

By Senator Stargel

15-00298B-16

2016722__

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 an estoppel
8 certificate based upon the date of issuance and form
9 of delivery; providing that the association waives a
10 specified claim against a person or such person's
11 successors or assigns who in good faith rely on the
12 estoppel certificate; authorizing a summary proceeding
13 to be brought to compel an association to prepare or
14 deliver an estoppel certificate; requiring that the
15 authority to charge a fee for the estoppel certificate
16 be established by a specified written resolution or
17 provided by a written management, bookkeeping, or
18 maintenance contract; deleting obsolete provisions;
19 conforming provisions to changes made by the act;
20 providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Subsection (8) of section 718.116, Florida
25 Statutes, is amended to read:

26 718.116 Assessments; liability; lien and priority;
27 interest; collection.—

28 (8) The association shall issue an estoppel certificate to
29 a unit owner or the unit owner's designee or a unit mortgagee or

15-00298B-16

2016722__

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

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

37 1. The date of issuance.

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

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

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

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

56 (b) An estoppel certificate that is delivered on the date
57 of issuance has a 30-day effective period; however, an estoppel
58 certificate that is sent by United States mail to the requester

15-00298B-16

2016722__

59 has a 35-day effective period.

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

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

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

76 ~~(e)1.(e)~~ (e)1. Notwithstanding any limitation on transfer fees
77 contained in s. 718.112(2)(i), the association or its authorized
78 agent may charge a reasonable fee, which may not exceed
79 reasonable costs to prepare and deliver for the preparation of
80 the estoppel certificate.

81 2. The association may not charge a fee for an estoppel
82 certificate that is issued more than 10 business days after it
83 receives the request for ~~The amount of the fee must be included~~
84 ~~on~~ the estoppel certificate.

85 3. If the estoppel certificate is requested in conjunction
86 with the sale or refinancing of a unit, the fee for the estoppel
87 certificate shall be paid to the association from the closing or

15-00298B-16

2016722__

88 settlement proceeds only. If the closing does not occur, the fee
89 for the estoppel certificate is the obligation of the unit owner
90 and the association may collect the fee in the same manner as an
91 assessment against the unit.

92 4. An association may not require the payment of any fees
93 other than those in this paragraph as a condition for the
94 preparation or delivery of an estoppel certificate.

95 (f) ~~(d)~~ The authority to charge a fee for the estoppel
96 certificate ~~shall~~ must be established by a written resolution
97 adopted by the board or provided by a written management,
98 bookkeeping, or maintenance contract ~~and is payable upon the~~
99 ~~preparation of the certificate. If the certificate is requested~~
100 ~~in conjunction with the sale or mortgage of a unit but the~~
101 ~~closing does not occur and no later than 30 days after the~~
102 ~~closing date for which the certificate was sought the preparer~~
103 ~~receives a written request, accompanied by reasonable~~
104 ~~documentation, that the sale did not occur from a payor that is~~
105 ~~not the unit owner, the fee shall be refunded to that payor~~
106 ~~within 30 days after receipt of the request. The refund is the~~
107 ~~obligation of the unit owner, and the association may collect it~~
108 ~~from that owner in the same manner as an assessment as provided~~
109 ~~in this section.~~

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

112 719.108 Rents and assessments; liability; lien and
113 priority; interest; collection; cooperative ownership.—

114 (6) The association shall issue an estoppel certificate to
115 a unit owner or the unit owner's designee or a unit mortgagee or
116 the unit mortgagee's designee within 10 business ~~15~~ days after

15-00298B-16

2016722__

117 receiving a written or an electronic request for the estoppel
118 certificate. The delivery of the estoppel certificate must be
119 made by United States mail, by hand delivery, or by electronic
120 transmission to the requester on the date of issuance.

121 (a) The estoppel certificate must contain all of the
122 following:

123 1. The date of issuance.

124 2. An itemization of all assessments and other moneys owed
125 to the association by the unit owner for a specific unit on the
126 date of issuance. This itemization is limited to the amounts
127 authorized by statute to be recorded in the official records of
128 the association under s. 719.104(2).

129 3. An itemization of any additional assessments and other
130 moneys that are scheduled to become due for each day after the
131 date of issuance for the effective period of the estoppel
132 certificate. This itemization is limited to the amounts
133 authorized by statute to be recorded in the official records of
134 the association under s. 719.104(2). In calculating the amounts
135 that are scheduled to become due, the association may assume
136 that any delinquent amounts will remain delinquent during the
137 effective period of the estoppel certificate.

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

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

142 (b) An estoppel certificate that is delivered on the date
143 of issuance has a 30-day effective period; however, an estoppel
144 certificate that is sent by United States mail to the requester
145 has a 35-day effective period.

15-00298B-16

2016722__

146 (c) The association waives the right to collect any moneys
147 owed in excess of the amounts specified in the estoppel
148 certificate from any person who in good faith relies upon the
149 estoppel certificate and from the person's successors and
150 assigns.

151 (d) A summary proceeding pursuant to s. 51.011 may be
152 brought to compel compliance with this subsection, and in any
153 such action the prevailing party is entitled to recover
154 reasonable attorney fees by a unit owner or mortgagee, the
155 association shall provide a certificate stating all assessments
156 and other moneys owed to the association by the unit owner with
157 respect to the cooperative parcel. Any person other than the
158 unit owner who relies upon such certificate shall be protected
159 thereby.

160 (e)1. Notwithstanding any limitation on transfer fees
161 contained in s. 719.106(1)(i), the association or its authorized
162 agent may charge a reasonable fee, which may not exceed its
163 reasonable costs to prepare and deliver for the preparation of
164 the estoppel certificate.

165 2. The association may not charge a fee for an estoppel
166 certificate that is issued more than 10 business days after it
167 receives the request for the estoppel certificate.

168 3. If the estoppel certificate is requested in conjunction
169 with the sale or refinancing of a unit, the fee for the estoppel
170 certificate shall be paid to the association from the closing or
171 settlement proceeds only. If the closing does not occur, the fee
172 for the estoppel certificate is the obligation of the unit owner
173 and the association may collect the fee in the same manner as an
174 assessment against the unit.

15-00298B-16

2016722__

175 4. An association may not require the payment of any fees
 176 other than those in this paragraph as a condition for the
 177 preparation or delivery of an estoppel certificate.

178 (f) The authority to charge a fee for the estoppel
 179 certificate must be established by a written resolution adopted
 180 by the board or provided by a written management, bookkeeping,
 181 or maintenance contract.

182 Section 3. Section 720.30851, Florida Statutes, is amended
 183 to read:

184 720.30851 Estoppel certificates.—The association shall
 185 issue an estoppel certificate to a parcel owner or the parcel
 186 owner’s designee or a mortgagee or the mortgagee’s designee
 187 within 10 business ~~15~~ days after receiving a written or an
 188 electronic request for the estoppel certificate. The delivery of
 189 the estoppel certificate must be made by United States mail, by
 190 hand delivery, or by electronic transmission to the requester on
 191 the date of issuance.

192 (1) The estoppel certificate must contain all of the
 193 following:

194 (a) The date of issuance.

195 (b) An itemization of all assessments and other moneys owed
 196 to the association by the parcel owner for a specific parcel as
 197 recorded on the date of issuance. This itemization is limited to
 198 the amounts authorized by statute to be recorded in the official
 199 records of the association under s. 720.303(4).

200 (c) An itemization of any additional assessments and other
 201 moneys that are scheduled to become due for each day after the
 202 date of issuance for the effective period of the estoppel
 203 certificate. This itemization is limited to the amounts

15-00298B-16

2016722__

204 authorized by statute to be recorded in the official records of
205 the association under s. 720.303(4). In calculating the amounts
206 that are scheduled to become due, the association may assume
207 that any delinquent amounts will remain delinquent during the
208 effective period of the estoppel certificate.

209 (d) The amount of any fee charged by the association for
210 preparing and delivering the estoppel certificate. This fee is
211 in addition to any other amounts on the estoppel certificate.

212 (e) The signature of an officer or agent of the
213 association.

214 (2) An estoppel certificate that is delivered on the date
215 of issuance has a 30-day effective period; however, an estoppel
216 certificate that is sent by United States mail to the requester
217 has a 35-day effective period.

218 (3) The association waives the right to collect any moneys
219 owed in excess of the amounts specified in the estoppel
220 certificate from any person who in good faith relies upon the
221 estoppel certificate and from the person's successors and
222 assigns the date on which a request for an estoppel certificate
223 is received from a parcel owner or mortgagee, or his or her
224 designee, the association shall provide a certificate signed by
225 an officer or authorized agent of the association stating all
226 assessments and other moneys owed to the association by the
227 parcel owner or mortgagee with respect to the parcel. An
228 association may charge a fee for the preparation of such
229 certificate, and the amount of such fee must be stated on the
230 certificate.

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

15-00298B-16

2016722__

233 (4)~~(2)~~ A summary proceeding pursuant to s. 51.011 may be
234 brought to compel compliance with this section, and the
235 prevailing party is entitled to recover reasonable attorney
236 ~~attorney's~~ fees.

237 (5) (a) The association or its agent may charge a fee, which
238 may not exceed reasonable costs to prepare and deliver the
239 estoppel certificate.

240 (b) The association may not charge a fee for an estoppel
241 certificate that is issued more than 10 business days after it
242 receives the request for the estoppel certificate.

243 (c) If the estoppel certificate is requested in conjunction
244 with the sale or refinancing of a parcel, the fee for the
245 estoppel certificate shall be paid to the association from the
246 closing or settlement proceeds only. If the closing does not
247 occur, the fee for the estoppel certificate is the obligation of
248 the parcel owner and the association may collect the fee in the
249 same manner as an assessment against the parcel.

250 (d) An association may not require the payment of any fees
251 other than those in this subsection as a condition for the
252 preparation or delivery of an estoppel certificate.

253 (6)~~(3)~~ The authority to charge a fee for the estoppel
254 certificate must ~~shall~~ be established by a written resolution
255 adopted by the board or provided by a written management,
256 bookkeeping, or maintenance contract ~~and is payable upon the~~
257 ~~preparation of the certificate. If the certificate is requested~~
258 ~~in conjunction with the sale or mortgage of a parcel but the~~
259 ~~closing does not occur and no later than 30 days after the~~
260 ~~closing date for which the certificate was sought the preparer~~
261 ~~receives a written request, accompanied by reasonable~~

15-00298B-16

2016722__

262 ~~documentation, that the sale did not occur from a payor that is~~
263 ~~not the parcel owner, the fee shall be refunded to that payor~~
264 ~~within 30 days after receipt of the request. The refund is the~~
265 ~~obligation of the parcel owner, and the association may collect~~
266 ~~it from that owner in the same manner as an assessment as~~
267 ~~provided in this section.~~

268 Section 4. This act shall take effect July 1, 2016.