

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Ambler offered the following:

**Amendment (with title amendment)**

Between lines 2944 and 2945, insert:

Section 29. Part IV of chapter 720, Florida Statutes, consisting of sections 720.501, 720.502, 720.503, 720.504, 720.505, 720.506, 720.507, 720.508, 720.509, and 720.510, is created to read:

PART IV

DISPUTE RESOLUTION

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

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

918635

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Amendment No.

17 720.503 Applicability of this part.-

18 (1) Unless otherwise provided in this part, before a  
19 dispute described in this part between a homeowners' association  
20 and a parcel owner or owners, or a dispute between parcel owners  
21 within the same homeowners' association, may be filed in court,  
22 the dispute is subject to presuit mediation pursuant to s.  
23 720.505 or presuit arbitration pursuant to s. 720.507, at the  
24 option of the aggrieved party who initiates the first formal  
25 action of alternative dispute resolution under this part. The  
26 parties may mutually agree to participate in both presuit  
27 mediation and presuit arbitration prior to suit being filed by  
28 either party.

29 (2) Unless otherwise provided in this part, the mediation  
30 and arbitration provisions of this part are limited to disputes  
31 between an association and a parcel owner or owners or between  
32 parcel owners regarding the use of or changes to the parcel or  
33 the common areas under the governing documents and other  
34 disputes involving violations of the recorded declaration of  
35 covenants or other governing documents, disputes arising  
36 concerning enforcement of the governing documents or any  
37 amendments thereto, and disputes involving access to the  
38 official records of the association. A dispute concerning title  
39 to any parcel or common area, interpretation or enforcement of  
40 any warranty, the levy of a fee or assessment, the collection of  
41 an assessment levied against a party, the eviction or other  
42 removal of a tenant from a parcel, alleged breaches of fiduciary  
43 duty by one or more directors, or any action to collect mortgage

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

44 indebtedness or to foreclosure a mortgage shall not be subject  
45 to the provisions of this part.

46 (3) A dispute arising after the effective date of this  
47 part involving the election of the board of directors for an  
48 association or the recall of any member of the board or officer  
49 of the association is ineligible for presuit mediation under s.  
50 720.505 and subject to presuit arbitration under s. 720.507.

51 (4) In any dispute subject to presuit mediation or presuit  
52 arbitration under this part for which emergency relief is  
53 required, a motion for temporary injunctive relief may be filed  
54 with the court without first complying with the presuit  
55 mediation or presuit arbitration requirements of this part.  
56 After any issues regarding emergency or temporary relief are  
57 resolved, the court may refer the parties to a mediation program  
58 administered by the courts or require mediation or arbitration  
59 under this part.

60 (5) The mailing of a statutory notice of presuit mediation  
61 or presuit arbitration as provided in this part shall toll the  
62 applicable statute of limitations during the pendency of the  
63 mediation or arbitration and for a period of 30 days following  
64 the conclusion of either proceeding. The 30-day period shall  
65 start upon the filing of the mediator's notice of impasse or the  
66 arbitrator's written arbitration award. If the parties mutually  
67 agree to participate in both presuit mediation and presuit  
68 arbitration under this part, the tolling of the applicable  
69 statute of limitations for each such alternative dispute  
70 resolution proceeding shall be consecutive.

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

71 720.504 Notice of dispute.—Prior to giving the statutory  
72 notice to proceed under presuit mediation or presuit arbitration  
73 under this part, the aggrieved association or parcel owner must  
74 first provide written notice of the dispute to the responding  
75 party in the manner provided by this section.

76 (1) The notice of dispute shall be delivered to the  
77 responding party by certified mail, return receipt requested, or  
78 in person, and the person making delivery shall file with the  
79 notice of mediation either the proof of receipt of mailing or an  
80 affidavit stating the date and time of the delivery of the  
81 notice of dispute. If the notice is delivered by certified mail,  
82 return receipt requested, and the responding party fails or  
83 refuses to accept delivery, notice shall be considered properly  
84 delivered for purposes of this section on the date of the first  
85 attempted delivery.

86 (2) The notice of dispute shall state with specificity the  
87 nature of the dispute, including the date, time, and location of  
88 each event that is the subject of the dispute and the action  
89 requested to resolve the dispute. The notice shall also include  
90 the text of any provision in the governing documents, including  
91 the rules and regulations, of the association which form the  
92 basis of the dispute.

93 (3) Unless the parties otherwise agree in writing to a  
94 longer time period, the party receiving the notice of dispute  
95 shall have 10 days following the date of receipt of notice to  
96 resolve the dispute. If the alleged dispute has not been  
97 resolved within the 10-day period, the aggrieved party may

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

98 proceed under this part at any time thereafter within the  
99 applicable statute of limitations.

100 (4) A copy of the notice and the text of the provision in  
101 the governing documents, or the rules and regulations, of the  
102 association which are the basis of the dispute, along with proof  
103 of service of the notice of dispute and a copy of any written  
104 responses received from the responding party, shall be included  
105 as an exhibit to any demand for mediation or arbitration under  
106 this part.

107 720.505 Presuit mediation.-

108 (1) Disputes between an association and a parcel owner or  
109 owners or between parcel owners must be submitted to presuit  
110 mediation before the dispute may be filed in court; or, at the  
111 election of the party initiating the presuit procedures, such  
112 dispute may be submitted to presuit arbitration pursuant to s.  
113 720.507 before the dispute may be filed in court. An aggrieved  
114 party who elects to use the presuit mediation procedure under  
115 this section shall serve on the responding party a written  
116 notice of presuit mediation in substantially the following form:

117  
118 STATUTORY NOTICE OF PRESUIT MEDIATION

119  
120 THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,

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

122 RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT

123 MEDIATION IN CONNECTION WITH THE FOLLOWING DISPUTE(S)

124 WITH YOU, WHICH BY STATUTE ARE OF A TYPE THAT ARE

125 SUBJECT TO PRESUIT MEDIATION:

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

126  
127 ATTACHED IS A COPY OF THE PRIOR NOTICE OF VIOLATION  
128 WHICH DETAILS THE SPECIFIC NATURE OF THE DISPUTE(S) TO  
129 BE MEDIATED AND THE AUTHORITY SUPPORTING A FINDING OF  
130 A VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
131 LIMITED TO, THE APPLICABLE PROVISIONS OF THE GOVERNING  
132 DOCUMENTS OF THE ASSOCIATION BELIEVED TO APPLY TO THE  
133 DISPUTE BETWEEN THE PARTIES, AND A COPY OF THE NOTICE  
134 YOU RECEIVED OR REFUSED AND COPIES OF ANY WRITTEN  
135 RESPONSE(S) RECEIVED FROM YOU ABOUT THIS DISPUTE.

136  
137 PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
138 THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
139 MEDIATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
140 CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
141 THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
142 MEDIATION WITH A NEUTRAL THIRD-PARTY MEDIATOR IN ORDER  
143 TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
144 ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
145 PARTICIPATE IN THIS PROCESS. UNLESS YOU RESPOND TO  
146 THIS NOTICE BY FILING WITH THE AGGRIEVED PARTY A  
147 NOTICE OF OPTING OUT AND DEMAND FOR ARBITRATION UNDER  
148 SECTION 720.506, FLORIDA STATUTES, YOUR FAILURE TO  
149 PARTICIPATE IN THE MEDIATION PROCESS MAY RESULT IN A  
150 LAWSUIT BEING FILED IN COURT AGAINST YOU WITHOUT  
151 FURTHER NOTICE.  
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918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

153 THE PROCESS OF MEDIATION INVOLVES A SUPERVISED  
154 NEGOTIATION PROCESS IN WHICH A TRAINED, NEUTRAL THIRD-  
155 PARTY MEDIATOR MEETS WITH BOTH PARTIES AND ASSISTS  
156 THEM IN EXPLORING POSSIBLE OPPORTUNITIES FOR RESOLVING  
157 PART OR ALL OF THE DISPUTE. BY AGREEING TO PARTICIPATE  
158 IN PRESUIT MEDIATION, YOU ARE NOT BOUND IN ANY WAY TO  
159 CHANGE YOUR POSITION. FURTHERMORE, THE MEDIATOR HAS NO  
160 AUTHORITY TO MAKE ANY DECISIONS IN THIS MATTER OR TO  
161 DETERMINE WHO IS RIGHT OR WRONG AND MERELY ACTS AS A  
162 FACILITATOR TO ENSURE THAT EACH PARTY UNDERSTANDS THE  
163 POSITION OF THE OTHER PARTY AND THAT ALL OPTIONS FOR  
164 REASONABLE SETTLEMENT ARE FULLY EXPLORED.

165  
166 IF AN AGREEMENT IS REACHED, IT SHALL BE REDUCED TO  
167 WRITING AND BECOME A BINDING AND ENFORCEABLE CONTRACT  
168 BETWEEN THE PARTIES. A RESOLUTION OF ONE OR MORE  
169 DISPUTES IN THIS FASHION AVOIDS THE NEED TO LITIGATE  
170 THESE ISSUES IN COURT. THE FAILURE TO REACH AN  
171 AGREEMENT, OR THE FAILURE OF A PARTY TO PARTICIPATE IN  
172 THE PROCESS, RESULTS IN THE MEDIATOR DECLARING AN  
173 IMPASSE IN THE MEDIATION, AFTER WHICH THE AGGRIEVED  
174 PARTY MAY PROCEED TO FILE A LAWSUIT ON ALL  
175 OUTSTANDING, UNSETTLED DISPUTES. IF YOU HAVE FAILED OR  
176 REFUSED TO PARTICIPATE IN THE ENTIRE MEDIATION  
177 PROCESS, YOU WILL NOT BE ENTITLED TO RECOVER  
178 ATTORNEY'S FEES IF YOU PREVAIL IN A SUBSEQUENT COURT  
179 PROCEEDING INVOLVING THE SAME DISPUTE.

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918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

181 THE AGGRIEVED PARTY HAS SELECTED FROM A LIST OF  
182 ELIGIBLE, QUALIFIED MEDIATORS AT LEAST FIVE CERTIFIED  
183 MEDIATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
184 NEUTRAL AND QUALIFIED TO MEDIATE THE DISPUTE. YOU HAVE  
185 THE RIGHT TO SELECT ANY ONE OF THESE MEDIATORS. THE  
186 FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR MORE  
187 OF THE LISTED MEDIATORS DOES NOT MEAN THAT THE  
188 MEDIATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
189 FACILITATOR. THE NAMES OF THE MEDIATORS THAT THE  
190 AGGRIEVED PARTY HEREBY SUBMITS TO YOU FROM WHOM YOU  
191 MAY CHOOSE ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE  
192 NUMBERS, AND HOURLY RATES ARE AS FOLLOWS:

193  
194 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
195 HOURLY RATES OF THE MEDIATORS. OTHER PERTINENT  
196 INFORMATION ABOUT THE BACKGROUND OF THE MEDIATORS MAY  
197 BE INCLUDED AS AN ATTACHMENT.)

198  
199 YOU MAY CONTACT THE OFFICES OF THESE MEDIATORS TO  
200 CONFIRM THAT EACH OF THE ABOVE-LISTED MEDIATORS WILL  
201 BE NEUTRAL AND WILL NOT SHOW ANY FAVORITISM TOWARD  
202 EITHER PARTY. UNLESS OTHERWISE AGREED TO BY THE  
203 PARTIES, PART IV OF CHAPTER 720, FLORIDA STATUTES,  
204 REQUIRES THAT THE PARTIES SHARE THE COSTS OF PRESUIT  
205 MEDIATION EQUALLY, INCLUDING THE FEE CHARGED BY THE  
206 MEDIATOR. AN AVERAGE MEDIATION MAY REQUIRE 3 TO 4  
207 HOURS OF THE MEDIATOR'S TIME, INCLUDING SOME  
208 PREPARATION TIME, AND THE PARTIES WOULD NEED TO

918635

Approved For Filing: 4/20/2010 10:09:33 AM



Amendment No.

209 EQUALLY SHARE THE MEDIATOR'S FEES AS WELL AS BE  
210 RESPONSIBLE FOR ALL OF THEIR OWN ATTORNEY'S FEES IF  
211 THEY CHOOSE TO EMPLOY AN ATTORNEY IN CONNECTION WITH  
212 THE MEDIATION. HOWEVER, USE OF AN ATTORNEY IS NOT  
213 REQUIRED AND IS AT THE OPTION OF EACH PARTY. THE  
214 MEDIATORS MAY REQUIRE THE ADVANCE PAYMENT OF SOME OR  
215 ALL OF THE ANTICIPATED FEES. THE AGGRIEVED PARTY  
216 HEREBY AGREES TO PAY OR PREPAY ONE-HALF OF THE  
217 SELECTED MEDIATOR'S ESTIMATED FEES AND TO FORWARD THIS  
218 AMOUNT OR SUCH OTHER REASONABLE ADVANCE DEPOSITS AS  
219 THE MEDIATOR REQUIRES FOR THIS PURPOSE UPON THE  
220 SELECTION OF THE MEDIATOR. ANY FUNDS DEPOSITED WILL BE  
221 RETURNED TO YOU IF THESE FUNDS ARE IN EXCESS OF YOUR  
222 SHARE OF THE MEDIATOR FEES INCURRED.

223  
224 TO BEGIN YOUR PARTICIPATION IN PRESUIT MEDIATION TO  
225 TRY TO RESOLVE THE DISPUTE WITH YOU AND AVOID FURTHER  
226 LEGAL ACTION, PLEASE SIGN BELOW AND CLEARLY INDICATE  
227 WHICH MEDIATOR IS ACCEPTABLE TO YOU FROM THE FIVE  
228 MEDIATORS LISTED BY THE AGGRIEVED PARTY ABOVE.

229  
230 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
231 OF PRESUIT MEDIATION WITHIN 20 DAYS. IN YOUR RESPONSE  
232 YOU MUST PROVIDE A LISTING OF AT LEAST THREE DATES AND  
233 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
234 MEDIATION THAT ARE WITHIN 90 DAYS AFTER THE POSTMARKED  
235 DATE OF THE MAILING OF THIS NOTICE OF PRESUIT  
236 MEDIATION OR WITHIN 90 DAYS AFTER THE DATE YOU WERE

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Page 9 of 32

Amendment No.

237 SERVED WITH A COPY OF THIS NOTICE. THE AGGRIEVED PARTY  
238 WILL THEN ASK THE MEDIATOR TO SCHEDULE A MUTUALLY  
239 CONVENIENT TIME AND PLACE FOR THE MEDIATION CONFERENCE  
240 TO BE HELD. IF YOU DO NOT PROVIDE A LIST OF AVAILABLE  
241 DATES AND TIMES, THE MEDIATOR IS AUTHORIZED TO  
242 SCHEDULE A MEDIATION CONFERENCE WITHOUT TAKING YOUR  
243 SCHEDULE AND CONVENIENCE INTO CONSIDERATION. IN NO  
244 EVENT SHALL THE MEDIATION CONFERENCE BE LATER THAN 90  
245 DAYS AFTER THE NOTICE OF PRESUIT MEDIATION WAS FIRST  
246 SERVED UNLESS ALL PARTIES MUTUALLY AGREE OTHERWISE. IN  
247 THE EVENT THAT YOU FAIL TO RESPOND WITHIN 20 DAYS  
248 AFTER THE DATE OF THIS NOTICE, FAIL TO PROVIDE THE  
249 MEDIATOR WITH DATES AND TIMES IN WHICH YOU ARE  
250 AVAILABLE FOR THE MEDIATION CONFERENCE, FAIL TO AGREE  
251 TO ONE OF THE MEDIATORS THAT THE AGGRIEVED PARTY HAS  
252 LISTED, FAIL TO PAY OR PREPAY TO THE MEDIATOR ONE-HALF  
253 OF THE COSTS INVOLVED, OR FAIL TO APPEAR AND  
254 PARTICIPATE AT THE SCHEDULED MEDIATION, THE AGGRIEVED  
255 PARTY WILL BE AUTHORIZED TO PROCEED WITH THE FILING OF  
256 A LAWSUIT AGAINST YOU WITHOUT FURTHER NOTICE. IN ANY  
257 SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY MAY SEEK  
258 AN AWARD OF REASONABLE ATTORNEY'S FEES AND COSTS  
259 INCURRED IN ATTEMPTING TO OBTAIN MEDIATION.

260  
261 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
262 LAW, YOUR RESPONSE MUST BE MAILED BY CERTIFIED, FIRST-  
263 CLASS MAIL, RETURN RECEIPT REQUESTED, TO THE AGGRIEVED  
264 PARTY LISTED ABOVE AT THE ADDRESS SHOWN ON THIS NOTICE

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

265 AND POSTMARKED NO MORE THAN 20 DAYS AFTER THE DATE OF  
266 THE POSTMARKED DATE FOR THIS NOTICE OR WITHIN 20 DAYS  
267 AFTER THE DATE UPON WHICH YOU WERE SERVED WITH A COPY  
268 OF THIS NOTICE.

269  
270 \_\_\_\_\_  
271 SIGNATURE OF AGGRIEVED PARTY

272  
273 \_\_\_\_\_  
274 PRINTED NAME OF AGGRIEVED PARTY

275  
276 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
277 ACCEPTANCE OF THE AGREEMENT TO MEDIATE.

278  
279 AGREEMENT TO MEDIATE

280  
281 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
282 PRESUIT MEDIATION AND AGREES TO ATTEND A MEDIATION  
283 CONDUCTED BY THE MEDIATOR LISTED BELOW AS ACCEPTABLE  
284 TO MEDIATE THIS DISPUTE:

285  
286 (LIST ONE ACCEPTABLE MEDIATOR FROM THOSE LISTED BY THE  
287 AGGRIEVED PARTY.)

288  
289 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE CAN  
290 ATTEND AND PARTICIPATE IN THE PRESUIT MEDIATION AT THE  
291 FOLLOWING DATES AND TIMES:

292

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

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

295  
296 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
297 MEDIATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
298 AS THE MEDIATOR MAY REQUIRE FOR THIS PURPOSE.

299  
300 \_\_\_\_\_  
301 SIGNATURE OF RESPONDING PARTY #1

302 \_\_\_\_\_  
303 TELEPHONE CONTACT INFORMATION

304  
305 \_\_\_\_\_  
306 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
307 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
308 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,  
309 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
310 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

311  
312 (2) (a) Service of the notice of presuit mediation shall be  
313 effected either by personal service, as provided in chapter 48,  
314 or by certified mail, return receipt requested, in a letter in  
315 substantial conformity with the form provided in subsection (1),  
316 with an additional copy being sent by regular first-class mail,  
317 to the address of the responding party as it last appears on the  
318 books and records of the association or, if not available, then  
319 as it last appears in the official records of the county  
320 property appraiser where the parcel in dispute is located. The

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

321 responding party has 20 days after the postmarked date of the  
322 mailing of the statutory notice or the date the responding party  
323 is served with a copy of the notice to serve a written response  
324 to the aggrieved party. The response shall be served by  
325 certified mail, return receipt requested, with an additional  
326 copy being sent by regular first-class mail, to the address  
327 shown on the statutory notice. The date of the postmark on the  
328 envelope for the response shall constitute the date that the  
329 response is served. Once the parties have agreed on a mediator,  
330 the mediator may schedule or reschedule the mediation for a date  
331 and time mutually convenient to the parties within 90 days after  
332 the date of service of the statutory notice. After such 90-day  
333 period, the mediator may reschedule the mediation only upon the  
334 mutual written agreement of all the parties.

335 (b) The parties shall share the costs of presuit mediation  
336 equally, including the fee charged by the mediator, if any,  
337 unless the parties agree otherwise, and the mediator may require  
338 advance payment of his or her reasonable fees and costs. Each  
339 party shall be responsible for that party's own attorney's fees  
340 if a party chooses to be represented by an attorney at the  
341 mediation.

342 (c) The party responding to the aggrieved party may  
343 provide a notice of opting out under s. 720.506 and demand  
344 arbitration or may sign the agreement to mediate included in the  
345 notice of presuit mediation. A responding party signing the  
346 agreement to mediate must clearly indicate the name of the  
347 mediator who is acceptable from the five names provided by the  
348 aggrieved party and must provide a list of dates and times in

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

349 which the responding party is available to participate in the  
350 mediation within 90 days after the date the responding party was  
351 served, either by process server or by certified mail, with the  
352 statutory notice of presuit mediation.

353 (d) The mediator who has been selected and agreed to  
354 mediate must schedule the mediation conference at a mutually  
355 convenient time and place within that 90-day period; but, if the  
356 responding party does not provide a list of available dates and  
357 times, the mediator is authorized to schedule a mediation  
358 conference without taking the responding party's schedule and  
359 convenience into consideration. Within 10 days after the  
360 designation of the mediator, the mediator shall coordinate with  
361 the parties and notify the parties in writing of the date, time,  
362 and place of the mediation conference.

363 (e) The mediation conference must be held on the scheduled  
364 date and may be rescheduled if a rescheduled date is approved by  
365 the mediator. However, in no event shall the mediation be held  
366 later than 90 days after the notice of presuit mediation was  
367 first served, unless all parties mutually agree in writing  
368 otherwise. If the presuit mediation is not completed within the  
369 required time limits, the mediator shall declare an impasse  
370 unless the mediation date is extended by mutual written  
371 agreement by all parties and approved by the mediator.

372 (f) If the responding party fails to respond within 20  
373 days after the date of service of the statutory notice of  
374 presuit mediation, fails to agree to at least one of the  
375 mediators listed by the aggrieved party in the notice, fails to  
376 pay or prepay to the mediator one-half of the costs of the

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

377 mediator, or fails to appear and participate at the scheduled  
378 mediation, the aggrieved party shall be authorized to proceed  
379 with the filing of a lawsuit without further notice.

380 (g)1. The failure of any party to respond to the statutory  
381 notice of presuit mediation within 20 days, the failure to agree  
382 upon a mediator, the failure to provide a listing of dates and  
383 times in which the responding party is available to participate  
384 in the mediation within 90 days after the date the responding  
385 party was served with the statutory notice of presuit mediation,  
386 the failure to make payment of fees and costs within the time  
387 established by the mediator, or the failure to appear for a  
388 scheduled mediation session without the approval of the mediator  
389 shall in each instance constitute a failure or refusal to  
390 participate in the mediation process and shall operate as an  
391 impasse in the presuit mediation by such party, entitling the  
392 other party to file a lawsuit in court and to seek an award of  
393 the costs and attorney's fees associated with the mediation.

394 2. Persons who fail or refuse to participate in the entire  
395 mediation process may not recover attorney's fees and costs in  
396 subsequent litigation relating to the same dispute between the  
397 same parties. If any presuit mediation session cannot be  
398 scheduled and conducted within 90 days after the offer to  
399 participate in mediation was filed, through no fault of either  
400 party, then an impasse shall be deemed to have occurred unless  
401 the parties mutually agree in writing to extend this deadline.  
402 In the event of such impasse, each party shall be responsible  
403 for its own costs and attorney's fees and one-half of any

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

404 mediator fees and filing fees, and either party may file a  
405 lawsuit in court regarding the dispute.

406 720.506 Opt-out of presuit mediation.—A party served with  
407 a notice of presuit mediation under s. 720.505 may opt out of  
408 presuit mediation and demand that the dispute proceed under  
409 nonbinding arbitration as follows:

410 (1) In lieu of a response to the notice of presuit  
411 mediation as required under s. 720.505, the responding party may  
412 serve upon the aggrieved party, in the same manner as the  
413 response to a notice for presuit mediation under s. 720.505, a  
414 notice of opting out of mediation and demand that the dispute  
415 instead proceed to presuit arbitration under s. 720.507.

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

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

424 720.507 Presuit arbitration.—

425 (1) Disputes between an association and a parcel owner or  
426 owners or between parcel owners are subject to a demand for  
427 presuit arbitration pursuant to this section before the dispute  
428 may be filed in court. A party who elects to use the presuit  
429 arbitration procedure under this part shall serve on the  
430 responding party a written notice of presuit arbitration in  
431 substantially the following form:

918635

Approved For Filing: 4/20/2010 10:09:33 AM



Amendment No.

432  
433                   STATUTORY NOTICE OF PRESUIT ARBITRATION

434  
435           THE ALLEGED AGGRIEVED PARTY, \_\_\_\_\_,  
436           HEREBY DEMANDS THAT \_\_\_\_\_, AS THE  
437           RESPONDING PARTY, ENGAGE IN MANDATORY PRESUIT  
438           ARBITRATION IN CONNECTION WITH THE FOLLOWING  
439           DISPUTE(S) WITH YOU, WHICH BY STATUTE ARE OF A TYPE  
440           THAT ARE SUBJECT TO PRESUIT ARBITRATION:

441  
442           (LIST SPECIFIC NATURE OF THE DISPUTE OR DISPUTES TO BE  
443           ARBITRATED AND THE AUTHORITY SUPPORTING A FINDING OF A  
444           VIOLATION AS TO EACH DISPUTE, INCLUDING, BUT NOT  
445           LIMITED TO, ALL APPLICABLE PROVISIONS OF THE GOVERNING  
446           DOCUMENTS BELIEVED TO APPLY TO THE DISPUTE BETWEEN THE  
447           PARTIES.)

448  
449           PURSUANT TO PART IV OF CHAPTER 720, FLORIDA STATUTES,  
450           THIS DEMAND TO RESOLVE THE DISPUTE THROUGH PRESUIT  
451           ARBITRATION IS REQUIRED BEFORE A LAWSUIT CAN BE FILED  
452           CONCERNING THE DISPUTE. PURSUANT TO FLORIDA STATUTES,  
453           THE PARTIES ARE REQUIRED TO ENGAGE IN PRESUIT  
454           ARBITRATION WITH A NEUTRAL THIRD-PARTY ARBITRATOR IN  
455           ORDER TO ATTEMPT TO RESOLVE THIS DISPUTE WITHOUT COURT  
456           ACTION, AND THE AGGRIEVED PARTY DEMANDS THAT YOU  
457           PARTICIPATE IN THIS PROCESS. IF YOU FAIL TO  
458           PARTICIPATE IN THE ARBITRATION PROCESS, A LAWSUIT MAY

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

459 BE BROUGHT AGAINST YOU IN COURT WITHOUT FURTHER  
460 WARNING.

461  
462 THE PROCESS OF ARBITRATION INVOLVES A NEUTRAL THIRD  
463 PERSON WHO CONSIDERS THE LAW AND FACTS PRESENTED BY  
464 THE PARTIES AND RENDERS A WRITTEN DECISION CALLED AN  
465 "ARBITRATION AWARD." PURSUANT TO SECTION 720.507,  
466 FLORIDA STATUTES, THE ARBITRATION AWARD SHALL BE FINAL  
467 UNLESS A LAWSUIT IS FILED IN A COURT OF COMPETENT  
468 JURISDICTION FOR THE JUDICIAL CIRCUIT IN WHICH THE  
469 PARCEL(S) GOVERNED BY THE HOMEOWNERS' ASSOCIATION  
470 IS/ARE LOCATED WITHIN 30 DAYS AFTER THE DATE OF THE  
471 ARBITRATION AWARD.

472  
473 IF A SETTLEMENT AGREEMENT IS REACHED BEFORE THE  
474 ARBITRATION AWARD, IT SHALL BE REDUCED TO WRITING AND  
475 BECOME A BINDING AND ENFORCEABLE CONTRACT OF THE  
476 PARTIES. A RESOLUTION OF ONE OR MORE DISPUTES IN THIS  
477 FASHION AVOIDS THE NEED TO ARBITRATE THESE ISSUES OR  
478 TO LITIGATE THESE ISSUES IN COURT AND SHALL BE THE  
479 SAME AS A SETTLEMENT AGREEMENT REACHED BETWEEN THE  
480 PARTIES UNDER SECTION 720.505, FLORIDA STATUTES. THE  
481 FAILURE OF A PARTY TO PARTICIPATE IN THE ARBITRATION  
482 PROCESS MAY RESULT IN THE ARBITRATOR ISSUING AN  
483 ARBITRATION AWARD BY DEFAULT IN THE ARBITRATION. IF  
484 YOU HAVE FAILED OR REFUSED TO PARTICIPATE IN THE  
485 ENTIRE ARBITRATION PROCESS, YOU WILL NOT BE ENTITLED  
486 TO RECOVER ATTORNEY'S FEES IF YOU PREVAIL IN A

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

487 SUBSEQUENT COURT PROCEEDING INVOLVING THE SAME  
488 DISPUTE.  
489  
490 THE AGGRIEVED PARTY HAS SELECTED AT LEAST FIVE  
491 ARBITRATORS WHO THE AGGRIEVED PARTY BELIEVES TO BE  
492 NEUTRAL AND QUALIFIED TO ARBITRATE THE DISPUTE. YOU  
493 HAVE THE RIGHT TO SELECT ANY ONE OF THE ARBITRATORS.  
494 THE FACT THAT ONE PARTY MAY BE FAMILIAR WITH ONE OR  
495 MORE OF THE LISTED ARBITRATORS DOES NOT MEAN THAT THE  
496 ARBITRATOR CANNOT ACT AS A NEUTRAL AND IMPARTIAL  
497 ARBITRATOR. ANY ARBITRATOR WHO CANNOT ACT IN THIS  
498 CAPACITY IS REQUIRED ETHICALLY TO DECLINE TO ACCEPT  
499 ENGAGEMENT. THE NAMES OF THE FIVE ARBITRATORS THAT THE  
500 AGGRIEVED PARTY HAS CHOSEN FROM WHICH YOU MAY SELECT  
501 ONE, AND THEIR CURRENT ADDRESSES, TELEPHONE NUMBERS,  
502 AND HOURLY RATES, ARE AS FOLLOWS:  
503  
504 (LIST THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND  
505 HOURLY RATES OF AT LEAST FIVE ARBITRATORS.)  
506  
507 YOU MAY CONTACT THE OFFICES OF THESE ARBITRATORS TO  
508 CONFIRM THAT THE LISTED ARBITRATORS WILL BE NEUTRAL  
509 AND WILL NOT SHOW ANY FAVORITISM TOWARD EITHER PARTY.  
510  
511 UNLESS OTHERWISE AGREED TO BY THE PARTIES, PART IV OF  
512 CHAPTER 720, FLORIDA STATUTES, REQUIRES THAT THE  
513 PARTIES SHARE THE COSTS OF PRESUIT ARBITRATION  
514 EQUALLY, INCLUDING THE FEE CHARGED BY THE ARBITRATOR.

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

515 THE PARTIES SHALL BE RESPONSIBLE FOR THEIR OWN  
516 ATTORNEY'S FEES IF THEY CHOOSE TO EMPLOY AN ATTORNEY  
517 IN CONNECTION WITH THE ARBITRATION. HOWEVER, USE OF AN  
518 ATTORNEY TO REPRESENT YOU FOR THE ARBITRATION IS NOT  
519 REQUIRED. THE ARBITRATOR SELECTED MAY REQUIRE THE  
520 ADVANCE PAYMENT OF SOME OR ALL OF THE ANTICIPATED  
521 FEES. THE AGGRIEVED PARTY HEREBY AGREES TO PAY OR  
522 PREPAY ONE-HALF OF THE SELECTED ARBITRATOR'S ESTIMATED  
523 FEES AND TO FORWARD THIS AMOUNT OR SUCH OTHER  
524 REASONABLE ADVANCE DEPOSITS AS THE ARBITRATOR WHO IS  
525 SELECTED REQUIRES FOR THIS PURPOSE. ANY FUNDS  
526 DEPOSITED WILL BE RETURNED TO YOU IF THESE FUNDS ARE  
527 IN EXCESS OF YOUR SHARE OF THE FEES INCURRED.

528  
529 PLEASE SIGN THE AGREEMENT TO ARBITRATE BELOW AND  
530 CLEARLY INDICATE THE NAME OF THE ARBITRATOR WHO IS  
531 ACCEPTABLE TO YOU FROM THE NAMES LISTED BY THE  
532 AGGRIEVED PARTY.

533  
534 YOU MUST RESPOND IN WRITING TO THIS STATUTORY NOTICE  
535 WITHIN 20 DAYS AFTER THE DATE THAT THE NOTICE OF  
536 PRESUIT ARBITRATION WAS PERSONALLY SERVED ON YOU OR  
537 THE POSTMARKED DATE THAT THIS NOTICE OF PRESUIT  
538 ARBITRATION WAS SENT TO YOU BY CERTIFIED MAIL. YOU  
539 MUST ALSO PROVIDE A LIST OF AT LEAST THREE DATES AND  
540 TIMES IN WHICH YOU ARE AVAILABLE TO PARTICIPATE IN THE  
541 ARBITRATION THAT ARE WITHIN 90 DAYS AFTER THE DATE YOU  
542 WERE PERSONALLY SERVED OR WITHIN 90 DAYS AFTER THE

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

543 POSTMARKED DATE OF THE CERTIFIED MAILING OF THIS  
544 STATUTORY NOTICE OF PRESUIT ARBITRATION. A COPY OF  
545 THIS NOTICE AND YOUR RESPONSE WILL BE PROVIDED BY THE  
546 AGGRIEVED PARTY TO THE ARBITRATOR SELECTED, AND THE  
547 ARBITRATOR WILL SCHEDULE A MUTUALLY CONVENIENT TIME  
548 AND PLACE FOR THE ARBITRATION CONFERENCE TO BE HELD.  
549 IF YOU DO NOT PROVIDE A LIST OF AVAILABLE DATES AND  
550 TIMES, THE ARBITRATOR IS AUTHORIZED TO SCHEDULE AN  
551 ARBITRATION CONFERENCE WITHOUT TAKING YOUR SCHEDULE  
552 AND CONVENIENCE INTO CONSIDERATION. THE ARBITRATION  
553 CONFERENCE MUST BE HELD ON THE SCHEDULED DATE, OR ANY  
554 RESCHEDULED DATE APPROVED BY THE ARBITRATOR. IN NO  
555 EVENT SHALL THE ARBITRATION CONFERENCE BE LATER THAN  
556 90 DAYS AFTER NOTICE OF THE PRESUIT ARBITRATION WAS  
557 FIRST SERVED, UNLESS ALL PARTIES MUTUALLY AGREE IN  
558 WRITING OTHERWISE. IF THE ARBITRATION IS NOT COMPLETED  
559 WITHIN THE REQUIRED TIME LIMITS, THE ARBITRATOR SHALL  
560 ISSUE AN ARBITRATION AWARD, UNLESS THE HEARING IS  
561 EXTENDED BY MUTUAL WRITTEN AGREEMENT OF THE PARTIES  
562 AND APPROVED BY THE ARBITRATOR. IN THE EVENT THAT YOU  
563 FAIL TO RESPOND WITHIN 20 DAYS AFTER THE DATE YOU WERE  
564 SERVED WITH A COPY OF THIS NOTICE, FAIL TO PROVIDE THE  
565 ARBITRATOR WITH DATES AND TIMES IN WHICH YOU ARE  
566 AVAILABLE FOR THE ARBITRATION CONFERENCE, FAIL TO  
567 AGREE TO ONE OF THE ARBITRATORS THAT THE AGGRIEVED  
568 PARTY HAS NAMED, FAIL TO PAY OR PREPAY TO THE  
569 ARBITRATOR ONE-HALF OF THE COSTS INVOLVED AS REQUIRED,  
570 OR FAIL TO APPEAR AND PARTICIPATE AT THE SCHEDULED

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

571 ARBITRATION CONFERENCE, THE AGGRIEVED PARTY MAY  
572 REQUEST THE ARBITRATOR TO ISSUE AN ARBITRATION AWARD.  
573 IN ANY SUBSEQUENT COURT ACTION, THE AGGRIEVED PARTY  
574 SHALL BE ENTITLED TO RECOVER AN AWARD OF REASONABLE  
575 ATTORNEY'S FEES AND COSTS, INCLUDING ANY FEES PAID TO  
576 THE ARBITRATOR, INCURRED IN OBTAINING AN ARBITRATION  
577 AWARD PURSUANT TO SECTION 720.507, FLORIDA STATUTES.

578  
579 PLEASE GIVE THIS MATTER YOUR IMMEDIATE ATTENTION. BY  
580 LAW, YOUR RESPONSE MUST BE POSTMARKED AND MAILED BY  
581 CERTIFIED, FIRST-CLASS MAIL, RETURN RECEIPT REQUESTED,  
582 TO THE ADDRESS SHOWN ON THIS NOTICE OF PRESUIT  
583 ARBITRATION.

584  
585 \_\_\_\_\_  
586 SIGNATURE OF AGGRIEVED PARTY

587  
588 \_\_\_\_\_  
589 PRINTED NAME OF AGGRIEVED PARTY

590  
591 RESPONDING PARTY: YOUR SIGNATURE BELOW INDICATES YOUR  
592 ACCEPTANCE OF THE AGREEMENT TO ARBITRATE.

593  
594 AGREEMENT TO ARBITRATE

595  
596 THE UNDERSIGNED HEREBY AGREES TO PARTICIPATE IN  
597 PRESUIT ARBITRATION AND AGREES TO ATTEND AN  
598 ARBITRATION CONDUCTED BY THE FOLLOWING ARBITRATOR

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

599 LISTED BELOW AS SOMEONE WHO WOULD BE ACCEPTABLE TO  
600 ARBITRATE THIS DISPUTE:

601  
602 (IN YOUR RESPONSE, SELECT THE NAME OF ONE ARBITRATOR  
603 THAT IS ACCEPTABLE TO YOU FROM THOSE ARBITRATORS  
604 LISTED BY THE AGGRIEVED PARTY.)

605  
606 THE UNDERSIGNED HEREBY REPRESENTS THAT HE OR SHE IS  
607 AVAILABLE AND ABLE TO ATTEND AND PARTICIPATE IN THE  
608 PRESUIT ARBITRATION CONFERENCE AT THE FOLLOWING DATES  
609 AND TIMES:

610  
611 (LIST ALL AVAILABLE DATES AND TIMES, OF WHICH THERE  
612 MUST BE AT LEAST THREE, WITHIN 90 DAYS AFTER THE DATE  
613 ON WHICH YOU WERE SERVED, EITHER BY PROCESS SERVER OR  
614 BY CERTIFIED MAIL, WITH THE NOTICE OF PRESUIT  
615 ARBITRATION.)

616  
617 I/WE FURTHER AGREE TO PAY OR PREPAY ONE-HALF OF THE  
618 ARBITRATOR'S FEES AND TO FORWARD SUCH ADVANCE DEPOSITS  
619 AS THE ARBITRATOR MAY REQUIRE FOR THIS PURPOSE.

620  
621 \_\_\_\_\_  
622 SIGNATURE OF RESPONDING PARTY #1

623 \_\_\_\_\_  
624 TELEPHONE CONTACT INFORMATION

625  
626 \_\_\_\_\_

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

627 SIGNATURE AND TELEPHONE CONTACT INFORMATION OF  
628 RESPONDING PARTY #2, IF APPLICABLE. IF THE PROPERTY IS  
629 OWNED BY MORE THAN ONE PERSON, ALL OWNERS MUST SIGN,  
630 OR A PERSON MAY SIGN WHO IS ACTING UNDER AUTHORITY OF  
631 A VALID POWER OF ATTORNEY GRANTED BY AN OWNER.

632  
633 (2) (a) Service of the notice of presuit arbitration shall  
634 be effected either by personal service, as provided in chapter  
635 48, or by certified mail, return receipt requested, in a letter  
636 in substantial conformity with the form provided in subsection  
637 (1), with an additional copy being sent by regular first-class  
638 mail, to the address of the responding party as it last appears  
639 on the books and records of the association or, if not  
640 available, the last address as it appears on the official  
641 records of the county property appraiser for the county in which  
642 the property is situated that is subject to the association  
643 documents. The responding party has 20 days after the postmarked  
644 date of the certified mailing of the statutory notice of presuit  
645 arbitration or the date the responding party is personally  
646 served with the statutory notice of presuit arbitration to serve  
647 a written response to the aggrieved party. The response shall be  
648 served by certified mail, return receipt requested, with an  
649 additional copy being sent by regular first-class mail, to the  
650 address shown on the statutory notice of presuit arbitration.  
651 The postmarked date on the envelope of the response shall  
652 constitute the date the response was served.

653 (b) The parties shall share the costs of presuit  
654 arbitration equally, including the fee charged by the

918635

Approved For Filing: 4/20/2010 10:09:33 AM



Amendment No.

655 arbitrator, if any, unless the parties agree otherwise, and the  
656 arbitrator may require advance payment of his or her reasonable  
657 fees and costs. Each party shall be responsible for that party's  
658 own attorney's fees if a party chooses to be represented by an  
659 attorney for the arbitration proceedings.

660 (c)1. The party responding to the aggrieved party must  
661 sign the agreement to arbitrate included in the notice of  
662 presuit arbitration and clearly indicate the name of the  
663 arbitrator who is acceptable of those arbitrators listed by the  
664 aggrieved party. The responding party must provide a list of at  
665 least three dates and times in which the responding party is  
666 available to participate in the arbitration conference within 90  
667 days after the date the responding party was served with the  
668 statutory notice of presuit arbitration.

669 2. The arbitrator must schedule the arbitration conference  
670 at a mutually convenient time and place, but if the responding  
671 party does not provide a list of available dates and times, the  
672 arbitrator is authorized to schedule an arbitration conference  
673 without taking the responding party's schedule and convenience  
674 into consideration. Within 10 days after the designation of the  
675 arbitrator, the arbitrator shall notify the parties in writing  
676 of the date, time, and place of the arbitration conference.

677 3. The arbitration conference must be held on the  
678 scheduled date and may be rescheduled if approved by the  
679 arbitrator. However, in no event shall the arbitration hearing  
680 be later than 90 days after the notice of presuit arbitration  
681 was first served, unless all parties mutually agree in writing  
682 otherwise. If the arbitration hearing is not completed within

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

683 the required time limits, the arbitrator may issue an  
684 arbitration award unless the time for the hearing is extended as  
685 provided herein.

686 4. If the responding party fails to respond within 20 days  
687 after the date of statutory notice of presuit arbitration, fails  
688 to agree to at least one of the arbitrators that have been  
689 listed by the aggrieved party in the presuit notice of  
690 arbitration, fails to pay or prepay to the arbitrator one-half  
691 of the costs involved, or fails to appear and participate at the  
692 scheduled arbitration, the aggrieved party is authorized to  
693 proceed with a request that the arbitrator issue an arbitration  
694 award.

695 (d)1. The failure of any party to respond to the statutory  
696 notice of presuit arbitration within 20 days, the failure to  
697 select one of the arbitrators listed by the aggrieved party, the  
698 failure to provide a listing of dates and times in which the  
699 responding party is available to participate in the arbitration  
700 conference within 90 days after the date of the responding party  
701 being served with the statutory notice of presuit arbitration,  
702 the failure to make payment of fees and costs as required within  
703 the time established by the arbitrator, or the failure to appear  
704 for an arbitration conference without the approval of the  
705 arbitrator shall entitle the other party to request the  
706 arbitrator to enter an arbitration award, including an award of  
707 the reasonable costs and attorney's fees associated with the  
708 arbitration.

709 2. Persons who fail or refuse to participate in the entire  
710 arbitration process may not recover attorney's fees and costs in

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

711 any subsequent litigation proceeding relating to the same  
712 dispute involving the same parties.

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

715 (b) An arbitrator in a proceeding initiated pursuant to  
716 this part may shorten the time for discovery or otherwise limit  
717 discovery in a manner consistent with the policy goals of this  
718 part to reduce the time and expense of litigating homeowners'  
719 association disputes initiated pursuant to this chapter and to  
720 promote an expeditious alternative dispute resolution procedure  
721 for parties to such actions.

722 (4) At the request of any party to the arbitration, the  
723 arbitrator may issue subpoenas for the attendance of witnesses  
724 and the production of books, records, documents, and other  
725 evidence, and any party on whose behalf a subpoena is issued may  
726 apply to the court for orders compelling such attendance and  
727 production. Subpoenas shall be served and are enforceable in the  
728 manner provided by the Florida Rules of Civil Procedure.  
729 Discovery may, at the discretion of the arbitrator, be permitted  
730 in the manner provided by the Florida Rules of Civil Procedure.

731 (5) The final arbitration award shall be sent to the  
732 parties in writing no later than 30 days after the date of the  
733 arbitration hearing, absent extraordinary circumstances  
734 necessitating a later filing the reasons for which shall be  
735 stated in the final award if filed more than 30 days after the  
736 date of the final session of the arbitration conference. An  
737 agreed arbitration award is final in those disputes in which the  
738 parties have mutually agreed to be bound. An arbitration award

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

739 decided by the arbitrator is final unless a lawsuit seeking a  
740 trial de novo is filed in a court of competent jurisdiction  
741 within 30 days after the date of the arbitration award. The  
742 right to file for a trial de novo entitles the parties to file a  
743 complaint in the appropriate trial court for a judicial  
744 resolution of the dispute. The prevailing party in an  
745 arbitration proceeding shall be awarded the costs of the  
746 arbitration and reasonable attorney's fees in an amount  
747 determined by the arbitrator.

748 (6) The party filing a motion for a trial de novo shall be  
749 assessed the other party's arbitration costs, court costs, and  
750 other reasonable costs, including attorney's fees, investigation  
751 expenses, and expenses for expert or other testimony or evidence  
752 incurred after the arbitration hearing, if the judgment upon the  
753 trial de novo is not more favorable than the final arbitration  
754 award.

755 720.508 Rules of procedure.-

756 (1) Presuit mediation and presuit arbitration proceedings  
757 under this part must be conducted in accordance with the  
758 applicable Florida Rules of Civil Procedure and rules governing  
759 mediations and arbitrations under chapter 44, except that this  
760 part shall be controlling to the extent of any conflict with  
761 other applicable rules or statutes. The arbitrator may shorten  
762 any applicable time period and otherwise limit the scope of  
763 discovery on request of the parties or within the discretion of  
764 the arbitrator exercised consistent with the purpose and  
765 objective of reducing the expense and expeditiously concluding  
766 proceedings under this part.

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

767 (2) Presuit mediation proceedings under s. 720.505 are  
768 privileged and confidential to the same extent as court-ordered  
769 mediation under chapter 44. An arbitrator or judge may not  
770 consider any information or evidence arising from the presuit  
771 mediation proceeding except in a proceeding to impose sanctions  
772 for failure to attend a presuit mediation session or to enforce  
773 a mediated settlement agreement.

774 (3) Persons who are not parties to the dispute may not  
775 attend the presuit mediation conference without consent of all  
776 parties, with the exception of counsel for the parties and a  
777 corporate representative designated by the association. Presuit  
778 mediations under this part are not a board meeting for purposes  
779 of notice and participation set forth in this chapter.

780 (4) Attendance at a mediation conference by the board of  
781 directors shall not require notice or participation by nonboard  
782 members as otherwise required by this chapter for meetings of  
783 the board.

784 (5) Settlement agreements resulting from a mediation or  
785 arbitration proceeding do not have precedential value in  
786 proceedings involving parties other than those participating in  
787 the mediation or arbitration.

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

791 720.509 Mediators and arbitrators; qualifications.—A  
792 person is authorized to conduct mediation or arbitration under  
793 this part if he or she has been certified as a circuit court  
794 civil mediator under the requirements adopted pursuant to s.

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

795 44.106, is a member in good standing with The Florida Bar, and  
796 otherwise meets all other requirements imposed by chapter 44.

797 720.510 Enforcement of mediation agreement or arbitration  
798 award.-

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

804 (2) Any party to an arbitration proceeding may enforce an  
805 arbitration award by filing a petition in a court of competent  
806 jurisdiction in which the homeowners' association is located.  
807 The prevailing party in such proceeding shall be awarded  
808 reasonable attorney's fees and costs incurred in such  
809 proceeding.

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

814 Section 30. All new residential construction in any deed-  
815 restricted community that requires mandatory membership in the  
816 association under chapter 718, chapter 719, or chapter 720,  
817 Florida Statutes, must comply with the provisions of Pub. L. No.  
818 110-140, Title XIV, ss. 1402 to 1406, 15 U.S.C. ss. 8001-8005.

819  
820  
821  
822 -----

918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

823                                   **T I T L E   A M E N D M E N T**

824           Remove line 218 and insert:

825   the developer unless certain conditions are met; creating part

826   IV of ch. 720, F.S., relating to dispute resolution; creating s.

827   720.501, F.S.; providing a short title; creating s. 720.502,

828   F.S.; providing legislative findings; creating s. 720.503, F.S.;

829   specifying applicability of provisions for mediation and

830   arbitration of disputes in homeowners' associations; providing

831   exceptions; providing for injunctive relief; providing for the

832   tolling of applicable statutes of limitations; creating s.

833   720.504, F.S.; requiring that the notice of dispute be delivered

834   before referral to mediation or arbitration; providing notice

835   requirements; creating s. 720.505, F.S.; creating a statutory

836   notice form for referral to mediation; providing delivery

837   requirements; requiring parties to share costs; requiring the

838   selection of a mediator and times to meet; providing penalties

839   for failure to mediate; creating s. 720.506, F.S.; creating an

840   opt-out provision and procedures; creating s. 720.507, F.S.;

841   creating a statutory notice form for referral to arbitration;

842   providing delivery requirements; requiring parties to share

843   costs; requiring the selection of an arbitrator and times to

844   meet; providing penalties for failure to arbitrate; providing

845   subpoena powers and requirements; providing requirements for and

846   repercussions of subsequent judicial resolution of the dispute;

847   creating s. 720.508, F.S.; providing for rules of procedure;

848   providing for confidentiality; providing applicability to other

849   rules of procedure and provisions of law; specifying that

850   arbitration awards have certain precedential value; creating s.  
918635

Approved For Filing: 4/20/2010 10:09:33 AM

Amendment No.

851 720.509, F.S.; specifying qualifications for mediators and  
852 arbitrators; creating s. 720.510, F.S.; providing for  
853 enforcement of mediation agreements and arbitration awards;  
854 requiring all new residential construction in a deed-restricted  
855 community that requires mandatory membership in the association  
856 under specified provisions of Florida law to comply with  
857 specified provisions of federal law; providing