653 dispute may be submitted to presuit arbitration pursuant to s.  
 654 720.507 before the dispute may be filed in court. An aggrieved  
 655 party who elects to use the presuit mediation procedure under  
 656 this section shall serve on the responding party a written notice  
 657 of presuit mediation in substantially the following form:

658  
 659 STATUTORY NOTICE OF PRESUIT MEDIATION  
 660 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
 661 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
 662 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT MEDIATION  
 663 IN CONNECTION WITH A DISPUTE(S) WITH YOU, WHICH BY  
 664 STATUTE ARE OF A TYPE THAT ARE SUBJECT TO PRESUIT  
 665 MEDIATION:

666  
 667 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION

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668 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO  
669 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
670 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
671 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING  
672 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE  
673 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
674 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
675 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

676  
677 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
678 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
679 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
680 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
681 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT MEDIATION  
682 WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER TO ATTEMPT  
683 TO RESOLVE THIS DISPUTE WITHOUT COURT ACTION, AND THE  
684 AGGRIEVED PARTY DEMANDS THAT YOU PARTICIPATE IN THIS  
685 PROCESS. UNLESS YOU RESPOND TO THIS NOTICE BY FILING  
686 WITH THE AGGRIEVED PARTY A NOTICE OF OPTING OUT AND  
687 DEMAND FOR ARBITRATION UNDER S. 720.506, FLORIDA  
688 STATUTES, YOUR FAILURE TO PARTICIPATE IN THE MEDIATION  
689 PROCESS MAY RESULT IN A LAWSUIT BEING FILED IN COURT  
690 AGAINST YOU WITHOUT FURTHER NOTICE.

691  
692 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
693 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
694 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS THEM  
695 IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING PART  
696 OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE IN



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697 PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
698 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
699 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
700 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
701 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE  
702 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
703 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

704  
705 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
706 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
707 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
708 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE  
709 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
710 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
711 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN  
712 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
713 PARTY MAY PROCEED TO FILE A LAW SUIT ON ALL  
714 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
715 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION PROCESS,  
716 YOU WILL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES IF  
717 YOU PREVAIL IN A SUBSEQUENT COURT PROCEEDING INVOLVING  
718 THE SAME DISPUTE.

719  
720 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
721 ELIGIBLE QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
722 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
723 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
724 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE  
725 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE OF

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726 THE LISTED MEDIATORS DOES NOT MEAN THAT THE MEDIATOR  
727 CANNOT ACT AS A NEUTRAL AND IMPARTIAL FACILITATOR. THE  
728 NAMES OF THE MEDIATORS THAT THE AGGRIEVED PARTY HEREBY  
729 SUBMITS TO YOU FROM WHOM YOU MAY CHOOSE ONE, AND THEIR  
730 CURRENT ADDRESSES, TELEPHONE NUMBERS, AND HOURLY RATES  
731 ARE AS FOLLOWS:

732  
733 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
734 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
735 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
736 BE INCLUDED AS AN ATTACHMENT.)

737  
738 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
739 CONFIRM THAT EACH OF THE ABOVE LISTED MEDIATORS WILL BE  
740 NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER  
741 PARTY. UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART  
742 IV OF CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
743 PARTIES SHARE THE COSTS OF PRESUIT MEDIATION EQUALLY,  
744 INCLUDING THE FEE CHARGED BY THE MEDIATOR. AN AVERAGE  
745 MEDIATION MAY REQUIRE 3 TO 4 HOURS OF THE MEDIATOR'S  
746 TIME, INCLUDING SOME PREPARATION TIME, AND THE PARTIES  
747 WOULD NEED TO EQUALLY SHARE THE MEDIATOR'S FEES AS WELL  
748 AS BE RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES  
749 IF THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
750 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
751 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE  
752 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
753 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY HEREBY  
754 AGREES TO PAY OR PREPAY ONE-HALF OF THE SELECTED

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755 MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS AMOUNT OR  
756 SUCH OTHER REASONABLE ADVANCE DEPOSITS AS THE MEDIATOR  
757 REQUIRES FOR THIS PURPOSE UPON THE SELECTION OF THE  
758 MEDIATOR. ANY FUNDS DEPOSITED WILL BE RETURNED TO YOU  
759 IF THESE FUNDS ARE IN EXCESS OF YOUR SHARE OF THE  
760 MEDIATOR FEES INCURRED.

761  
762 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO TRY  
763 TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER LEGAL  
764 ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE WHICH  
765 MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE MEDIATORS  
766 LISTED BY THE AGGRIEVED PARTY ABOVE.

767  
768 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE OF  
769 PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE YOU  
770 MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
771 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
772 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
773 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT MEDIATION  
774 OR WITHIN 90 DAYS AFTER THE DATE YOU WERE SERVED WITH A  
775 COPY OF THIS NOTICE. THE AGGRIEVED PARTY WILL THEN ASK  
776 THE MEDIATOR TO SCHEDULE A MUTUALLY CONVENIENT TIME AND  
777 PLACE FOR THE MEDIATION CONFERENCE TO BE HELD. IF YOU  
778 DO NOT PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
779 MEDIATOR IS AUTHORIZED TO SCHEDULE A MEDIATION  
780 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND CONVENIENCE  
781 INTO CONSIDERATION. IN NO EVENT SHALL THE MEDIATION  
782 CONFERENCE BE LATER THAN 90 DAYS AFTER THE NOTICE OF  
783 PRESUIT MEDIATION WAS FIRST SERVED UNLESS ALL PARTIES

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784 MUTUALLY AGREE OTHERWISE. IN THE EVENT THAT YOU FAIL TO  
 785 RESPOND WITHIN 20 DAYS AFTER THE DATE OF THIS NOTICE,  
 786 FAIL TO PROVIDE THE MEDIATOR WITH DATES AND TIMES IN  
 787 WHICH YOU ARE AVAILABLE FOR THE MEDIATION CONFERENCE,  
 788 FAIL TO AGREE TO AT LEAST ONE OF THE MEDIATORS THAT THE  
 789 AGGRIEVED PARTY HAS LISTED, FAIL TO PAY OR PREPAY TO  
 790 THE MEDIATOR ONE-HALF OF THE COSTS INVOLVED, OR FAIL TO  
 791 APPEAR AND PARTICIPATE AT THE SCHEDULED MEDIATION, THE  
 792 AGGRIEVED PARTY WILL BE AUTHORIZED TO PROCEED WITH THE  
 793 FILING OF A LAWSUIT AGAINST YOU WITHOUT FURTHER NOTICE.  
 794 IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY MAY  
 795 SEEK AN AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS  
 796 INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

797  
 798 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 799 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
 800 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
 801 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE  
 802 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
 803 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
 804 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
 805 OF THIS NOTICE.

806  
 807 \_\_\_\_\_  
 808 SIGNATURE OF AGGRIEVED PARTY

809  
 810 \_\_\_\_\_  
 811 PRINTED NAME OF AGGRIEVED PARTY

812

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

815  
816 AGREEMENT TO MEDIATE

817  
818 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN PRESUIT  
819 MEDIATION AND AGREES TO ATTEND A MEDIATION CONDUCTED BY  
820 THE FOLLOWING MEDIATOR(S) LISTED BELOW AS ACCEPTABLE  
821 TO MEDIATE THIS DISPUTE:

822  
823 (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE  
824 AGGRIEVED PARTY.)

825  
826 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN  
827 ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE  
828 FOLLOWING DATES AND TIMES:

829  
830 (LIST AT LEAST THREE AVAILABLE DATES AND TIMES WITHIN  
831 THE 90-DAY TIME LIMIT DESCRIBED ABOVE.)

832  
833 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
834 MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS AS  
835 THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

836  
837  
838 \_\_\_\_\_  
839 SIGNATURE OF RESPONDING PARTY #1

840 \_\_\_\_\_  
841 TELEPHONE CONTACT INFORMATION  
\_\_\_\_\_

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842        SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
843        RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
844        OWNED BY MORE THAN ONE PERSON, ALL PARCEL OWNERS OR  
845        UNIT OWNERS WHO ARE SUBJECT OF THE DISPUTE MUST SIGN OR  
846        HAVE A PERSON ACTING UNDER AUTHORITY OF A POWER OF  
847        ATTORNEY SIGN.

848  
849        (2) (a) Service of the notice of presuit mediation shall be  
850        effected either by personal service, as provided in chapter 48,  
851        or by certified mail, return receipt requested, in a letter in  
852        substantial conformity with the form provided in subsection (1),  
853        with an additional copy being sent by regular first-class mail,  
854        to the address of the responding party as it last appears on the  
855        books and records of the association or if not available, then as  
856        it last appears in the official records of the county property  
857        appraiser where the parcel in dispute is located. The responding  
858        party has either 20 days after the postmarked date of the mailing  
859        of the statutory notice or 20 days after the date the responding  
860        party is served with a copy of the notice to serve a written  
861        response to the aggrieved party. The response shall be served by  
862        certified mail, return receipt requested, with an additional copy  
863        being sent by regular first-class mail, to the address shown on  
864        the statutory notice. The date of the postmark on the envelope  
865        for the response shall constitute the date that the response is  
866        served. Once the parties have agreed on a mediator, the mediator  
867        may schedule or reschedule the mediation for a date and time  
868        mutually convenient to the parties within 90 days after the date  
869        of service of the statutory notice. After such 90-day period, the  
870        mediator may reschedule the mediation only upon the mutual

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871 written agreement of all the parties.

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

878 (c) The party responding to the aggrieved party may either  
879 provide a notice of opting out under s. 720.506, and demand  
880 arbitration, or the responding party shall sign the agreement to  
881 mediate included in the notice of presuit mediation and clearly  
882 indicate the name of the mediator who is acceptable from the five  
883 names provided by the aggrieved party, and the responding party  
884 must provide in their response a list of dates and times in which  
885 the responding party is available to participate in the mediation  
886 within 90 days after the date the responding party was served,  
887 either by process server or by certified mail, with the statutory  
888 notice of presuit mediation.

889 (d) The mediator who has been selected and agreed to  
890 mediate must schedule the mediation conference at a mutually  
891 convenient time and place within that 90-day period, but if the  
892 responding party does not provide a list of available dates and  
893 times, the mediator is authorized to schedule a mediation  
894 conference without taking the responding party's schedule and  
895 convenience into consideration. Within 10 days after the  
896 designation of the mediator, the mediator shall coordinate with  
897 the parties and notify the parties in writing of the date, time,  
898 and place of the mediation conference.

899 (e) The mediation conference must be held on the scheduled

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900 date and may be rescheduled if a rescheduled date is approved by  
901 the mediator. However, in no event shall the mediation be held  
902 later than 90 days after the notice of presuit mediation was  
903 first served, unless all parties mutually agree in writing  
904 otherwise. If the presuit mediation is not completed within the  
905 required time limits, the mediator shall declare an impasse  
906 unless the mediation date is extended by mutual written agreement  
907 by all parties and approved by the mediator.

908 (f) If the responding party fails to respond within 30 days  
909 after the date of service of the statutory notice of presuit  
910 mediation, fails to agree to at least one of the mediators listed  
911 by the aggrieved party in the notice, fails to pay or prepay to  
912 the mediator one-half of the costs of the mediator, or fails to  
913 appear and participate at the scheduled mediation, the aggrieved  
914 party shall be authorized to proceed with the filing of a lawsuit  
915 without further notice.

916 (g)1. The failure of any party to respond to the statutory  
917 notice of presuit mediation within 20 days, the failure to agree  
918 upon a mediator, the failure to provide a listing of dates and  
919 times in which the responding party is available to participate  
920 in the mediation within 90 days after the date the responding  
921 party was served with the statutory notice of presuit mediation,  
922 the failure to make payment of fees and costs within the time  
923 established by the mediator, or the failure to appear for a  
924 scheduled mediation session without the approval of the mediator,  
925 shall in each instance constitute a failure or refusal to  
926 participate in the mediation process and shall operate as an  
927 impasse in the presuit mediation by such party, entitling the  
928 other party to file a lawsuit in court and to seek an award of



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929 the costs and attorney's fees associated with the mediation.

930 2. Persons who fail or refuse to participate in the entire  
931 mediation process may not recover attorney's fees and costs in  
932 subsequent litigation relating to the same dispute between the  
933 same parties. If any presuit mediation session cannot be  
934 scheduled and conducted within 90 days after the offer to  
935 participate in mediation was filed, through no fault of either  
936 party, then an impasse shall be deemed to have occurred unless  
937 the parties mutually agree in writing to extend this deadline. In  
938 the event of such impasse, each party will be responsible for its  
939 own costs and attorney's fees and one-half of any mediator fees  
940 and filing fees, and either party may file a lawsuit in court  
941 regarding the dispute.

942 720.506 Opt-out of presuit mediation.--A party served with  
943 a notice of presuit mediation under s. 720.505, may opt out of  
944 presuit mediation and demand that the dispute proceed under  
945 nonbinding arbitration in the following manner provided in this  
946 section:

947 (1) In lieu of a response to the notice of presuit  
948 mediation as required under s. 720.505, the responding party may  
949 serve upon the aggrieved party in the same manner as the response  
950 to a notice for presuit mediation under s. 720.505, a notice of  
951 opting out of mediation and demand that the dispute instead  
952 proceed to presuit arbitration under s. 720.507.

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

956 (3) Except as otherwise provided in this part, the choice  
957 of which presuit alternative dispute resolution procedure is used

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958 shall be at the election of the aggrieved party who first  
 959 initiated such proceeding after complying with the provisions of  
 960 s. 720.504.

961 720.507 Presuit arbitration.--

962 (1) Disputes between an association and a parcel owner or  
 963 owners and disputes between parcel owners are subject to a demand  
 964 for presuit arbitration pursuant to s. 720.507, before the  
 965 dispute may be filed in court. A party who elects to use the  
 966 presuit arbitration procedure under this part shall serve on the  
 967 responding party a written notice of presuit arbitration in  
 968 substantially the following form:

969  
 970 STATUTORY NOTICE OF PRESUIT ARBITRATION

971  
 972 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
 973 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
 974 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
 975 ARBITRATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)  
 976 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE  
 977 SUBJECT TO PRESUIT ARBITRATION:

978  
 979 (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
 980 ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
 981 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
 982 LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING  
 983 DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
 984 PARTIES.)

985  
 986 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,

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987 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
988 ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
989 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
990 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
991 ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
992 ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
993 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
994 PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO PARTICIPATE  
995 IN THE ARBITRATION PROCESS, A LAWSUIT MAY BE BROUGHT  
996 AGAINST YOU IN COURT WITHOUT FURTHER WARNING.

997  
998 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
999 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY THE  
1000 PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
1001 "ARBITRATION AWARD." PURSUANT TO S. 720.507, FLORIDA  
1002 STATUTES, THE ARBITRATION AWARD SHALL BE FINAL UNLESS A  
1003 LAWSUIT IS FILED IN A COURT OF COMPETENT JURISDICTION  
1004 FOR THE JUDICIAL CIRCUIT IN WHICH THE PARCEL(S)  
1005 GOVERNED BY THE HOMEOWNERS' ASSOCIATION IS/ARE LOCATED  
1006 WITHIN 30 DAYS AFTER THE DATE THAT THE ARBITRATION  
1007 AWARD.

1008  
1009 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
1010 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
1011 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
1012 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
1013 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR TO  
1014 LITIGATE THESE ISSUES IN COURT AND SHALL BE THE SAME AS  
1015 A SETTLEMENT AGREEMENT REACHED BETWEEN THE PARTIES

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1016 UNDER S. 720.505, FLORIDA STATUTES. THE FAILURE OF A  
1017 PARTY TO PARTICIPATE IN THE ARBITRATION PROCESS MAY  
1018 RESULT IN THE ARBITRATOR ISSUING AN ARBITRATION AWARD  
1019 BY DEFAULT IN THE ARBITRATION. IF YOU HAVE FAILED OR  
1020 REFUSED TO PARTICIPATE IN THE ENTIRE ARBITRATION  
1021 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER ATTORNEY'S  
1022 FEES, EVEN IF YOU PREVAIL IN A SUBSEQUENT COURT  
1023 PROCEEDING INVOLVING THE SAME DISPUTE BETWEEN THE SAME  
1024 PARTIES.

1025  
1026 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE  
1027 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
1028 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
1029 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
1030 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
1031 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
1032 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
1033 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
1034 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
1035 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
1036 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT  
1037 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,  
1038 AND HOURLY RATES, ARE AS FOLLOWS:

1039  
1040 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
1041 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.

1042  
1043 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
1044 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL AND

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1045 WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.

1046

1047 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF

1048 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE

1049 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION EQUALLY,

1050 INCLUDING THE FEE CHARGED BY THE ARBITRATOR. THE

1051 PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN ATTORNEY'S

1052 FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION

1053 WITH THE ARBITRATION. HOWEVER, USE OF AN ATTORNEY TO

1054 REPRESENT YOU FOR THE ARBITRATION IS NOT REQUIRED. THE

1055 ARBITRATOR SELECTED MAY REQUIRE THE ADVANCE PAYMENT OF

1056 SOME OR ALL OF THE ANTICIPATED FEES. THE AGGRIEVED

1057 PARTY HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE

1058 SELECTED ARBITRATOR'S ESTIMATED FEES AND TO FORWARD

1059 THIS AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS

1060 AS THE ARBITRATOR WHO IS SELECTED REQUIRES FOR THIS

1061 PURPOSE. ANY FUNDS DEPOSITED WILL BE RETURNED TO YOU IF

1062 THESE FUNDS ARE IN EXCESS OF YOUR SHARE OF THE FEES

1063 INCURRED.

1064

1065 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND

1066 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS

1067 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE

1068 AGGRIEVED PARTY.

1069

1070 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE

1071 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF

1072 PRESUIT ARBITRATION WAS EITHER PERSONALLY SERVED ON YOU

1073 OR 20 DAYS AFTER THE POSTMARKED DATE THAT THIS NOTICE

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1074 OF PRESUIT ARBITRATION WAS SENT TO YOU BY CERTIFIED  
1075 MAIL. YOU MUST ALSO PROVIDE A LIST OF AT LEAST THREE  
1076 DATES AND TIMES IN WHICH YOU ARE AVAILABLE TO  
1077 PARTICIPATE IN THE ARBITRATION THAT ARE WITHIN 90 DAYS  
1078 AFTER EITHER THE DATE YOU WERE PERSONALLY SERVED OR 90  
1079 DAYS AFTER THE POSTMARKED DATE OF THE CERTIFIED MAILING  
1080 OF THIS STATUTORY NOTICE OF PRESUIT ARBITRATION. A COPY  
1081 OF THIS NOTICE AND YOUR RESPONSE WILL BE PROVIDED BY  
1082 THE AGGRIEVED PARTY TO THE ARBITRATOR SELECTED AND THE  
1083 ARBITRATOR WILL SCHEDULE A MUTUALLY CONVENIENT TIME AND  
1084 PLACE FOR THE ARBITRATION CONFERENCE TO BE HELD. IF YOU  
1085 DO NOT PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
1086 ARBITRATOR IS AUTHORIZED TO SCHEDULE AN ARBITRATION  
1087 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND CONVENIENCE  
1088 INTO CONSIDERATION. THE ARBITRATION CONFERENCE MUST BE  
1089 HELD ON THE SCHEDULED DATE, OR ANY RESCHEUDLED DATE  
1090 APPROVED BY THE ARBITRATOR. IN NO EVENT SHALL THE  
1091 ARBITRATION CONFERENCE BE LATER THAN 90 DAYS AFTER  
1092 NOTICE OF THE PRESUIT ARBITRATION WAS FIRST SERVED,  
1093 UNLESS ALL PARTIES MUTUALLY AGREE IN WRITING OTHERWISE.  
1094 IF THE ARBITRATION IS NOT COMPLETED WITHIN THE REQUIRED  
1095 TIME LIMITS, THE ARBITRATOR SHALL ISSUE AN ARBITRATION  
1096 AWARD, UNLESS THE HEARING IS EXTENDED BY MUTUAL WRITTEN  
1097 AGREEMENT OF THE PARTIES AND APPROVED BY THE  
1098 ARBITRATOR. IN THE EVENT THAT YOU FAIL TO RESPOND  
1099 WITHIN 20 DAYS AFTER THE DATE YOU WERE SERVED WITH A  
1100 COPY OF THIS NOTICE, FAIL TO PROVIDE THE ARBITRATOR  
1101 WITH DATES AND TIMES IN WHICH YOU ARE AVAILABLE FOR THE  
1102 ARBITRATION CONFERENCE, FAIL TO AGREE EITHER TO ONE OF

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1103 THE ARBITRATORS THAT THE AGGRIEVED PARTY HAS NAMED,  
 1104 FAIL TO PAY OR PREPAY TO THE ARBITRATOR ONE-HALF OF THE  
 1105 COSTS INVOLVED AS REQUIRED, OR FAIL TO APPEAR AND  
 1106 PARTICIPATE AT THE SCHEDULED ARBITRATION CONFERENCE,  
 1107 THE AGGRIEVED PARTY MAY REQUEST THE ARBITRATOR TO ISSUE  
 1108 AN ARBITRATION AWARD. IN THE SUBSEQUENT COURT ACTION,  
 1109 THE AGGRIEVED PARTY SHALL BE ENTITLED TO RECOVER AN  
 1110 AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS,  
 1111 INCLUDING ANY FEES PAID TO THE ARBITRATOR, INCURRED IN  
 1112 OBTAINING AN ARBITRATION AWARD PURSUANT TO S. 720.507,  
 1113 FLORIDA STATUTES.

1114  
 1115 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
 1116 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
 1117 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,  
 1118 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
 1119 ARBITRATION.

1120  
 1121 \_\_\_\_\_  
 1122 Signature of aggrieved party

1123  
 1124 \_\_\_\_\_  
 1125 PRINTED NAME OF AGGRIEVED PARTY

1126  
 1127 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
 1128 ACCEPTANCE OF THE AGREEMENT TO ARTITRATE.

1129  
 1130 AGREEMENT TO ARBITRATE

1131

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1132 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN PRESUIT  
1133 ARBITRATION AND AGREES TO ATTEND AN ARBITRATION  
1134 CONDUCTED BY THE FOLLOWING ARBITRATOR LISTED BELOW AS  
1135 SOMEONE WHO WOULD BE ACCEPTABLE TO ARBITRATE THIS  
1136 DISPUTE:

1137

1138 (IN YOUR RESPONSE EITHER SELECT THE NAME OF ONE  
1139 ARBITRATOR THAT IS ACCEPTABLE TO YOU FROM THOSE  
1140 ARBITRATORS LISTED BY THE AGGRIEVED PARTY.)

1141

1142 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
1143 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE  
1144 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
1145 AND TIMES:

1146

1147 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
1148 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
1149 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
1150 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
1151 ARBITRATION.)

1152

1153 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
1154 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
1155 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

1156

1157

1158 \_\_\_\_\_  
SIGNATURE OF RESPONDING PARTY #1

1159

1160 \_\_\_\_\_  
TELEPHONE CONTACT INFORMATION



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1161 \_\_\_\_\_  
1162 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
1163 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
1164 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN, OR  
1165 A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF A  
1166 VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

1167  
1168 (2) (a) Service of the statutory notice of presuit  
1169 arbitration shall be effected either by personal service, as  
1170 provided in chapter 48, or by certified mail, return receipt  
1171 requested, in a letter in substantial conformity with the form  
1172 provided in subsection (1), with an additional copy being sent by  
1173 regular first-class mail, to the address of the responding party  
1174 as it last appears on the books and records of the association,  
1175 or if not available, the last address as it appears on the  
1176 official records of the county property appraiser for the county  
1177 in which the property is situated that is subject to the  
1178 association documents. The responding party has 20 days after the  
1179 postmarked date of the certified mailing of the statutory notice  
1180 of presuit arbitration or 20 days after the date the responding  
1181 party is personally served with the statutory notice of presuit  
1182 arbitration by to serve a written response to the aggrieved  
1183 party. The response shall be served by certified mail, return  
1184 receipt requested, with an additional copy being sent by regular  
1185 first-class mail, to the address shown on the statutory notice of  
1186 presuit arbitration. The postmarked date on the envelope of the  
1187 response shall constitute the date the response was served.

1188 (b) The parties shall share the costs of presuit  
1189 arbitration equally, including the fee charged by the arbitrator,

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1190 if any, unless the parties agree otherwise, and the arbitrator  
1191 may require advance payment of his or her reasonable fees and  
1192 costs. Each party shall be responsible for all of their own  
1193 attorney's fees if a party chooses to be represented by an  
1194 attorney for the arbitration proceedings.

1195 (c)1. The party responding to the aggrieved party must sign  
1196 the agreement to arbitrate included in the notice of presuit  
1197 arbitration and clearly indicate the name of the arbitrator who  
1198 is acceptable of those arbitrators listed by the aggrieved party.  
1199 The responding party must provide a list of at least three dates  
1200 and times in which the responding party is available to  
1201 participate in the arbitration conference within 90 days after  
1202 the date the responding party was served with the statutory  
1203 notice of presuit arbitration.

1204 2. The arbitrator must schedule the arbitration conference  
1205 at a mutually convenient time and place, but if the responding  
1206 party does not provide a list of available dates and times, the  
1207 arbitrator is authorized to schedule an arbitration conference  
1208 without taking the responding party's schedule and convenience  
1209 into consideration. Within 10 days after the designation of the  
1210 arbitrator, the arbitrator shall notify the parties in writing of  
1211 the date, time, and place of the arbitration conference.

1212 3. The arbitration conference must be held on the scheduled  
1213 date and may be rescheduled if approved by the arbitrator.  
1214 However, in no event shall the arbitration hearing be later than  
1215 90 days after the notice of presuit arbitration was first served,  
1216 unless all parties mutually agree in writing otherwise. If the  
1217 arbitration hearing is not completed within the required time  
1218 limits, the arbitrator may issue an arbitration award unless the

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1219 time for the hearing is extended as provided herein. If the  
1220 responding party fails to respond within 20 days after the date  
1221 of statutory notice of presuit arbitration, fails to agree to at  
1222 least one of the arbitrators that have been listed by the  
1223 aggrieved party in the presuit notice of arbitration, fails to  
1224 pay or prepay to the arbitrator one-half of the costs involved,  
1225 or fails to appear and participate at the scheduled arbitration,  
1226 the aggrieved party is authorized to proceed with a request that  
1227 the arbitrator issue an arbitration award.

1228 (d)1. The failure of any party to respond to the statutory  
1229 notice of presuit arbitration within 20 days, the failure to  
1230 either select one of the five arbitrators listed by the aggrieved  
1231 party, the failure to provide a listing of dates and times in  
1232 which the responding party is available to participate in the  
1233 arbitration conference within 90 days after the date of the  
1234 responding party being served with the statutory notice of  
1235 presuit arbitration, the failure to make payment of fees and  
1236 costs as required within the time established by the arbitrator,  
1237 or the failure to appear for an arbitration conference without  
1238 the approval of the arbitrator, shall entitle the other party to  
1239 request the arbitrator to enter an arbitration award including an  
1240 award of the reasonable costs and attorney's fees associated with  
1241 the arbitration.

1242 2. Persons who fail or refuse to participate in the entire  
1243 arbitration process may not recover attorney's fees and costs in  
1244 any subsequent litigation proceeding relating to the same dispute  
1245 involving the same parties.

1246 (3) (a) In an arbitration proceeding, the arbitrator may not  
1247 consider any unsuccessful mediation of the dispute.

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1248        (b) An arbitrator in a proceeding initiated pursuant to the  
1249 provisions of this part may shorten the time for discovery or  
1250 otherwise limit discovery in a manner consistent with the policy  
1251 goals of this part to reduce the time and expense of litigating  
1252 homeowners' association disputes initiated pursuant to this  
1253 chapter and promoting an expeditious alternative dispute  
1254 resolution procedure for parties to such actions.

1255        (4) At the request of any party to the arbitration, the  
1256 arbitrator may issue subpoenas for the attendance of witnesses  
1257 and the production of books, records, documents, and other  
1258 evidence, and any party on whose behalf a subpoena is issued may  
1259 apply to the court for orders compelling such attendance and  
1260 production. Subpoenas shall be served and are enforceable in the  
1261 manner provided by the Florida Rules of Civil Procedure.  
1262 Discovery may, at the discretion of the arbitrator, be permitted  
1263 in the manner provided by the Florida Rules of Civil Procedure.

1264        (5) The final arbitration award shall be sent to the  
1265 parties in writing no later than 30 days after the date of the  
1266 arbitration hearing, absent extraordinary circumstances  
1267 necessitating a later filing the reasons for which shall be  
1268 stated in the final award if filed more than 30 days after the  
1269 date of the final session of the arbitration conference. An  
1270 agreed arbitration award is final in those disputes in which the  
1271 parties have mutually agreed to be bound. An arbitration award  
1272 decided by the arbitrator is final unless a lawsuit seeking a  
1273 trial de novo is filed in a court of competent jurisdiction  
1274 within 30 days after the date of the arbitration award. The right  
1275 to file for a trial de novo entitles the parties to file a  
1276 complaint in the appropriate trial court for a judicial

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1277 resolution of the dispute. The prevailing party in an arbitration  
1278 proceeding shall be awarded the costs of the arbitration and  
1279 reasonable attorney's fees in an amount determined by the  
1280 arbitrator.

1281 (6) The party filing a motion for a trial de novo shall be  
1282 assessed the other party's arbitration costs, court costs, and  
1283 other reasonable costs, including attorney's fees, investigation  
1284 expenses, and expenses for expert or other testimony or evidence  
1285 incurred after the arbitration hearing if the judgment upon the  
1286 trial de novo is not more favorable than the final arbitration  
1287 award.

1288 720.508 Rules of procedure.--

1289 (1) Presuit mediation and presuit arbitration proceedings  
1290 under this part must be conducted in accordance with the  
1291 applicable Florida Rules of Civil Procedure and rules governing  
1292 mediations and arbitrations under chapter 44, except this part  
1293 shall be controlling to the extent of any conflict with other  
1294 applicable rules or statutes. The arbitrator can shorten any  
1295 applicable time period and otherwise limit the scope of discovery  
1296 on request of the parties or within the discretion of the  
1297 arbitrator exercised consistent with the purpose and objective of  
1298 reducing the expense and expeditiously concluding proceedings  
1299 under this part.

1300 (2) Presuit mediation proceedings under s. 720.505 are  
1301 privileged and confidential to the same extent as court-ordered  
1302 mediation under chapter 44. An arbitrator or judge may not  
1303 consider any information or evidence arising from the presuit  
1304 mediation proceeding except in a proceeding to impose sanctions  
1305 for failure to attend a presuit mediation session or to enforce a

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1306 mediated settlement agreement.

1307 (3) Persons who are not parties to the dispute may not  
1308 attend the presuit mediation conference without consent of all  
1309 parties, with the exception of counsel for the parties and a  
1310 corporate representative designated by the association. Presuit  
1311 mediations under this part are not a board meeting for purposes  
1312 of notice and participation set forth in this chapter.

1313 (4) Attendance at a mediation conference by the board of  
1314 directors shall not require notice or participation by nonboard  
1315 members as otherwise required by this chapter for meetings of the  
1316 board.

1317 (5) Settlement agreements resulting from a mediation or  
1318 arbitration proceeding do not have precedential value in  
1319 proceedings involving parties other than those participating in  
1320 the mediation or arbitration.

1321 (6) Arbitration awards by an arbitrator shall have  
1322 precedential value in other proceedings involving the same  
1323 association or with respect to the same parcel owner.

1324 720.509 Mediators and arbitrators; qualifications and  
1325 registration.--A person is authorized to conduct mediation or  
1326 arbitration under this part if he or she has been certified as a  
1327 circuit court civil mediator pursuant to the requirements adopted  
1328 pursuant to s. 44.106, is a member in good standing with The  
1329 Florida Bar, and otherwise meets all other requirements imposed  
1330 by chapter 44.

1331 720.510 Enforcement of mediation agreement or arbitration  
1332 award.--

1333 (1) A mediation settlement may be enforced through the  
1334 county or circuit court, as applicable, and any costs and

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1335 attorney's fees incurred in the enforcement of a settlement  
1336 agreement reached at mediation shall be awarded to the prevailing  
1337 party in any enforcement action.

1338 (2) Any party to an arbitration proceeding may enforce an  
1339 arbitration award by filing a petition in a court of competent  
1340 jurisdiction in which the homeowners' association is located. The  
1341 prevailing party in such proceeding shall be awarded reasonable  
1342 attorney's fees and costs incurred in such proceeding.

1343 (3) If a complaint is filed seeking a trial de novo, the  
1344 arbitration award shall be stayed and a petition to enforce the  
1345 award may not be granted. Such award, however, shall be  
1346 admissible in the court proceeding seeking a trial de novo.

1347 Section 12. This act shall take effect July 1, 2008.