

Information Sheet for Homeowners Associations

Attorney's Fees and Costs

Section 720.311, F.S., provides that the person who loses an arbitration proceeding must pay the costs and attorney's fees of the party who wins the case. Therefore, in addition to paying your own attorney (if you are represented by an attorney), if you do not win this proceeding, you will be required to pay the costs and attorney's fees of the other side. An award of fees is required by law. Defenses such as an inability to pay, the fact that legal expenses are included in the association budget, and other similar defenses are irrelevant to the fees award. The only issues to be decided are whether you lost the proceeding, the actual costs and fees spent in the case, and whether the fees and costs are reasonable.

The exact award depends on the complexity and number of the issues involved, on whether you dispute the facts and a final hearing is required and other factors. Attorney's fees in these proceedings are typically billed between \$150.00 or more per hour, depending upon the experience of the attorney and the location of the condominium.

Rule 61B-80.123, F.A.C., requires a party who seeks to recover its costs and attorney's fee from the other side to file a written request with the arbitrator before the final order is issued. In addition, the rule requires that a party file a motion for costs and attorney's fees, along with supporting documents, within 30 days after the entry of the final order entered in the arbitration proceeding. The motion for fees must be filed within this time period regardless of any appeal taken in the underlying arbitration case; the time for filing the fees motion is not extended or tolled during the pendency of any appeal.

Department Fee

Rule 61B-80.124, F.A.C., permits the Arbitration Section to bill for all costs and expenses incurred for an arbitration proceeding pursuant to 720.311, F.S. The fee shall be the sum of labor costs, contractor charges, and other costs directly related to the proceedings. Examples of direct costs include, but are not limited to, travel, long distance charges and photocopy expenses. For arbitration proceedings involving an election dispute, both the petitioner and respondent will be charged an equal share of the department's fee. However, if the respondent is not served, the petitioner will be responsible for the full amount of the department's fee. For arbitration proceedings involving a recall dispute, only the association shall be charged the department's fee. The department's fee is not deducted from the required filing fee.