

By the Committees on Fiscal Policy; Judiciary; and 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.; revising
4 requirements relating to the issuance of an estoppel
5 certificate to specified persons; requiring that an
6 estoppel certificate contain certain information;
7 providing an effective period for a certificate based
8 upon the date of issuance and form of delivery;
9 providing that the association waives a specified
10 claim against a person or such person's successors or
11 assigns who rely on the certificate in good faith;
12 authorizing a summary proceeding to be brought to
13 compel an association to prepare or deliver an
14 estoppel certificate; specifying the maximum amounts
15 an association may charge for an estoppel certificate;
16 providing that the authority to charge a fee for the
17 estoppel certificate must be established by a
18 specified written resolution or provided by a written
19 management, bookkeeping, or maintenance contract;
20 deleting obsolete provisions; conforming provisions to
21 changes made by the act; providing an effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (8) of section 718.116, Florida
26 Statutes, is amended to read:

27 718.116 Assessments; liability; lien and priority;
28 interest; collection.—

29 (8) An association shall issue an estoppel certificate to a

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30 unit owner or the unit owner's designee or a unit mortgagee or
31 the unit mortgagee's designee within 10 business ~~15~~ days after
32 receiving a written or electronic request for the certificate.
33 The estoppel certificate must be delivered by mail, by hand
34 delivery, or by electronic means to the requester on the date of
35 issuance.

36 (a) The estoppel certificate must contain all of the
37 following:

38 1. The date of issuance.

39 2. The amount of all assessments and other moneys owed to
40 the association by the unit owner for a specific unit on the
41 date of issuance. This amount is limited to amounts authorized
42 by statute to be recorded in the official records of the
43 association under s. 718.111(12).

44 3. The amount of any additional assessments and other
45 moneys that are scheduled to become due for each day after the
46 date of issuance for the 30-day or 35-day effective period of
47 the estoppel certificate. This amount is limited to amounts
48 authorized by statute to be recorded in the official records of
49 the association under s. 718.111(12). In calculating the amounts
50 that are scheduled to become due, the association may assume
51 that any delinquent amounts will remain delinquent during the
52 effective period of the estoppel certificate.

53 4. The amount of any fee charged by the association for
54 preparing and delivering the estoppel certificate. This fee is
55 in addition to any other amounts on the estoppel certificate.

56 5. The signature of an officer or agent of the association.

57 (b) An estoppel certificate that is delivered on the date
58 of issuance has a 30-day effective period. An estoppel

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59 certificate that is mailed to the requester has a 35-day
60 effective period.

61 (c) An association waives the right to collect any moneys
62 owed in excess of the amounts specified in the estoppel
63 certificate from any person who in good faith relies upon the
64 estoppel certificate and from the person's successors and
65 assigns therefor from a unit owner or his or her designee, or a
66 unit mortgagee or his or her designee, the association shall
67 provide a certificate signed by an officer or agent of the
68 association stating all assessments and other moneys owed to the
69 association by the unit owner with respect to the condominium
70 parcel.

71 ~~(a) Any person other than the owner who relies upon such~~
72 ~~certificate shall be protected thereby.~~

73 (d)~~(b)~~ A summary proceeding pursuant to s. 51.011 may be
74 brought to compel compliance with this subsection, and in any
75 such action the prevailing party is entitled to recover
76 reasonable attorney ~~attorney's~~ fees.

77 (e)1.~~(e)~~ Notwithstanding any limitation on transfer fees
78 contained in s. 718.112(2)(i), an ~~the~~ association or its
79 ~~authorized~~ agent may charge a reasonable fee, which may not
80 exceed its reasonable costs to prepare and deliver ~~for the~~
81 ~~preparation of the~~ estoppel certificate. However, the fee for
82 the estoppel certificate may not exceed \$250 if on the date the
83 certificate is issued, no delinquent amounts are owed to the
84 association for the applicable unit. If an estoppel certificate
85 is requested on an expedited basis and delivered within 3
86 business days after the request, the association may charge an
87 additional fee of \$100. If delinquent amounts are owed to the

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88 association for the applicable unit, an additional fee for the
89 estoppel certificate may not exceed \$100. The association may
90 not charge a fee for an estoppel certificate that is issued more
91 than 10 business days after it receives the request for the
92 certificate. The maximum allowable fees charged in accordance
93 with this section shall be adjusted every 3 years in an amount
94 equal to the annual increases for that 3-year period in the
95 Consumer Price Index for All Urban Consumers, U.S. City Average,
96 all items ~~The amount of the fee must be included on the~~
97 ~~certificate.~~

98 2. If the estoppel certificate is requested in conjunction
99 with the sale or refinancing of a unit, the fee for the
100 certificate shall be paid to the association from the closing or
101 settlement proceeds. If the closing does not occur, the fee for
102 the certificate is the obligation of the unit owner, and the
103 association may collect the fee in the same manner as an
104 assessment against the unit. An association may not require the
105 payment of any other fees as a condition for the preparation or
106 delivery of an estoppel certificate.

107 (f) ~~(d)~~ The authority to charge a fee for the estoppel
108 certificate must ~~shall~~ be established by a written resolution
109 adopted by the board or provided by a written management,
110 bookkeeping, or maintenance contract ~~and is payable upon the~~
111 ~~preparation of the certificate. If the certificate is requested~~
112 ~~in conjunction with the sale or mortgage of a unit but the~~
113 ~~closing does not occur and no later than 30 days after the~~
114 ~~closing date for which the certificate was sought the preparer~~
115 ~~receives a written request, accompanied by reasonable~~
116 ~~documentation, that the sale did not occur from a payor that is~~

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117 ~~not the unit owner, the fee shall be refunded to that payor~~
118 ~~within 30 days after receipt of the request. The refund is the~~
119 ~~obligation of the unit owner, and the association may collect it~~
120 ~~from that owner in the same manner as an assessment as provided~~
121 ~~in this section.~~

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

124 719.108 Rents and assessments; liability; lien and
125 priority; interest; collection; cooperative ownership.-

126 (6) An association shall issue an estoppel certificate to a
127 unit owner or the unit owner's designee or a unit mortgagee or
128 the unit mortgagee's designee within 10 business 15 days after
129 receiving a written or electronic request for the certificate.
130 The estoppel certificate must be delivered by mail, by hand
131 delivery, or by electronic means to the requester on the date of
132 issuance.

133 (a) The estoppel certificate must contain all of the
134 following:

135 1. The date of issuance.

136 2. The amount of all assessments and other moneys owed to
137 the association by the unit owner for a specific unit on the
138 date of issuance. This amount is limited to the amounts
139 authorized to be recorded in the official records of the
140 association under s. 719.104(2).

141 3. The amount of any additional assessments and other
142 moneys that are scheduled to become due for each day after the
143 date of issuance for the 30-day or 35-day effective period of
144 the estoppel certificate. This amount is limited to the amounts
145 authorized to be recorded in the official records of the

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146 association under s. 719.104(2). In calculating the amounts that
147 are scheduled to become due, the association may assume that any
148 delinquent amounts will remain delinquent during the effective
149 period of the estoppel certificate.

150 4. The amount of any fee charged by the association for
151 preparing and delivering the estoppel certificate. This fee is
152 in addition to any other amounts on the estoppel certificate.

153 5. The signature of an officer or agent of the association.

154 (b) An estoppel certificate that is delivered on the date
155 of issuance has a 30-day effective period. An estoppel
156 certificate that is mailed to the requester has a 35-day
157 effective period.

158 (c) An association waives the right to collect any moneys
159 owed in excess of the amounts specified in the estoppel
160 certificate from any person who in good faith relies upon the
161 estoppel certificate and from that person's successors and
162 assigns.

163 (d) A summary proceeding pursuant to s. 51.011 may be
164 brought to compel compliance with this subsection, and in any
165 such action the prevailing party is entitled to recover
166 reasonable attorney fees by a unit owner or mortgagee, the
167 association shall provide a certificate stating all assessments
168 and other moneys owed to the association by the unit owner with
169 respect to the cooperative parcel. Any person other than the
170 unit owner who relies upon such certificate shall be protected
171 thereby.

172 (e)1. Notwithstanding any limitation on transfer fees
173 contained in s. 719.106(1)(i), ~~an~~ the association or its
174 authorized agent may charge a ~~reasonable~~ fee, which may not

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175 exceed its reasonable costs to prepare and deliver for the
176 preparation of the estoppel certificate. However, the fee for
177 the estoppel certificate may not exceed \$250 if on the date the
178 certificate is issued, no delinquent amounts are owed to the
179 association for the applicable unit. If an estoppel certificate
180 is requested on an expedited basis and delivered within 3
181 business days after the request, the association may charge an
182 additional fee of \$100. If delinquent amounts are owed to the
183 association for the applicable unit, an additional fee for the
184 estoppel certificate may not exceed \$100. The association may
185 not charge a fee for an estoppel certificate that is issued more
186 than 10 business days after it receives a request for the
187 certificate. The maximum allowable fees charged in accordance
188 with this section shall be adjusted every 3 years in an amount
189 equal to the annual increases for that 3-year period in the
190 Consumer Price Index for All Urban Consumers, U.S. City Average,
191 all items.

192 2. If the estoppel certificate is requested in conjunction
193 with the sale or refinancing of a unit, the fee for the
194 certificate shall be paid to the association from the closing or
195 settlement proceeds. If the closing does not occur, the fee for
196 the certificate is the obligation of the unit owner, and the
197 association may collect the fee in the same manner as an
198 assessment against the unit. An association may not require the
199 payment of any other fees as a condition for the preparation or
200 delivery of an estoppel certificate.

201 (f) The authority to charge a fee for the estoppel
202 certificate must be established by a written resolution adopted
203 by the board or provided by a written management, bookkeeping,

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204 or maintenance contract.

205 Section 3. Section 720.30851, Florida Statutes, is amended
206 to read:

207 720.30851 Estoppel certificates.—An association shall issue
208 an estoppel certificate to a parcel owner or the parcel owner's
209 designee or a mortgagee or the mortgagee's designee within 10
210 business 15 days after receiving a written or electronic request
211 for the certificate. The estoppel certificate must be delivered
212 by mail, by hand delivery, or by electronic means to the
213 requester on the date of issuance.

214 (1) The estoppel certificate must contain all of the
215 following:

216 (a) The date of issuance.

217 (b) The amount of all assessments and other moneys owed to
218 the association by the parcel owner for a specific parcel as
219 recorded on the date of issuance. This amount is limited to
220 amounts authorized by statute to be recorded in the official
221 records of the association under s. 720.303(4).

222 (c) The amount of any additional assessments and other
223 moneys that are scheduled to become due for each day after the
224 date of issuance for the 30-day or 35-day effective period of
225 the estoppel certificate. This amount is limited to amounts
226 authorized by statute to be recorded in the official records of
227 the association under s. 720.303(4). In calculating the amounts
228 that are scheduled to become due, the association may assume
229 that any delinquent amounts will remain delinquent during the
230 effective period of the estoppel certificate.

231 (d) The amount of any fee charged by the association for
232 preparing and delivering the estoppel certificate. This fee is

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233 in addition to any other amounts on the certificate.

234 (e) The signature of an officer or agent of the
235 association.

236 (2) An estoppel certificate that is delivered on the date
237 of issuance has a 30-day effective period. An estoppel
238 certificate that is mailed to the requester has a 35-day
239 effective period.

240 (3) An association waives the right to collect any moneys
241 owed in excess of the amounts specified in the estoppel
242 certificate from any person who in good faith relies upon the
243 estoppel certificate and from that person's successors and
244 assigns the date on which a request for an estoppel certificate
245 is received from a parcel owner or mortgagee, or his or her
246 designee, the association shall provide a certificate signed by
247 an officer or authorized agent of the association stating all
248 assessments and other moneys owed to the association by the
249 parcel owner or mortgagee with respect to the parcel. An
250 association may charge a fee for the preparation of such
251 certificate, and the amount of such fee must be stated on the
252 certificate.

253 ~~(1) Any person other than a parcel owner who relies upon a~~
254 ~~certificate receives the benefits and protection thereof.~~

255 (4)~~(2)~~ A summary proceeding pursuant to s. 51.011 may be
256 brought to compel compliance with this section, and the
257 prevailing party is entitled to recover reasonable attorney
258 attorney's fees.

259 (5) (a) An association or its agent may charge a fee, which
260 may not exceed its reasonable costs to prepare and deliver the
261 estoppel certificate. However, the fee for the estoppel

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262 certificate may not exceed \$250 if on the date the certificate
263 is issued, no delinquent amounts are owed to the association for
264 the applicable parcel. If an estoppel certificate is requested
265 on an expedited basis and delivered within 3 business days after
266 the request, the association may charge an additional fee of
267 \$100. If delinquent amounts are owed to the association for the
268 applicable parcel, an additional fee for the certificate may not
269 exceed \$100. The association may not charge a fee for an
270 estoppel certificate that is issued more than 10 business days
271 after it receives the request for the certificate. The maximum
272 allowable fees charged in accordance with this section shall be
273 adjusted every 3 years in an amount equal to the annual
274 increases for that 3-year period in the Consumer Price Index for
275 All Urban Consumers, U.S. City Average, all items.

276 (b) If the estoppel certificate is requested in conjunction
277 with the sale or refinancing of a parcel, the fee for the
278 certificate shall be paid to the association from the closing or
279 settlement proceeds. If the closing does not occur, the fee for
280 the certificate is the obligation of the parcel owner, and the
281 association may collect the fee in the same manner as an
282 assessment against the parcel. An association may not require
283 the payment of any other fees as a condition for the preparation
284 or delivery of an estoppel certificate.

285 (6)-(3) The authority to charge a fee for the estoppel
286 certificate ~~must~~ shall be established by a written resolution
287 adopted by the board or provided by a written management,
288 bookkeeping, or maintenance contract ~~and is payable upon the~~
289 ~~preparation of the certificate. If the certificate is requested~~
290 ~~in conjunction with the sale or mortgage of a parcel but the~~

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291 ~~closing does not occur and no later than 30 days after the~~
292 ~~closing date for which the certificate was sought the preparer~~
293 ~~receives a written request, accompanied by reasonable~~
294 ~~documentation, that the sale did not occur from a payor that is~~
295 ~~not the parcel owner, the fee shall be refunded to that payor~~
296 ~~within 30 days after receipt of the request. The refund is the~~
297 ~~obligation of the parcel owner, and the association may collect~~
298 ~~it from that owner in the same manner as an assessment as~~
299 ~~provided in this section.~~

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