



074374

CHAMBER ACTION

Senate

House

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Floor: 1/AD/2R  
5/2/2008 2:52 PM

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1 Senator Posey moved the following **amendment**:

2  
3 **Senate Amendment (with title amendment)**

4 Delete everything after the enacting clause  
5 and insert:

6  
7 Section 1. Section 514.011, Florida Statutes, is amended to  
8 read:

9 514.011 Definitions.--As used in this chapter, the term:

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

11 (2) "Homeowners' association" has the same meaning as in s.

12 720.301.

13 (3)~~(5)~~ "Portable pool" means a pool or spa, and related  
14 equipment systems of any kind, which is designed or intended to  
15 be movable from location to location.

16 (4)~~(3)~~ "Private pool" means a facility used only by an  
17 individual, family, or living unit members and their guests which



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18 does not serve any type of cooperative housing or joint tenancy  
19 of five or more living units.

20 (5)~~(4)~~ "Public bathing place" means a body of water,  
21 natural or modified by humans, for swimming, diving, and  
22 recreational bathing, together with adjacent shoreline or land  
23 area, buildings, equipment, and appurtenances pertaining thereto,  
24 used by consent of the owner or owners and held out to the public  
25 by any person or public body, irrespective of whether a fee is  
26 charged for the use thereof. The bathing water areas of public  
27 bathing places include, but are not limited to, lakes, ponds,  
28 rivers, streams, artificial impoundments, and waters along the  
29 coastal and intracoastal beaches and shores of the state.

30 (6)~~(2)~~ "Public swimming pool" or "public pool" means a  
31 watertight structure of concrete, masonry, or other approved  
32 materials, ~~which is~~ located ~~either~~ indoors or outdoors, used for  
33 bathing or swimming by humans, and filled with a filtered and  
34 disinfected water supply, together with buildings, appurtenances,  
35 and equipment used in connection therewith. A public swimming  
36 pool or public pool shall mean a conventional pool, spa-type  
37 pool, wading pool, special purpose pool, or water recreation  
38 attraction, to which admission may be gained with or without  
39 payment of a fee and includes, but is not limited to, pools  
40 operated by or serving camps, churches, cities, counties, day  
41 care centers, group home facilities for eight or more clients,  
42 health spas, institutions, parks, state agencies, schools,  
43 subdivisions, or the cooperative living-type projects of five or  
44 more living units, such as apartments, boardinghouses, hotels,  
45 mobile home parks, motels, recreational vehicle parks, and  
46 townhouses.



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

49 514.0115 Exemptions from supervision or regulation;  
50 variances.--

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

56 (b) Pools serving condominium or cooperative associations  
57 of more than 32 units or a homeowners' association of more than  
58 32 parcels and whose recorded documents prohibit the rental or  
59 sublease of the units for ~~periods of~~ less than 60 days are exempt  
60 from supervision under this chapter, except that the condominium  
61 or cooperative owner or association or homeowners' association  
62 must file an application ~~applications~~ with the department and  
63 obtain construction plan ~~plans~~ approval and receive an initial  
64 operating permit. The department shall inspect the swimming pools  
65 ~~at such places~~ annually, at the fee set forth in s. 514.033(3),  
66 or upon request by a unit owner, to determine compliance with  
67 department rules relating to water quality and lifesaving  
68 equipment. The department may not require compliance with rules  
69 relating to swimming pool lifeguard standards.

70 Section 3. Subsection (9) of section 515.25, Florida  
71 Statutes, is amended to read:

72 515.25 Definitions.--As used in this chapter, the term:

73 (9) "Public swimming pool" means a swimming pool, as  
74 defined in s. 515.011 ~~514.011(2)~~, which is operated, with or  
75 without charge, for the use of the general public; however, the



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76 term does not include a swimming pool located on the grounds of a  
77 private residence.

78 Section 4. Paragraph (b) of subsection (2), paragraphs (a)  
79 and (c) of subsection (5), paragraphs (b), (c), (d), (f), and (g)  
80 of subsection (6) of section 720.303, Florida Statutes, are  
81 amended, and subsection (12) is added to that section, to read:

82 720.303 Association powers and duties; meetings of board;  
83 official records; budgets; financial reporting; association  
84 funds; recalls.--

85 (2) BOARD MEETINGS.--

86 (b) Members have the right to attend all meetings of the  
87 board and to speak on any matter placed on the agenda by petition  
88 of the voting interests for at least 3 minutes. The association  
89 may adopt written reasonable rules expanding the right of members  
90 to speak and governing the frequency, duration, and other manner  
91 of member statements, which rules must be consistent with this  
92 paragraph and may include a sign-up sheet for members wishing to  
93 speak. Notwithstanding any other law, ~~the requirement that board~~  
94 ~~meetings and committee meetings be open to the members is~~  
95 ~~inapplicable to~~ meetings between the board or a committee to  
96 discuss proposed or pending litigation with and the association's  
97 attorney, or with respect to meetings of the board held for the  
98 purpose of discussing personnel matters are not required to be  
99 open to the members.

100 (5) INSPECTION AND COPYING OF RECORDS.--The official  
101 records shall be maintained within the state and must be open to  
102 inspection and available for photocopying by members or their  
103 authorized agents at reasonable times and places within 10  
104 business days after receipt of a written request for access. This  
105 subsection may be complied with by having a copy of the official



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106 records available for inspection or copying in the community. If  
107 the association has a photocopy machine available where the  
108 records are maintained, it must provide parcel owners with copies  
109 on request during the inspection if the entire request is limited  
110 to no more than 25 pages.

111 (a) The failure of an association to provide access to the  
112 records within 10 business days after receipt of a written  
113 request submitted by certified mail, return receipt requested,  
114 creates a rebuttable presumption that the association willfully  
115 failed to comply with this subsection.

116 (c) The association may adopt reasonable written rules  
117 governing the frequency, time, location, notice, records to be  
118 inspected, and manner of inspections, but may not require ~~impose~~  
119 ~~a requirement that~~ a parcel owner to demonstrate any proper  
120 purpose for the inspection, state any reason for the inspection,  
121 or limit a parcel owner's right to inspect records to less than  
122 one 8-hour business day per month. The association may impose  
123 fees to cover the costs of providing copies of the official  
124 records, including, without limitation, the costs of copying. The  
125 association may charge up to 50 cents per page for copies made on  
126 the association's photocopier. If the association does not have a  
127 photocopy machine available where the records are kept, or if the  
128 records requested to be copied exceed 25 pages in length, the  
129 association may have copies made by an outside vendor or  
130 association management company personnel and may charge the  
131 actual cost of copying, including any reasonable costs involving  
132 personnel fees and charges at an hourly rate for employee time to  
133 cover administrative costs to the association. The association  
134 shall maintain an adequate number of copies of the recorded  
135 governing documents, to ensure their availability to members and



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136 prospective members. Notwithstanding the provisions of this  
137 paragraph, the following records are ~~shall~~ not ~~be~~ accessible to  
138 members or parcel owners:

139 1. Any record protected by the lawyer-client privilege as  
140 described in s. 90.502 and any record protected by the work-  
141 product privilege, including, but not limited to, any record  
142 prepared by an association attorney or prepared at the attorney's  
143 express direction which reflects a mental impression, conclusion,  
144 litigation strategy, or legal theory of the attorney or the  
145 association and which was prepared exclusively for civil or  
146 criminal litigation or for adversarial administrative proceedings  
147 or which was prepared in anticipation of imminent civil or  
148 criminal litigation or imminent adversarial administrative  
149 proceedings until the conclusion of the litigation or ~~adversarial~~  
150 administrative proceedings.

151 2. Information obtained by an association in connection  
152 with the approval of the lease, sale, or other transfer of a  
153 parcel.

154 3. Disciplinary, health, insurance, and personnel records  
155 of the association's employees.

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

157 (6) BUDGETS.--

158 (b) In addition to annual operating expenses, the budget  
159 may include reserve accounts for capital expenditures and  
160 deferred maintenance for which the association is responsible. If  
161 reserve accounts are not established pursuant to paragraph (d),  
162 funding of such reserves shall be limited to the extent that the  
163 governing documents ~~do not~~ limit increases in assessments,  
164 including reserves. If the budget of the association includes  
165 reserve accounts established pursuant to paragraph (d), such



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166 reserves shall be determined, maintained, and waived in the  
167 manner provided in this subsection. Once an association provides  
168 for reserve accounts pursuant to paragraph (d) in the budget, the  
169 association shall thereafter determine, maintain, and waive  
170 reserves in compliance with this subsection. The provisions of  
171 this section do not preclude the termination of a reserve account  
172 established pursuant to this paragraph upon approval of a  
173 majority of the voting interests of the association. Upon such  
174 approval, the terminating reserve account shall be removed from  
175 the budget.

176 (c)1. If the budget of the association does not provide for  
177 reserve accounts pursuant to paragraph (d) governed by this  
178 subsection and the association is responsible for the repair and  
179 maintenance of capital improvements that may result in a special  
180 assessment if reserves are not provided, each financial report  
181 for the preceding fiscal year required by subsection (7) shall  
182 contain the following statement in conspicuous type: THE BUDGET  
183 OF THE ASSOCIATION DOES NOT PROVIDE FOR RESERVE ACCOUNTS FOR  
184 CAPITAL EXPENDITURES AND DEFERRED MAINTENANCE THAT MAY RESULT IN  
185 SPECIAL ASSESSMENTS. OWNERS MAY ELECT TO PROVIDE FOR RESERVE  
186 ACCOUNTS PURSUANT TO THE PROVISIONS OF SECTION 720.303(6),  
187 FLORIDA STATUTES, UPON OBTAINING THE APPROVAL OF ~~NOT LESS THAN A~~  
188 MAJORITY OF THE TOTAL VOTING INTERESTS OF THE ASSOCIATION BY VOTE  
189 OF THE MEMBERS AT A MEETING OR BY WRITTEN CONSENT.

190 2. If the budget of the association does provide for  
191 funding accounts for deferred expenditures, including, but not  
192 limited to, funds for capital expenditures and deferred  
193 maintenance, but such accounts are not created or established  
194 pursuant to paragraph (d), each financial report for the  
195 preceding fiscal year required under subsection (7) must also



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196 contain the following statement in conspicuous type: THE BUDGET  
197 OF THE ASSOCIATION DOES PROVIDE FOR LIMITED VOLUNTARY DEFERRED  
198 EXPENDITURE ACCOUNTS, INCLUDING CAPITAL EXPENDITURES AND DEFERRED  
199 MAINTENANCE, SUBJECT TO LIMITS ON FUNDING CONTAINED IN OUR  
200 GOVERNING DOCUMENTS. BECAUSE THE OWNERS HAVE NOT ELECTED TO  
201 PROVIDE FOR RESERVE ACCOUNTS PURSUANT TO SECTION 720.303(6),  
202 FLORIDA STATUTES, THESE FUNDS ARE NOT SUBJECT TO THE RESTRICTIONS  
203 ON USE OF SUCH FUNDS SET FORTH IN THAT STATUTE, NOR ARE RESERVES  
204 CALCULATED IN ACCORDANCE WITH THAT STATUTE.

205 (d) An association shall be deemed to have provided for  
206 reserve accounts if ~~when~~ reserve accounts have been initially  
207 established by the developer or if ~~when~~ the membership of the  
208 association affirmatively elects to provide for reserves. If  
209 reserve accounts are not initially provided for by the developer,  
210 the membership of the association may elect to do so upon the  
211 affirmative approval of ~~not less than~~ a majority of the total  
212 voting interests of the association. Such approval may be  
213 obtained ~~attained~~ by vote of the members at a duly called meeting  
214 of the membership or by the ~~upon a~~ written consent of ~~executed by~~  
215 ~~not less than~~ a majority of the total voting interests in the  
216 community. The approval action of the membership shall state that  
217 reserve accounts shall be provided for in the budget and shall  
218 designate the components for which the reserve accounts are to be  
219 established. Upon approval by the membership, the board of  
220 directors shall include ~~provide for~~ the required reserve accounts  
221 ~~for inclusion~~ in the budget in the next fiscal year following the  
222 approval and ~~in~~ each year thereafter. Once established as  
223 provided in this subsection, the reserve accounts shall be funded  
224 or maintained or shall have their funding waived in the manner  
225 provided in paragraph (f).





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226           (f) After one or more ~~Once a reserve account or~~ reserve  
227 accounts are established, the membership of the association, upon  
228 a majority vote at a meeting at which a quorum is present, may  
229 provide for no reserves or less reserves than required by this  
230 section. If a meeting of the unit owners has been called to  
231 determine whether to waive or reduce the funding of reserves and  
232 no such result is achieved or a quorum is not present, the  
233 reserves as included in the budget shall go into effect. After  
234 the turnover, the developer may vote its voting interest to waive  
235 or reduce the funding of reserves. Any vote taken pursuant to  
236 this subsection to waive or reduce reserves is ~~shall be~~  
237 applicable only to one budget year.

238           (g) Funding formulas for reserves authorized by this  
239 section shall be based on either a separate analysis of each of  
240 the required assets or a pooled analysis of two or more of the  
241 required assets.

242           1. If the association maintains separate reserve accounts  
243 for each of the required assets, the amount of the contribution  
244 to each reserve account is ~~shall be~~ the sum of the following two  
245 calculations:

246           a. The total amount necessary, if any, to bring a negative  
247 component balance to zero.

248           b. The total estimated deferred maintenance expense or  
249 estimated replacement cost of the reserve component less the  
250 estimated balance of the reserve component as of the beginning of  
251 the period ~~for which~~ the budget will be in effect. The remainder,  
252 if greater than zero, shall be divided by the estimated remaining  
253 useful life of the component.

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255 The formula may be adjusted each year for changes in estimates  
256 and deferred maintenance performed during the year and may  
257 include factors such as inflation and earnings on invested funds.

258 2. If the association maintains a pooled account of two or  
259 more of the required reserve assets, the amount of the  
260 contribution to the pooled reserve account as disclosed on the  
261 proposed budget may ~~shall~~ not be less than that required to  
262 ensure that the balance on hand at the beginning of the period  
263 ~~for which~~ the budget will go into effect plus the projected  
264 annual cash inflows over the remaining estimated useful life of  
265 all of the assets that make up the reserve pool are equal to or  
266 greater than the projected annual cash outflows over the  
267 remaining estimated useful lives of all ~~of~~ the assets that make  
268 up the reserve pool, based on the current reserve analysis. The  
269 projected annual cash inflows may include estimated earnings from  
270 investment of principal and accounts receivable minus the  
271 allowance for doubtful accounts. The reserve funding formula may  
272 ~~shall~~ not include any type of balloon payments.

273 (12) COMPENSATION PROHIBITED.--A director, officer, or  
274 committee member of the association may not receive directly or  
275 indirectly any salary or compensation from the association for  
276 the performance of duties as a director, officer, or committee  
277 member and may not in any other way benefit financially from  
278 service to the association. This subsection does not preclude:

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



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284        (b) Reimbursement for out-of-pocket expenses incurred by  
285 such person on behalf of the association, subject to approval in  
286 accordance with procedures established by the association's  
287 governing documents or, in the absence of such procedures, in  
288 accordance with an approval process established by the board.

289        (c) Any recovery of insurance proceeds derived from a  
290 policy of insurance maintained by the association for the benefit  
291 of its members.

292        (d) Any fee or compensation authorized in the governing  
293 documents.

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

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

299        720.305 Obligations of members; remedies at law or in  
300 equity; levy of fines and suspension of use rights; failure to  
301 fill sufficient number of vacancies on board of directors to  
302 constitute a quorum; appointment of receiver upon petition of any  
303 member.--

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



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

318 (a) A fine or suspension may not be imposed without ~~notice~~  
319 ~~of~~ at least 14 days notice to the person sought to be fined or  
320 suspended and an opportunity for a hearing before a committee of  
321 at least three members appointed by the board who are not  
322 officers, directors, or employees of the association, or the  
323 spouse, parent, child, brother, or sister of an officer,  
324 director, or employee. If the committee, by majority vote, does  
325 not approve a proposed fine or suspension, it may not be imposed.

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

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

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

336 720.306 Meetings of members; voting and election  
337 procedures; amendments.--

338 (8) PROXY VOTING.--The members have the right, unless  
339 otherwise provided in this subsection or in the governing  
340 documents, to vote in person or by proxy.

341 (a) To be valid, a proxy must be dated, must state the  
342 date, time, and place of the meeting for which it was given, and  
343 must be signed by the authorized person who executed the proxy. A



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344 proxy is effective only for the specific meeting for which it was  
345 originally given, as the meeting may lawfully be adjourned and  
346 reconvened from time to time, and automatically expires 90 days  
347 after the date of the meeting for which it was originally given.  
348 A proxy is revocable at any time at the pleasure of the person  
349 who executes it. If the proxy form expressly so provides, any  
350 proxy holder may appoint, in writing, a substitute to act in his  
351 or her place.

352 (b) If the governing documents permit voting by secret  
353 ballot by members who are not in attendance at a meeting of the  
354 members for the election of directors, such ballots shall be  
355 placed in an inner envelope with no identifying markings and  
356 mailed or delivered to the association in an outer envelope  
357 bearing identifying information reflecting the name of the  
358 member, the lot or parcel for which the vote is being cast, and  
359 the signature of the lot or parcel owner casting that ballot.  
360 After the eligibility of the member to vote and confirmation that  
361 no other ballot has been submitted for that lot or parcel, the  
362 inner envelope shall be removed from the outer envelope bearing  
363 the identification information, placed with the ballots which  
364 were personally cast, and opened when the ballots are counted. If  
365 more than one ballot is submitted for a lot or parcel, the  
366 ballots for that lot or parcel shall be disqualified. Any vote by  
367 ballot received after the closing of the balloting may not be  
368 considered.

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

370 (a) Elections of directors must be conducted in accordance  
371 with the procedures set forth in the governing documents of the  
372 association. All members of the association ~~are shall be~~ eligible  
373 to serve on the board of directors, and a member may nominate



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374 | himself or herself as a candidate for the board at a meeting  
375 | where the election is to be held or, if the election process  
376 | allows voting by absentee ballot, in advance of the balloting.  
377 | Except as otherwise provided in the governing documents, boards  
378 | of directors must be elected by a plurality of the votes cast by  
379 | eligible voters. Any election dispute between a member and an  
380 | association must be submitted to mandatory binding arbitration  
381 | with the division. Such proceedings shall be conducted in the  
382 | manner provided by s. 718.1255 and the procedural rules adopted  
383 | by the division.

384 |       (b) Within 30 days after being elected to the board of  
385 | directors, a new director shall certify in writing to the  
386 | secretary of the association that he or she has read the  
387 | association's declarations of covenants and restrictions,  
388 | articles of incorporation, bylaws, and current written policies  
389 | and that he or she will work to uphold each to the best of his or  
390 | her ability and will faithfully discharge his or her fiduciary  
391 | responsibility to the association's members. Failure to timely  
392 | file such statement shall automatically disqualify the director  
393 | from service on the association's board of directors. The  
394 | secretary shall cause the association to retain a director's  
395 | certification for inspection by the members for 5 years after a  
396 | director's election. Failure to have such certification on file  
397 | does not affect the validity of any appropriate action.

398 |       Section 7. Paragraph (a) of subsection (1) of section  
399 | 720.401, Florida Statutes, is amended to read:

400 |       720.401 Prospective purchasers subject to association  
401 | membership requirement; disclosure required; covenants;  
402 | assessments; contract cancellation.--



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403 (1) (a) A prospective parcel owner in a community must be  
404 presented a disclosure summary before executing the contract for  
405 sale. The disclosure summary must be in a form substantially  
406 similar to the following form:

407  
408 DISCLOSURE SUMMARY  
409 FOR  
410 (NAME OF COMMUNITY)  
411

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

414 2. THERE HAVE BEEN OR WILL BE RECORDED RESTRICTIVE  
415 COVENANTS GOVERNING THE USE AND OCCUPANCY OF PROPERTIES IN THIS  
416 COMMUNITY.

417 3. YOU WILL BE OBLIGATED TO PAY ASSESSMENTS TO THE  
418 ASSOCIATION. ASSESSMENTS MAY BE SUBJECT TO PERIODIC CHANGE. IF  
419 APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_. YOU WILL ALSO  
420 BE OBLIGATED TO PAY ANY SPECIAL ASSESSMENTS IMPOSED BY THE  
421 ASSOCIATION. SUCH SPECIAL ASSESSMENTS MAY BE SUBJECT TO CHANGE.  
422 IF APPLICABLE, THE CURRENT AMOUNT IS \$ \_\_\_\_\_ PER \_\_\_\_\_.

423 4. YOU MAY BE OBLIGATED TO PAY SPECIAL ASSESSMENTS TO THE  
424 RESPECTIVE MUNICIPALITY, COUNTY, OR SPECIAL DISTRICT. ALL  
425 ASSESSMENTS ARE SUBJECT TO PERIODIC CHANGE.

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

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



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433 7. IF THE ASSOCIATION IS STILL UNDER THE CONTROL OF THE  
434 DEVELOPER, THE DEVELOPER MAY HAVE THE RIGHT TO AMEND THE  
435 RESTRICTIVE COVENANTS WITHOUT THE APPROVAL OF THE ASSOCIATION  
436 MEMBERSHIP OR THE APPROVAL OF THE PARCEL OWNERS.

437 8. THE STATEMENTS CONTAINED IN THIS DISCLOSURE FORM ARE  
438 ONLY SUMMARY IN NATURE, AND, AS A PROSPECTIVE PURCHASER, YOU  
439 SHOULD REFER TO THE COVENANTS AND THE ASSOCIATION GOVERNING  
440 DOCUMENTS BEFORE PURCHASING PROPERTY.

441 9. THESE DOCUMENTS ARE ~~EITHER~~ MATTERS OF PUBLIC RECORD AND  
442 CAN BE OBTAINED FROM THE RECORD OFFICE IN THE COUNTY WHERE THE  
443 PROPERTY IS LOCATED, OR, IF ARE NOT RECORDED, ~~AND~~ CAN BE OBTAINED  
444 FROM THE DEVELOPER.

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

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

452  
453 DATE: PURCHASER:  
454 PURCHASER:  
455 The disclosure must be supplied by the developer, or by the  
456 parcel owner if the sale is by an owner that is not the  
457 developer. Any contract or agreement for sale shall refer to and  
458 incorporate the disclosure summary and shall include, in  
459 prominent language, a statement that the potential buyer should  
460 not execute the contract or agreement until he or she has ~~they~~  
461 ~~have~~ received and read the disclosure summary required by this  
462 section.





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463 Section 8. Paragraph (d) of subsection (1) of section  
464 34.01, Florida Statutes, is amended to read:

465 34.01 Jurisdiction of county court.--

466 (1) County courts shall have original jurisdiction:

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

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

472 720.302 Purposes, scope, and application.--

473 (2) The Legislature recognizes that it is not in the best  
474 interest of homeowners' associations or the individual  
475 association members thereof to create or impose a bureau or other  
476 agency of state government to regulate the affairs of homeowners'  
477 associations. However, in accordance with part IV of chapter 720  
478 ~~s. 720.311~~, the Legislature finds that homeowners' associations  
479 and their individual members will benefit from an expedited  
480 alternative process for resolution of ~~election and recall~~  
481 ~~disputes and presuit mediation of other~~ disputes involving  
482 covenant enforcement in homeowner's associations and deed  
483 restricted communities using the procedures provided in part IV  
484 ~~of and authorizes the department to hear, administer, and~~  
485 ~~determine these disputes as more fully set forth in this chapter.~~  
486 Further, the Legislature recognizes that certain contract rights  
487 have been created for the benefit of homeowners' associations and  
488 members thereof as well as deed-restricted communities before the  
489 effective date of this act and that part IV of chapter 720 is ss.  
490 ~~720.301-720.407~~ are not intended to impair such contract rights,  
491 including, but not limited to, the rights of the developer to  
492 complete the community as initially contemplated.



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

494           Section 11. Part IV of chapter 720, Florida Statutes, to be  
495 entitled "Dispute Resolution" consisting of sections 720.501,  
496 720.502, 720.503, 720.504, 720.505, 720.506, 720.507, 720.508,  
497 720.509, and 720.510, is created to read:

498           720.501 Short title.--This part may be cited as the "Home  
499 Court Advantage Dispute Resolution Act."

500           720.502 Legislative findings.--The Legislature finds that  
501 alternative dispute resolution has made progress in reducing  
502 court dockets and trials and in offering a more efficient, cost-  
503 effective option to litigation.

504           720.503 Applicability of this part.--

505           (1) Unless otherwise provided in this part, before a  
506 dispute described herein between a homeowners' association and a  
507 parcel owner or owners, or a dispute between parcel owners within  
508 the same homeowners' association, may be filed in court the  
509 dispute is subject to presuit mediation pursuant to s. 720.505 or  
510 presuit arbitration pursuant to s. 720.507, at the option of the  
511 aggrieved party who initiates the first formal action of  
512 alternative dispute resolution under this part. The parties may  
513 mutually agree to participate in both presuit mediation and  
514 presuit arbitration prior to suit being filed by either party.

515           (2) Unless otherwise provided in this part, the mediation  
516 and arbitration provisions of this part are limited to disputes  
517 between an association and a parcel owner or owners or between  
518 parcel owners regarding the use of or changes to the parcel or  
519 the common areas under the governing documents and other disputes  
520 involving violations of the recorded declaration of covenants or  
521 other governing documents, disputes arising concerning  
522 enforcement of the governing documents or any amendments thereto,



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523 and disputes involving access to the official records of the  
524 association. A dispute concerning title to any parcel or common  
525 area, interpretation or enforcement of any warranty, the levy of  
526 a fee or assessment, the collection of an assessment levied  
527 against a party, the eviction or other removal of a tenant from a  
528 parcel, alleged breaches of fiduciary duty by one or more  
529 directors, or any action to collect mortgage indebtedness or to  
530 foreclosure a mortgage shall not be subject to the provisions of  
531 this part.

532 (3) All disputes arising after the effective date of this  
533 part involving the election of the board of directors for an  
534 association or the recall of any member of the board or officer  
535 of the association shall not be eligible for presuit mediation  
536 under s. 720.505, but shall be subject to the provisions  
537 concerning presuit arbitration under s. 720.507.

538 (4) In any dispute subject to presuit mediation or presuit  
539 arbitration under this part for which emergency relief is  
540 required, a motion for temporary injunctive relief may be filed  
541 with the court without first complying with the presuit mediation  
542 or presuit arbitration requirements of this part. After any  
543 issues regarding emergency or temporary relief are resolved, the  
544 court may refer the parties to a mediation program administered  
545 by the courts or require mediation or arbitration under this  
546 part.

547 (5) The mailing of a statutory notice of presuit mediation  
548 or presuit arbitration as provided in this part shall toll the  
549 applicable statute of limitations during the pendency of the  
550 mediation or arbitration and for a period of 30 days following  
551 the conclusion of either proceeding. The 30-day period shall  
552 start upon the filing of the mediator's notice of impasse or the



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553 arbitrator's written arbitration award. If the parties mutually  
554 agree to participate in both presuit mediation and presuit  
555 arbitration under this part, the tolling of the applicable  
556 statute of limitations for each such alternative dispute  
557 resolution proceeding shall be consecutive.

558 720.504 Notice of dispute.--Prior to giving the statutory  
559 notice to proceed under presuit medication or presuit arbitration  
560 under this part, the aggrieved association or parcel owner shall  
561 first provide written notice of the dispute to the responding  
562 party in the manner provided by this section.

563 (1) The notice of dispute shall be delivered to the  
564 responding party by certified mail, return receipt requested, or  
565 the notice of dispute may be hand delivered and the person making  
566 delivery shall file with their notice of mediation either the  
567 proof of receipt of mailing or an affidavit stating the date and  
568 time of the delivery of the notice of dispute. If the notice is  
569 delivered by certified mail, return receipt requested, and the  
570 responding party fails or refuses to accept delivery, notice  
571 shall be considered properly delivered for purposes of this  
572 section on the date of the first attempted delivery.

573 (2) The notice of dispute shall state with specificity the  
574 nature of the dispute, including the date, time, and location of  
575 each event that is the subject of the dispute and the action  
576 requested to resolve the dispute. The notice shall also include  
577 the text of any provision in the governing documents, including  
578 the rules and regulations, of the association which form the  
579 basis of the dispute.

580 (3) Unless the parties otherwise agree in writing to a  
581 longer time period, the party receiving the notice of dispute  
582 shall have 10 days following the date of receipt of notice to



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583 resolve the dispute. If the alleged dispute has not been resolved  
584 within the 10-day period, the aggrieved party may proceed under  
585 this part at any time thereafter within the applicable statute of  
586 limitations.

587 (4) A copy of the notice and the text of the provision in  
588 the governing documents or the rules and regulations of the  
589 association which are the basis of the dispute, along with proof  
590 of service of the notice of dispute and a copy of any written  
591 responses received from the responding party, shall be included  
592 as an exhibit to any demand for mediation or arbitration under  
593 this part.

594 720.505 Presuit mediation.--

595 (1) Disputes between an association and a parcel owner or  
596 owners and between parcel owners must be submitted to presuit  
597 mediation before the dispute may be filed in court or, at the  
598 election of the party initiating the presuit procedures, such  
599 dispute may be submitted to presuit arbitration pursuant to s.  
600 720.507 before the dispute may be filed in court. An aggrieved  
601 party who elects to use the presuit mediation procedure under  
602 this section shall serve on the responding party a written notice  
603 of presuit mediation in substantially the following form:

604  
605 STATUTORY NOTICE OF PRESUIT MEDIATION  
606 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
607 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
608 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT MEDIATION  
609 IN CONNECTION WITH A DISPUTE(S) WITH YOU, WHICH BY  
610 STATUTE ARE OF A TYPE THAT ARE SUBJECT TO PRESUIT  
611 MEDIATION:  
612



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613 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION  
614 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO  
615 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
616 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
617 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING  
618 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE  
619 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
620 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
621 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

622  
623 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
624 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
625 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
626 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
627 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT MEDIATION  
628 WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER TO ATTEMPT  
629 TO RESOLVE THIS DISPUTE WITHOUT COURT ACTION, AND THE  
630 AGGRIEVED PARTY DEMANDS THAT YOU PARTICIPATE IN THIS  
631 PROCESS. UNLESS YOU RESPOND TO THIS NOTICE BY FILING  
632 WITH THE AGGRIEVED PARTY A NOTICE OF OPTING OUT AND  
633 DEMAND FOR ARBITRATION UNDER S. 720.506, FLORIDA  
634 STATUTES, YOUR FAILURE TO PARTICIPATE IN THE MEDIATION  
635 PROCESS MAY RESULT IN A LAWSUIT BEING FILED IN COURT  
636 AGAINST YOU WITHOUT FURTHER NOTICE.

637  
638 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
639 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
640 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS THEM  
641 IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING PART  
642 OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE IN



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643 PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
644 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
645 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
646 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
647 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE  
648 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
649 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

650  
651 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
652 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
653 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
654 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE  
655 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
656 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
657 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN  
658 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
659 PARTY MAY PROCEED TO FILE A LAW SUIT ON ALL  
660 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
661 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION PROCESS,  
662 YOU WILL NOT BE ENTITLED TO RECOVER ATTORNEY'S FEES IF  
663 YOU PREVAIL IN A SUBSEQUENT COURT PROCEEDING INVOLVING  
664 THE SAME DISPUTE.

665  
666 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
667 ELIGIBLE QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
668 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
669 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
670 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE  
671 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE OF  
672 THE LISTED MEDIATORS DOES NOT MEAN THAT THE MEDIATOR



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673 CANNOT ACT AS A NEUTRAL AND IMPARTIAL FACILITATOR. THE  
674 NAMES OF THE MEDIATORS THAT THE AGGRIEVED PARTY HEREBY  
675 SUBMITS TO YOU FROM WHOM YOU MAY CHOOSE ONE, AND THEIR  
676 CURRENT ADDRESSES, TELEPHONE NUMBERS, AND HOURLY RATES  
677 ARE AS FOLLOWS:

678  
679 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
680 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
681 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
682 BE INCLUDED AS AN ATTACHMENT.)

683  
684 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
685 CONFIRM THAT EACH OF THE ABOVE LISTED MEDIATORS WILL BE  
686 NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER  
687 PARTY. UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART  
688 IV OF CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
689 PARTIES SHARE THE COSTS OF PRESUIT MEDIATION EQUALLY,  
690 INCLUDING THE FEE CHARGED BY THE MEDIATOR. AN AVERAGE  
691 MEDIATION MAY REQUIRE 3 TO 4 HOURS OF THE MEDIATOR'S  
692 TIME, INCLUDING SOME PREPARATION TIME, AND THE PARTIES  
693 WOULD NEED TO EQUALLY SHARE THE MEDIATOR'S FEES AS WELL  
694 AS BE RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES  
695 IF THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
696 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
697 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE  
698 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
699 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY HEREBY  
700 AGREES TO PAY OR PREPAY ONE-HALF OF THE SELECTED  
701 MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS AMOUNT OR  
702 SUCH OTHER REASONABLE ADVANCE DEPOSITS AS THE MEDIATOR





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703 REQUIRES FOR THIS PURPOSE UPON THE SELECTION OF THE  
704 MEDIATOR. ANY FUNDS DEPOSITED WILL BE RETURNED TO YOU  
705 IF THESE FUNDS ARE IN EXCESS OF YOUR SHARE OF THE  
706 MEDIATOR FEES INCURRED.

707  
708 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO TRY  
709 TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER LEGAL  
710 ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE WHICH  
711 MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE MEDIATORS  
712 LISTED BY THE AGGRIEVED PARTY ABOVE.

713  
714 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE OF  
715 PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE YOU  
716 MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
717 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
718 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
719 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT MEDIATION  
720 OR WITHIN 90 DAYS AFTER THE DATE YOU WERE SERVED WITH A  
721 COPY OF THIS NOTICE. THE AGGRIEVED PARTY WILL THEN ASK  
722 THE MEDIATOR TO SCHEDULE A MUTUALLY CONVENIENT TIME AND  
723 PLACE FOR THE MEDIATION CONFERENCE TO BE HELD. IF YOU  
724 DO NOT PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
725 MEDIATOR IS AUTHORIZED TO SCHEDULE A MEDIATION  
726 CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND CONVENIENCE  
727 INTO CONSIDERATION. IN NO EVENT SHALL THE MEDIATION  
728 CONFERENCE BE LATER THAN 90 DAYS AFTER THE NOTICE OF  
729 PRESUIT MEDIATION WAS FIRST SERVED UNLESS ALL PARTIES  
730 MUTUALLY AGREE OTHERWISE. IN THE EVENT THAT YOU FAIL TO  
731 RESPOND WITHIN 20 DAYS AFTER THE DATE OF THIS NOTICE,  
732 FAIL TO PROVIDE THE MEDIATOR WITH DATES AND TIMES IN



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733 WHICH YOU ARE AVAILABLE FOR THE MEDIATION CONFERENCE,  
734 FAIL TO AGREE TO AT LEAST ONE OF THE MEDIATORS THAT THE  
735 AGGRIEVED PARTY HAS LISTED, FAIL TO PAY OR PREPAY TO  
736 THE MEDIATOR ONE-HALF OF THE COSTS INVOLVED, OR FAIL TO  
737 APPEAR AND PARTICIPATE AT THE SCHEDULED MEDIATION, THE  
738 AGGRIEVED PARTY WILL BE AUTHORIZED TO PROCEED WITH THE  
739 FILING OF A LAWSUIT AGAINST YOU WITHOUT FURTHER NOTICE.  
740 IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY MAY  
741 SEEK AN AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS  
742 INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

743  
744 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
745 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
746 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
747 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE  
748 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
749 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
750 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
751 OF THIS NOTICE.

752  
753 \_\_\_\_\_  
754 SIGNATURE OF AGGRIEVED PARTY

755  
756 \_\_\_\_\_  
757 PRINTED NAME OF AGGRIEVED PARTY

758  
759 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
760 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

761  
762 AGREEMENT TO MEDIATE



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763  
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791

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

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

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

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

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

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

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

\_\_\_\_\_  
SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
OWNED BY MORE THAN ONE PERSON, ALL PARCEL OWNERS OR  
UNIT OWNERS WHO ARE SUBJECT OF THE DISPUTE MUST SIGN OR



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792        HAVE A PERSON ACTING UNDER AUTHORITY OF A POWER OF  
793        ATTORNEY SIGN.

794  
795        (2) (a) Service of the notice of presuit mediation shall be  
796        effected either by personal service, as provided in chapter 48,  
797        or by certified mail, return receipt requested, in a letter in  
798        substantial conformity with the form provided in subsection (1),  
799        with an additional copy being sent by regular first-class mail,  
800        to the address of the responding party as it last appears on the  
801        books and records of the association or if not available, then as  
802        it last appears in the official records of the county property  
803        appraiser where the parcel in dispute is located. The responding  
804        party has either 20 days after the postmarked date of the mailing  
805        of the statutory notice or 20 days after the date the responding  
806        party is served with a copy of the notice to serve a written  
807        response to the aggrieved party. The response shall be served by  
808        certified mail, return receipt requested, with an additional copy  
809        being sent by regular first-class mail, to the address shown on  
810        the statutory notice. The date of the postmark on the envelope  
811        for the response shall constitute the date that the response is  
812        served. Once the parties have agreed on a mediator, the mediator  
813        may schedule or reschedule the mediation for a date and time  
814        mutually convenient to the parties within 90 days after the date  
815        of service of the statutory notice. After such 90-day period, the  
816        mediator may reschedule the mediation only upon the mutual  
817        written agreement of all the parties.

818        (b) The parties shall share the costs of presuit mediation  
819        equally, including the fee charged by the mediator, if any,  
820        unless the parties agree otherwise, and the mediator may require  
821        advance payment of his or her reasonable fees and costs. Each



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822 party shall be responsible for their own attorney's fees if a  
823 party chooses to be represented by an attorney at the mediation.

824 (c) The party responding to the aggrieved party may either  
825 provide a notice of opting out under s. 720.506, and demand  
826 arbitration, or the responding party shall sign the agreement to  
827 mediate included in the notice of presuit mediation and clearly  
828 indicate the name of the mediator who is acceptable from the five  
829 names provided by the aggrieved party, and the responding party  
830 must provide in their response a list of dates and times in which  
831 the responding party is available to participate in the mediation  
832 within 90 days after the date the responding party was served,  
833 either by process server or by certified mail, with the statutory  
834 notice of presuit mediation.

835 (d) The mediator who has been selected and agreed to  
836 mediate must schedule the mediation conference at a mutually  
837 convenient time and place within that 90-day period, but if the  
838 responding party does not provide a list of available dates and  
839 times, the mediator is authorized to schedule a mediation  
840 conference without taking the responding party's schedule and  
841 convenience into consideration. Within 10 days after the  
842 designation of the mediator, the mediator shall coordinate with  
843 the parties and notify the parties in writing of the date, time,  
844 and place of the mediation conference.

845 (e) The mediation conference must be held on the scheduled  
846 date and may be rescheduled if a rescheduled date is approved by  
847 the mediator. However, in no event shall the mediation be held  
848 later than 90 days after the notice of presuit mediation was  
849 first served, unless all parties mutually agree in writing  
850 otherwise. If the presuit mediation is not completed within the  
851 required time limits, the mediator shall declare an impasse



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852 unless the mediation date is extended by mutual written agreement  
853 by all parties and approved by the mediator.

854 (f) If the responding party fails to respond within 30 days  
855 after the date of service of the statutory notice of presuit  
856 mediation, fails to agree to at least one of the mediators listed  
857 by the aggrieved party in the notice, fails to pay or prepay to  
858 the mediator one-half of the costs of the mediator, or fails to  
859 appear and participate at the scheduled mediation, the aggrieved  
860 party shall be authorized to proceed with the filing of a lawsuit  
861 without further notice.

862 (g)1. The failure of any party to respond to the statutory  
863 notice of presuit mediation within 20 days, the failure to agree  
864 upon a mediator, the failure to provide a listing of dates and  
865 times in which the responding party is available to participate  
866 in the mediation within 90 days after the date the responding  
867 party was served with the statutory notice of presuit mediation,  
868 the failure to make payment of fees and costs within the time  
869 established by the mediator, or the failure to appear for a  
870 scheduled mediation session without the approval of the mediator,  
871 shall in each instance constitute a failure or refusal to  
872 participate in the mediation process and shall operate as an  
873 impasse in the presuit mediation by such party, entitling the  
874 other party to file a lawsuit in court and to seek an award of  
875 the costs and attorney's fees associated with the mediation.

876 2. Persons who fail or refuse to participate in the entire  
877 mediation process may not recover attorney's fees and costs in  
878 subsequent litigation relating to the same dispute between the  
879 same parties. If any presuit mediation session cannot be  
880 scheduled and conducted within 90 days after the offer to  
881 participate in mediation was filed, through no fault of either



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882 party, then an impasse shall be deemed to have occurred unless  
883 the parties mutually agree in writing to extend this deadline. In  
884 the event of such impasse, each party will be responsible for its  
885 own costs and attorney's fees and one-half of any mediator fees  
886 and filing fees, and either party may file a lawsuit in court  
887 regarding the dispute.

888 720.506 Opt-out of presuit mediation.--A party served with  
889 a notice of presuit mediation under s. 720.505, may opt out of  
890 presuit mediation and demand that the dispute proceed under  
891 nonbinding arbitration in the following manner provided in this  
892 section:

893 (1) In lieu of a response to the notice of presuit  
894 mediation as required under s. 720.505, the responding party may  
895 serve upon the aggrieved party in the same manner as the response  
896 to a notice for presuit mediation under s. 720.505, a notice of  
897 opting out of mediation and demand that the dispute instead  
898 proceed to presuit arbitration under s. 720.507.

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

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

907 720.507 Presuit arbitration.--

908 (1) Disputes between an association and a parcel owner or  
909 owners and disputes between parcel owners are subject to a demand  
910 for presuit arbitration pursuant to s. 720.507, before the  
911 dispute may be filed in court. A party who elects to use the



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912 presuit arbitration procedure under this part shall serve on the  
913 responding party a written notice of presuit arbitration in  
914 substantially the following form:

915  
916 STATUTORY NOTICE OF PRESUIT ARBITRATION

917  
918 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
919 HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
920 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
921 ARBITRATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)  
922 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE  
923 SUBJECT TO PRESUIT ARBITRATION:

924  
925 (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
926 ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
927 VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
928 LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING  
929 DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
930 PARTIES.)

931  
932 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
933 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
934 ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
935 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
936 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
937 ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
938 ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
939 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
940 PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO PARTICIPATE





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941 IN THE ARBITRATION PROCESS, A LAWSUIT MAY BE BROUGHT  
942 AGAINST YOU IN COURT WITHOUT FURTHER WARNING.  
943  
944 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
945 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY THE  
946 PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
947 "ARBITRATION AWARD." PURSUANT TO S. 720.507, FLORIDA  
948 STATUTES, THE ARBITRATION AWARD SHALL BE FINAL UNLESS A  
949 LAWSUIT IS FILED IN A COURT OF COMPETENT JURISDICTION  
950 FOR THE JUDICIAL CIRCUIT IN WHICH THE PARCEL(S)  
951 GOVERNED BY THE HOMEOWNERS' ASSOCIATION IS/ARE LOCATED  
952 WITHIN 30 DAYS AFTER THE DATE THAT THE ARBITRATION  
953 AWARD.  
954  
955 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
956 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
957 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
958 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
959 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR TO  
960 LITIGATE THESE ISSUES IN COURT AND SHALL BE THE SAME AS  
961 A SETTLEMENT AGREEMENT REACHED BETWEEN THE PARTIES  
962 UNDER S. 720.505, FLORIDA STATUTES. THE FAILURE OF A  
963 PARTY TO PARTICIPATE IN THE ARBITRATION PROCESS MAY  
964 RESULT IN THE ARBITRATOR ISSUING AN ARBITRATION AWARD  
965 BY DEFAULT IN THE ARBITRATION. IF YOU HAVE FAILED OR  
966 REFUSED TO PARTICIPATE IN THE ENTIRE ARBITRATION  
967 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER ATTORNEY'S  
968 FEES, EVEN IF YOU PREVAIL IN A SUBSEQUENT COURT  
969 PROCEEDING INVOLVING THE SAME DISPUTE BETWEEN THE SAME  
970 PARTIES.



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971  
972 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE  
973 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
974 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
975 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
976 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
977 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
978 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
979 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
980 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
981 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
982 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT  
983 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,  
984 AND HOURLY RATES, ARE AS FOLLOWS:

985  
986 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
987 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.

988  
989 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
990 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL AND  
991 WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.

992  
993 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF  
994 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
995 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION EQUALLY,  
996 INCLUDING THE FEE CHARGED BY THE ARBITRATOR. THE  
997 PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN ATTORNEY'S  
998 FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION  
999 WITH THE ARBITRATION. HOWEVER, USE OF AN ATTORNEY TO  
1000 REPRESENT YOU FOR THE ARBITRATION IS NOT REQUIRED. THE



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1001 ARBITRATOR SELECTED MAY REQUIRE THE ADVANCE PAYMENT OF  
1002 SOME OR ALL OF THE ANTICIPATED FEES. THE AGGRIEVED  
1003 PARTY HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE  
1004 SELECTED ARBITRATOR'S ESTIMATED FEES AND TO FORWARD  
1005 THIS AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS  
1006 AS THE ARBITRATOR WHO IS SELECTED REQUIRES FOR THIS  
1007 PURPOSE. ANY FUNDS DEPOSITED WILL BE RETURNED TO YOU IF  
1008 THESE FUNDS ARE IN EXCESS OF YOUR SHARE OF THE FEES  
1009 INCURRED.

1010  
1011 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND  
1012 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS  
1013 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE  
1014 AGGRIEVED PARTY.

1015  
1016 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
1017 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF  
1018 PRESUIT ARBITRATION WAS EITHER PERSONALLY SERVED ON YOU  
1019 OR 20 DAYS AFTER THE POSTMARKED DATE THAT THIS NOTICE  
1020 OF PRESUIT ARBITRATION WAS SENT TO YOU BY CERTIFIED  
1021 MAIL. YOU MUST ALSO PROVIDE A LIST OF AT LEAST THREE  
1022 DATES AND TIMES IN WHICH YOU ARE AVAILABLE TO  
1023 PARTICIPATE IN THE ARBITRATION THAT ARE WITHIN 90 DAYS  
1024 AFTER EITHER THE DATE YOU WERE PERSONALLY SERVED OR 90  
1025 DAYS AFTER THE POSTMARKED DATE OF THE CERTIFIED MAILING  
1026 OF THIS STATUTORY NOTICE OF PRESUIT ARBITRATION. A COPY  
1027 OF THIS NOTICE AND YOUR RESPONSE WILL BE PROVIDED BY  
1028 THE AGGRIEVED PARTY TO THE ARBITRATOR SELECTED AND THE  
1029 ARBITRATOR WILL SCHEDULE A MUTUALLY CONVENIENT TIME AND  
1030 PLACE FOR THE ARBITRATION CONFERENCE TO BE HELD. IF YOU



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1031 | DO NOT PROVIDE A LIST OF AVAILABLE DATES AND TIMES, THE  
1032 | ARBITRATOR IS AUTHORIZED TO SCHEDULE AN ARBITRATION  
1033 | CONFERENCE WITHOUT TAKING YOUR SCHEDULE AND CONVENIENCE  
1034 | INTO CONSIDERATION. THE ARBITRATION CONFERENCE MUST BE  
1035 | HELD ON THE SCHEDULED DATE, OR ANY RESCHEDULED DATE  
1036 | APPROVED BY THE ARBITRATOR. IN NO EVENT SHALL THE  
1037 | ARBITRATION CONFERENCE BE LATER THAN 90 DAYS AFTER  
1038 | NOTICE OF THE PRESUIT ARBITRATION WAS FIRST SERVED,  
1039 | UNLESS ALL PARTIES MUTUALLY AGREE IN WRITING OTHERWISE.  
1040 | IF THE ARBITRATION IS NOT COMPLETED WITHIN THE REQUIRED  
1041 | TIME LIMITS, THE ARBITRATOR SHALL ISSUE AN ARBITRATION  
1042 | AWARD, UNLESS THE HEARING IS EXTENDED BY MUTUAL WRITTEN  
1043 | AGREEMENT OF THE PARTIES AND APPROVED BY THE  
1044 | ARBITRATOR. IN THE EVENT THAT YOU FAIL TO RESPOND  
1045 | WITHIN 20 DAYS AFTER THE DATE YOU WERE SERVED WITH A  
1046 | COPY OF THIS NOTICE, FAIL TO PROVIDE THE ARBITRATOR  
1047 | WITH DATES AND TIMES IN WHICH YOU ARE AVAILABLE FOR THE  
1048 | ARBITRATION CONFERENCE, FAIL TO AGREE EITHER TO ONE OF  
1049 | THE ARBITRATORS THAT THE AGGRIEVED PARTY HAS NAMED,  
1050 | FAIL TO PAY OR PREPAY TO THE ARBITRATOR ONE-HALF OF THE  
1051 | COSTS INVOLVED AS REQUIRED, OR FAIL TO APPEAR AND  
1052 | PARTICIPATE AT THE SCHEDULED ARBITRATION CONFERENCE,  
1053 | THE AGGRIEVED PARTY MAY REQUEST THE ARBITRATOR TO ISSUE  
1054 | AN ARBITRATION AWARD. IN THE SUBSEQUENT COURT ACTION,  
1055 | THE AGGRIEVED PARTY SHALL BE ENTITLED TO RECOVER AN  
1056 | AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS,  
1057 | INCLUDING ANY FEES PAID TO THE ARBITRATOR, INCURRED IN  
1058 | OBTAINING AN ARBITRATION AWARD PURSUANT TO S. 720.507,  
1059 | FLORIDA STATUTES.  
1060 |



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1061 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
1062 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
1063 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,  
1064 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
1065 ARBITRATION.

1066  
1067 \_\_\_\_\_  
1068 Signature of aggrieved party

1069  
1070 \_\_\_\_\_  
1071 PRINTED NAME OF AGGRIEVED PARTY

1072  
1073 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
1074 ACCEPTANCE OF THE AGREEMENT TO ARTITRATE.

1075  
1076 AGREEMENT TO ARBITRATE

1077  
1078 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN PRESUIT  
1079 ARBITRATION AND AGREES TO ATTEND AN ARBITRATION  
1080 CONDUCTED BY THE FOLLOWING ARBITRATOR LISTED BELOW AS  
1081 SOMEONE WHO WOULD BE ACCEPTABLE TO ARBITRATE THIS  
1082 DISPUTE:

1083  
1084 (IN YOUR RESPONSE EITHER SELECT THE NAME OF ONE  
1085 ARBITRATOR THAT IS ACCEPTABLE TO YOU FROM THOSE  
1086 ARBITRATORS LISTED BY THE AGGRIEVED PARTY.)

1087  
1088 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
1089 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE



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1090 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
1091 AND TIMES:

1092  
1093 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
1094 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
1095 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
1096 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
1097 ARBITRATION.)

1098  
1099 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
1100 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
1101 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

1102  
1103  
1104 \_\_\_\_\_  
SIGNATURE OF RESPONDING PARTY #1

1105  
1106 \_\_\_\_\_  
TELEPHONE CONTACT INFORMATION

1107  
1108 \_\_\_\_\_  
SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
1109 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
1110 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN, OR  
1111 A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF A  
1112 VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

1113  
1114 (2) (a) Service of the statutory notice of presuit  
1115 arbitration shall be effected either by personal service, as  
1116 provided in chapter 48, or by certified mail, return receipt  
1117 requested, in a letter in substantial conformity with the form  
1118 provided in subsection (1), with an additional copy being sent by  
1119 regular first-class mail, to the address of the responding party



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1120 as it last appears on the books and records of the association,  
1121 or if not available, the last address as it appears on the  
1122 official records of the county property appraiser for the county  
1123 in which the property is situated that is subject to the  
1124 association documents. The responding party has 20 days after the  
1125 postmarked date of the certified mailing of the statutory notice  
1126 of presuit arbitration or 20 days after the date the responding  
1127 party is personally served with the statutory notice of presuit  
1128 arbitration by to serve a written response to the aggrieved  
1129 party. The response shall be served by certified mail, return  
1130 receipt requested, with an additional copy being sent by regular  
1131 first-class mail, to the address shown on the statutory notice of  
1132 presuit arbitration. The postmarked date on the envelope of the  
1133 response shall constitute the date the response was served.

1134 (b) The parties shall share the costs of presuit  
1135 arbitration equally, including the fee charged by the arbitrator,  
1136 if any, unless the parties agree otherwise, and the arbitrator  
1137 may require advance payment of his or her reasonable fees and  
1138 costs. Each party shall be responsible for all of their own  
1139 attorney's fees if a party chooses to be represented by an  
1140 attorney for the arbitration proceedings.

1141 (c)1. The party responding to the aggrieved party must sign  
1142 the agreement to arbitrate included in the notice of presuit  
1143 arbitration and clearly indicate the name of the arbitrator who  
1144 is acceptable of those arbitrators listed by the aggrieved party.  
1145 The responding party must provide a list of at least three dates  
1146 and times in which the responding party is available to  
1147 participate in the arbitration conference within 90 days after  
1148 the date the responding party was served with the statutory  
1149 notice of presuit arbitration.



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1150       2. The arbitrator must schedule the arbitration conference  
1151 at a mutually convenient time and place, but if the responding  
1152 party does not provide a list of available dates and times, the  
1153 arbitrator is authorized to schedule an arbitration conference  
1154 without taking the responding party's schedule and convenience  
1155 into consideration. Within 10 days after the designation of the  
1156 arbitrator, the arbitrator shall notify the parties in writing of  
1157 the date, time, and place of the arbitration conference.

1158       3. The arbitration conference must be held on the scheduled  
1159 date and may be rescheduled if approved by the arbitrator.  
1160 However, in no event shall the arbitration hearing be later than  
1161 90 days after the notice of presuit arbitration was first served,  
1162 unless all parties mutually agree in writing otherwise. If the  
1163 arbitration hearing is not completed within the required time  
1164 limits, the arbitrator may issue an arbitration award unless the  
1165 time for the hearing is extended as provided herein. If the  
1166 responding party fails to respond within 20 days after the date  
1167 of statutory notice of presuit arbitration, fails to agree to at  
1168 least one of the arbitrators that have been listed by the  
1169 aggrieved party in the presuit notice of arbitration, fails to  
1170 pay or prepay to the arbitrator one-half of the costs involved,  
1171 or fails to appear and participate at the scheduled arbitration,  
1172 the aggrieved party is authorized to proceed with a request that  
1173 the arbitrator issue an arbitration award.

1174       (d)1. The failure of any party to respond to the statutory  
1175 notice of presuit arbitration within 20 days, the failure to  
1176 either select one of the five arbitrators listed by the aggrieved  
1177 party, the failure to provide a listing of dates and times in  
1178 which the responding party is available to participate in the  
1179 arbitration conference within 90 days after the date of the





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1180 responding party being served with the statutory notice of  
1181 presuit arbitration, the failure to make payment of fees and  
1182 costs as required within the time established by the arbitrator,  
1183 or the failure to appear for an arbitration conference without  
1184 the approval of the arbitrator, shall entitle the other party to  
1185 request the arbitrator to enter an arbitration award including an  
1186 award of the reasonable costs and attorney's fees associated with  
1187 the arbitration.

1188 2. Persons who fail or refuse to participate in the entire  
1189 arbitration process may not recover attorney's fees and costs in  
1190 any subsequent litigation proceeding relating to the same dispute  
1191 involving the same parties.

1192 (3) (a) In an arbitration proceeding, the arbitrator may not  
1193 consider any unsuccessful mediation of the dispute.

1194 (b) An arbitrator in a proceeding initiated pursuant to the  
1195 provisions of this part may shorten the time for discovery or  
1196 otherwise limit discovery in a manner consistent with the policy  
1197 goals of this part to reduce the time and expense of litigating  
1198 homeowners' association disputes initiated pursuant to this  
1199 chapter and promoting an expeditious alternative dispute  
1200 resolution procedure for parties to such actions.

1201 (4) At the request of any party to the arbitration, the  
1202 arbitrator may issue subpoenas for the attendance of witnesses  
1203 and the production of books, records, documents, and other  
1204 evidence, and any party on whose behalf a subpoena is issued may  
1205 apply to the court for orders compelling such attendance and  
1206 production. Subpoenas shall be served and are enforceable in the  
1207 manner provided by the Florida Rules of Civil Procedure.  
1208 Discovery may, at the discretion of the arbitrator, be permitted  
1209 in the manner provided by the Florida Rules of Civil Procedure.



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1210       (5) The final arbitration award shall be sent to the  
1211 parties in writing no later than 30 days after the date of the  
1212 arbitration hearing, absent extraordinary circumstances  
1213 necessitating a later filing the reasons for which shall be  
1214 stated in the final award if filed more than 30 days after the  
1215 date of the final session of the arbitration conference. An  
1216 agreed arbitration award is final in those disputes in which the  
1217 parties have mutually agreed to be bound. An arbitration award  
1218 decided by the arbitrator is final unless a lawsuit seeking a  
1219 trial de novo is filed in a court of competent jurisdiction  
1220 within 30 days after the date of the arbitration award. The right  
1221 to file for a trial de novo entitles the parties to file a  
1222 complaint in the appropriate trial court for a judicial  
1223 resolution of the dispute. The prevailing party in an arbitration  
1224 proceeding shall be awarded the costs of the arbitration and  
1225 reasonable attorney's fees in an amount determined by the  
1226 arbitrator.

1227       (6) The party filing a motion for a trial de novo shall be  
1228 assessed the other party's arbitration costs, court costs, and  
1229 other reasonable costs, including attorney's fees, investigation  
1230 expenses, and expenses for expert or other testimony or evidence  
1231 incurred after the arbitration hearing if the judgment upon the  
1232 trial de novo is not more favorable than the final arbitration  
1233 award.

1234       720.508 Rules of procedure.--

1235       (1) Presuit mediation and presuit arbitration proceedings  
1236 under this part must be conducted in accordance with the  
1237 applicable Florida Rules of Civil Procedure and rules governing  
1238 mediations and arbitrations under chapter 44, except this part  
1239 shall be controlling to the extent of any conflict with other



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1240 applicable rules or statutes. The arbitrator can shorten any  
1241 applicable time period and otherwise limit the scope of discovery  
1242 on request of the parties or within the discretion of the  
1243 arbitrator exercised consistent with the purpose and objective of  
1244 reducing the expense and expeditiously concluding proceedings  
1245 under this part.

1246 (2) Presuit mediation proceedings under s. 720.505 are  
1247 privileged and confidential to the same extent as court-ordered  
1248 mediation under chapter 44. An arbitrator or judge may not  
1249 consider any information or evidence arising from the presuit  
1250 mediation proceeding except in a proceeding to impose sanctions  
1251 for failure to attend a presuit mediation session or to enforce a  
1252 mediated settlement agreement.

1253 (3) Persons who are not parties to the dispute may not  
1254 attend the presuit mediation conference without consent of all  
1255 parties, with the exception of counsel for the parties and a  
1256 corporate representative designated by the association. Presuit  
1257 mediations under this part are not a board meeting for purposes  
1258 of notice and participation set forth in this chapter.

1259 (4) Attendance at a mediation conference by the board of  
1260 directors shall not require notice or participation by nonboard  
1261 members as otherwise required by this chapter for meetings of the  
1262 board.

1263 (5) Settlement agreements resulting from a mediation or  
1264 arbitration proceeding do not have precedential value in  
1265 proceedings involving parties other than those participating in  
1266 the mediation or arbitration.

1267 (6) Arbitration awards by an arbitrator shall have  
1268 precedential value in other proceedings involving the same  
1269 association or with respect to the same parcel owner.



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1270           720.509 Mediators and arbitrators; qualifications and  
1271 registration.--A person is authorized to conduct mediation or  
1272 arbitration under this part if he or she has been certified as a  
1273 circuit court civil mediator pursuant to the requirements adopted  
1274 pursuant to s. 44.106, is a member in good standing with The  
1275 Florida Bar, and otherwise meets all other requirements imposed  
1276 by chapter 44.

1277           720.510 Enforcement of mediation agreement or arbitration  
1278 award.--

1279           (1) A mediation settlement may be enforced through the  
1280 county or circuit court, as applicable, and any costs and  
1281 attorney's fees incurred in the enforcement of a settlement  
1282 agreement reached at mediation shall be awarded to the prevailing  
1283 party in any enforcement action.

1284           (2) Any party to an arbitration proceeding may enforce an  
1285 arbitration award by filing a petition in a court of competent  
1286 jurisdiction in which the homeowners' association is located. The  
1287 prevailing party in such proceeding shall be awarded reasonable  
1288 attorney's fees and costs incurred in such proceeding.

1289           (3) If a complaint is filed seeking a trial de novo, the  
1290 arbitration award shall be stayed and a petition to enforce the  
1291 award may not be granted. Such award, however, shall be  
1292 admissible in the court proceeding seeking a trial de novo.

1293           Section 12. This act shall take effect July 1, 2008.

1294  
1295 ===== T I T L E A M E N D M E N T =====

1296 And the title is amended as follows:

1297           Delete everything before the enacting clause  
1298 and insert:

1299                                   A bill to be entitled



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1300 An act relating to residential properties; amending s.  
1301 514.011, F.S.; defining the term "homeowners'  
1302 association"; amending s. 514.0115, F.S.; providing for  
1303 the regulation and exemption from regulation for  
1304 homeowners' association swimming pools; amending s.  
1305 515.25, F.S.; conforming a cross-reference; amending s.  
1306 720.303, F.S.; revising provisions relating to homeowners'  
1307 association board meetings, inspection and copying of  
1308 records, and reserve accounts of budgets; prohibiting a  
1309 salary or compensation for certain association personnel;  
1310 providing exceptions; amending s. 720.305, F.S.;  
1311 authorizing fines assessed against members which exceed a  
1312 certain amount to become a lien against a parcel; amending  
1313 s. 720.306, F.S.; providing requirements for secret  
1314 ballots; requiring newly elected members of a board of  
1315 directors to make certain certifications in writing to the  
1316 association; providing for disqualification for failure to  
1317 make such certifications; requiring an association to  
1318 retain certifications for a specified time; amending s.  
1319 720.401, F.S.; requiring that the disclosure summary to  
1320 prospective parcel owners include additional provisions;  
1321 amending s. 34.01, F.S.; correcting a cross-reference to  
1322 conform; amending s. 720.302, F.S.; correcting a cross-  
1323 reference to conform; establishing legislative intent;  
1324 repealing s. 720.311, F.S., relating to a procedure for  
1325 dispute resolution in homeowners' associations; providing  
1326 that dispute resolution cases pending on the date of  
1327 repeal will continue under the repealed provisions;  
1328 creating part IV of ch. 720, F.S.; creating s. 720.501,  
1329 F.S.; providing a short title; creating s. 720.502, F.S.;



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1330 | creating legislative findings; creating s. 720.503, F.S.;

1331 | setting applicability of provisions for mediation and

1332 | arbitration applicable to disputes in homeowners'

1333 | associations; creating exceptions; proving applicability;

1334 | tolling applicable statutes of limitations; creating s.

1335 | 720.504, F.S.; requiring that the notice of dispute be

1336 | delivered before referral to mediation; creating s.

1337 | 720.505, F.S.; creating a statutory notice form for

1338 | referral to mediation; requiring delivery by certified

1339 | mail or personal delivery; setting deadlines; requiring

1340 | parties to share costs; requiring the selection of a

1341 | mediator and times to meet; providing penalties for

1342 | failure to mediate; creating s. 720.506, F.S.; creating an

1343 | opt-out provision; creating s. 720.507, F.S.; creating a

1344 | statutory notice form for referral to arbitration;

1345 | requiring delivery by certified mail or personal delivery;

1346 | setting deadlines; requiring parties to share costs;

1347 | requiring the selection of an arbitrator and times to

1348 | meet; providing penalties for failure to arbitrate;

1349 | creating s. 720.508, F.S.; providing for rules of

1350 | procedure; providing for confidentiality; creating s.

1351 | 720.509, F.S.; setting qualifications for mediators and

1352 | arbitrators; creating s. 720.510, F.S.; providing for

1353 | enforcement of mediation agreements and arbitration

1354 | awards; providing an effective date.