

By the Committee on Regulated Industries; and Senators Stargel and Detert

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1 A bill to be entitled

2 An act relating to residential properties; amending
3 ss. 718.116, 719.108, and 720.30851, F.S.; providing
4 requirements relating to the request for an estoppel
5 certificate by a unit or parcel owner or a unit or
6 parcel mortgagee; providing that the association
7 waives the right to collect any moneys owed in excess
8 of the amounts set forth in the estoppel certificate
9 under certain conditions; providing that the
10 association waives any claim against a person or
11 entity who would have relied in good faith upon the
12 estoppel certificate under certain conditions;
13 deleting provisions regarding expedited court action
14 to compel issuance of an estoppel certificate;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Subsection (8) of section 718.116, Florida
20 Statutes, is amended to read:

21 718.116 Assessments; liability; lien and priority;
22 interest; collection.-

23 (8) Within 10 ~~15~~ days after receiving a written request for
24 an estoppel certificate ~~therefor~~ from a unit owner or his or her
25 designee, or a unit mortgagee or his or her designee, the
26 association shall deliver by mail, hand, or electronic means an
27 estoppel ~~provide~~ a certificate signed by an officer or agent of
28 the association. The estoppel certificate must be dated as of
29 the date it is delivered, must be valid for at least 30 days,

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30 and must state ~~stating~~ all assessments and other moneys owed to
31 the association by the unit owner with respect to the unit, as
32 reflected in records maintained pursuant to s. 718.111(12),
33 through a date that is at least 30 days after the date of the
34 estoppel certificate ~~condominium parcel.~~

35 (a) An association waives the right to collect any moneys
36 owed in excess of the amounts set forth in the estoppel
37 certificate from any person who in good faith relies upon the
38 estoppel certificate and from that person's successors and
39 assigns ~~Any person other than the owner who relies upon such~~
40 ~~certificate shall be protected thereby.~~

41 (b) If an association receives a written request for an
42 estoppel certificate from a unit owner or his or her designee,
43 or a unit mortgagee or his or her designee, and fails to deliver
44 an estoppel certificate as required by this section, the
45 association waives, as to any person who would have in good
46 faith relied on the estoppel certificate and as to that person's
47 successors and assigns, any claim, including a claim for a lien
48 against the unit, for any amounts owed to the association that
49 should have been shown on the estoppel certificate ~~A summary~~
50 ~~proceeding pursuant to s. 51.011 may be brought to compel~~
51 ~~compliance with this subsection, and in any such action the~~
52 ~~prevailing party is entitled to recover reasonable attorney's~~
53 ~~fees.~~

54 (c) Notwithstanding any limitation on transfer fees
55 contained in s. 718.112(2)(i), an ~~the~~ association or its
56 ~~authorized~~ agent may charge a reasonable estoppel certificate a
57 ~~reasonable~~ fee as determined by the cost of providing such
58 information for the preparation and delivery of the estoppel

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59 certificate. The amount of the estoppel certificate fee must be
60 included on the estoppel certificate. If the estoppel
61 certificate is requested in conjunction with the sale or
62 refinancing of a unit, the estoppel certificate fee shall be due
63 and payable no earlier than the closing of the sale or
64 refinancing, and shall be paid from closing settlement proceeds.
65 If the closing does not occur within 60 days after the date the
66 estoppel certificate is delivered, the estoppel certificate fee
67 is the obligation of the unit owner and the association may
68 collect the estoppel certificate fee only in the same manner as
69 an assessment against the unit owner as set forth in this
70 section. The preparation and delivery of an estoppel certificate
71 may not be conditioned upon the payment of any other fees.

72 (d) The authority to charge a fee for the estoppel
73 certificate shall be established by a written resolution adopted
74 by the board or provided by a written management, bookkeeping,
75 or maintenance contract ~~and is payable upon the preparation of~~
76 ~~the certificate. If the certificate is requested in conjunction~~
77 ~~with the sale or mortgage of a unit but the closing does not~~
78 ~~occur and no later than 30 days after the closing date for which~~
79 ~~the certificate was sought the preparer receives a written~~
80 ~~request, accompanied by reasonable documentation, that the sale~~
81 ~~did not occur from a payor that is not the unit owner, the fee~~
82 ~~shall be refunded to that payor within 30 days after receipt of~~
83 ~~the request. The refund is the obligation of the unit owner, and~~
84 ~~the association may collect it from that owner in the same~~
85 ~~manner as an assessment as provided in this section.~~

86 Section 2. Subsection (6) of section 719.108, Florida
87 Statutes, is amended to read:

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88 719.108 Rents and assessments; liability; lien and
89 priority; interest; collection; cooperative ownership.—

90 (6) Within 10 ~~15~~ days after receiving a written request for
91 an estoppel certificate from ~~by~~ a unit owner or his or her
92 designee, or a unit mortgagee or his or her designee, the
93 association shall deliver by mail, hand, or electronic means an
94 estoppel ~~provide a certificate signed by an officer or agent of~~
95 the association. The estoppel certificate must be dated as of
96 the date it is delivered, must be valid for at least 30 days,
97 and must state ~~stating~~ all assessments and other moneys owed to
98 the association by the unit owner with respect to the
99 cooperative parcel, as reflected in records maintained pursuant
100 to s. 719.104(2), through a date that is at least 30 days after
101 the date of the estoppel certificate.

102 (a) An association waives the right to collect any moneys
103 owed in excess of the amounts set forth in the estoppel
104 certificate from any person who in good faith relies upon the
105 estoppel certificate, and from that person's successors and
106 assigns ~~Any person other than the unit owner who relies upon~~
107 ~~such certificate shall be protected thereby.~~

108 (b) If an association receives a written request for an
109 estoppel certificate from a unit owner or his or her designee,
110 or a unit mortgagee or his or her designee, and fails to deliver
111 an estoppel certificate as required by this section, the
112 association waives, as to any person who would have in good
113 faith relied on the estoppel certificate and as to that person's
114 successors and assigns, any claim, including a claim for a lien
115 against the unit, for any amounts owed to the association that
116 should have been shown on the estoppel certificate.

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117 (c) Notwithstanding any limitation on transfer fees
118 contained in s. 719.106(1)(i), an ~~the~~ association or its
119 ~~authorized~~ agent may charge a reasonable estoppel certificate a
120 ~~reasonable~~ fee as determined by the cost of providing such
121 information for the preparation and delivery of the estoppel
122 certificate. The amount of the estoppel certificate fee must be
123 included on the estoppel certificate. If the estoppel
124 certificate is requested in conjunction with the sale or
125 refinancing of a unit, the estoppel certificate fee shall be due
126 and payable no earlier than the closing of the sale or
127 refinancing, and shall be paid from closing settlement proceeds.
128 If the closing does not occur within 60 days after the date the
129 estoppel certificate is delivered, the estoppel certificate fee
130 is the obligation of the unit owner and the association may
131 collect the estoppel certificate fee only in the same manner as
132 an assessment against the unit owner as set forth in this
133 section. The preparation and delivery of an estoppel certificate
134 may not be conditioned upon the payment of any other fees.

135 (d) The authority to charge a fee for the estoppel
136 certificate shall be established by a written resolution adopted
137 by the board or provided by a written management, bookkeeping,
138 or maintenance contract.

139 Section 3. Section 720.30851, Florida Statutes, is amended
140 to read:

141 720.30851 Estoppel certificates.—Within 10 ~~15~~ days after
142 receiving ~~the date on which~~ a written request for an estoppel
143 certificate ~~is received~~ from a parcel owner or his or her
144 designee, or a parcel mortgagee, or his or her designee, the
145 association shall deliver by mail, hand, or electronic means an

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146 estoppel ~~provide~~ a certificate signed by an officer or
147 ~~authorized~~ agent of the association. The estoppel certificate
148 must be dated as of the date it is delivered, must be valid for
149 at least 30 days, and must state ~~stating~~ all assessments and
150 other moneys owed to the association by the parcel owner or
151 parcel mortgagee with respect to the parcel, as reflected in
152 records maintained pursuant to s. 720.303(4), through a date
153 that is at least 30 days after the date of the estoppel
154 certificate. ~~An association may charge a fee for the preparation~~
155 ~~of such certificate, and the amount of such fee must be stated~~
156 ~~on the certificate.~~

157 (1) An association waives the right to collect any moneys
158 owed in excess of the amounts set forth in the estoppel
159 certificate from any person who in good faith relies upon the
160 estoppel certificate, and from that person's successors and
161 assigns ~~Any person other than a parcel owner who relies upon a~~
162 ~~certificate receives the benefits and protection thereof.~~

163 (2) If an association receives a written request for an
164 estoppel certificate from a parcel owner or his or her designee,
165 or a parcel mortgagee or his or her designee, and fails to
166 deliver an estoppel certificate as required by this section, the
167 association waives, as to any person who would have in good
168 faith relied on the estoppel certificate and as to that person's
169 successors and assigns, any claim, including a claim for a lien
170 against the parcel, for any amounts owed to the association that
171 should have been shown on the estoppel certificate ~~A summary~~
172 ~~proceeding pursuant to s. 51.011 may be brought to compel~~
173 ~~compliance with this section, and the prevailing party is~~
174 ~~entitled to recover reasonable attorney's fees.~~

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175 (3) An association or its agent may charge a reasonable
176 estoppel certificate fee as determined by the cost of providing
177 such information for the preparation and delivery of the
178 estoppel certificate. The amount of the estoppel certificate fee
179 must be included on the estoppel certificate. If the estoppel
180 certificate is requested in conjunction with the sale or
181 refinancing of a parcel, the estoppel certificate fee shall be
182 due and payable no earlier than the closing of the sale or
183 refinancing, and shall be paid from the closing settlement
184 proceeds. If the closing does not occur within 60 days after the
185 date the estoppel certificate is delivered, the estoppel
186 certificate fee is the obligation of the parcel owner and the
187 association may collect the estoppel certificate fee only in the
188 same manner as an assessment against the parcel owner as set
189 forth in s. 720.3085. The preparation and delivery of an
190 estoppel certificate may not be conditioned upon the payment of
191 any other fees.

192 (4) The authority to charge a fee for the estoppel
193 certificate shall be established by a written resolution adopted
194 by the board or provided by a written management, bookkeeping,
195 or maintenance contract ~~and is payable upon the preparation of~~
196 ~~the certificate. If the certificate is requested in conjunction~~
197 ~~with the sale or mortgage of a parcel but the closing does not~~
198 ~~occur and no later than 30 days after the closing date for which~~
199 ~~the certificate was sought the preparer receives a written~~
200 ~~request, accompanied by reasonable documentation, that the sale~~
201 ~~did not occur from a payor that is not the parcel owner, the fee~~
202 ~~shall be refunded to that payor within 30 days after receipt of~~
203 ~~the request. The refund is the obligation of the parcel owner,~~

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204 ~~and the association may collect it from that owner in the same~~
205 ~~manner as an assessment as provided in this section.~~

206 Section 4. This act shall take effect July 1, 2015.