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LEGISLATIVE ACTION

Senate

.

House

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Floor: 1/RS/2R

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03/02/2022 06:47 PM

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Senator Burgess moved the following:

Senate Amendment (with title amendment)

Delete lines 76 - 253

and insert:

1. The ~~total~~ unpaid balance of the loan properly due under or secured by the mortgage as of the date specified in the estoppel letter, including an itemization of the principal, interest, and any other charges comprising the unpaid balance.

2. Interest accruing on a per-day basis for the unpaid balance, if applicable.

(c)1. Except for mortgages for which a notice of lis



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12 pendens in a foreclosure action or a suggestion of bankruptcy
13 has been properly filed and recorded, the mortgagee or mortgage
14 servicer may not qualify, reserve the right to change, or
15 condition or disclaim the reliance of others on the information
16 provided in an estoppel letter under paragraph (b), and any
17 attempt to do so is void and unenforceable. However, if the
18 mortgagee or mortgage servicer determines that any of the
19 information provided in the estoppel letter under paragraph (b)
20 was inaccurate, the mortgagee or mortgage servicer may send a
21 corrected estoppel letter to the person who requested the
22 estoppel letter.

23 2. If the person who requested the original estoppel letter
24 under paragraph (a) receives a corrected estoppel letter by 3
25 p.m. in such person's time zone at least 1 business day before a
26 payment is issued in reliance on the previous estoppel letter,
27 the corrected estoppel letter supersedes all prior estoppel
28 letters. The corrected estoppel letter is considered received by
29 the person who requested the original estoppel letter:

30 a. Five business days after the corrected estoppel letter,
31 which is to be sent by first-class mail, is deposited with the
32 United States Postal Service;

33 b. The day the corrected estoppel letter is delivered by a
34 common carrier delivery service; or

35 c. The day the corrected estoppel letter is sent by e-mail,
36 facsimile, or other electronic means or through an automated
37 system provided by the mortgagee or mortgage servicer for
38 requesting an estoppel letter.

39 3. If any of the information provided in the estoppel
40 letter under paragraph (b) was inaccurate, but the person who



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41 requested the estoppel letter did not timely receive a corrected
42 estoppel letter as provided in subparagraph 2., the mortgagee or
43 mortgage servicer may not deny the accuracy of such information
44 as against any person who relied on it.

45 (d)3. The mortgagee or mortgage servicer ~~of the mortgagee~~
46 acting in accordance with a request in substantial compliance
47 with this subsection ~~paragraph~~ is expressly discharged from any
48 obligation or liability to any person on account of the release
49 of the requested information, other than the obligation to
50 comply with the terms of the estoppel letter.

51 (e) If a payment is received at the location and in the
52 manner specified by the mortgagee or mortgage servicer, the
53 mortgagee or mortgage servicer must accept, and may not return,
54 any payment received in reliance on an estoppel letter and must
55 promptly apply such payment to the unpaid balance of the loan
56 properly due under or secured by the mortgage.

57 (f)1. A written request for an estoppel letter under
58 paragraph (a) must be sent to the mortgagee or mortgage servicer
59 by first-class mail, postage prepaid; by common carrier delivery
60 service; or by e-mail, facsimile, or other electronic means at
61 the address made available by the mortgagee or mortgage servicer
62 for such purpose or through an automated system provided by the
63 mortgagee or mortgage servicer for requesting an estoppel
64 letter. The written request is considered received by the
65 mortgagee or mortgage servicer:

66 a. Five business days after the request sent by first-class
67 mail is deposited with the United States Postal Service;

68 b. The day the request is delivered by a common carrier
69 delivery service; or



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70 c. The day the request is sent by e-mail, facsimile, or
71 other electronic means or through an automated system provided
72 by the mortgagee or mortgage servicer for requesting an estoppel
73 letter.

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75 If any of the days in sub-subparagraph a., sub-subparagraph b.,
76 or sub-subparagraph c. falls on a Saturday, Sunday, or legal
77 holiday under the laws of the state or the United States, the
78 request for an estoppel letter is considered timely received by
79 the mortgagee or mortgage servicer on the next business day.

80 2. The mortgagee or mortgage servicer must send an estoppel
81 letter by first-class mail; by common carrier delivery service;
82 or by e-mail, facsimile, or other electronic means, as directed
83 in the written request, or through an automated system provided
84 by the mortgagee or mortgage servicer for this purpose. However,
85 the mortgagee or mortgage servicer is not required to pay for a
86 common carrier delivery service. If the 10-day period after a
87 written request is received by the mortgagee or mortgage
88 servicer ends on a Saturday, Sunday, or legal holiday under the
89 laws of the state or the United States, the estoppel letter is
90 considered timely if it is sent by the close of business on the
91 next business day.

92 (g) ~~(e)~~ Notwithstanding s. 655.059, a mortgagee or mortgage
93 servicer ~~mortgage holder~~ may provide the financial information
94 required under this subsection to a person authorized under this
95 subsection to request the financial information ~~notwithstanding~~
96 s. 655.059.

97 (2) Within 60 days after the unpaid balance of a loan
98 secured by a mortgage has been fully paid or paid pursuant to an



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99 estoppel letter under subsection (1), whichever is earlier, the
100 mortgagee or mortgage servicer shall execute in writing an
101 instrument acknowledging satisfaction of the mortgage; have the
102 instrument acknowledged, or proven, and send it or cause it to
103 be sent for recording in the official records of the proper
104 county; and send or cause to be sent the recorded satisfaction
105 to the mortgagor or record title owner of the property. The
106 prevailing party in a civil action brought against the mortgagee
107 or mortgage servicer to enforce the requirements of this
108 subsection is entitled to reasonable attorney fees and costs.

109 (3)(2) Within 60 days after the unpaid balance ~~Whenever the~~
110 ~~amount of money due on a any mortgage, lien, or judgment has~~
111 ~~been fully paid to the person or party entitled to the payment~~
112 ~~thereof, the mortgagee, creditor, or assignee, or the attorney~~
113 ~~of record in the case of a judgment, to whom the payment was~~
114 ~~made, shall execute in writing an instrument acknowledging~~
115 ~~satisfaction of the mortgage, lien, or judgment; and have the~~
116 ~~instrument acknowledged, or proven, and send it or cause it to~~
117 ~~be sent for recording duly entered in the official records of~~
118 ~~the proper county; and. Within 60 days after the date of receipt~~
119 ~~of the full payment of the mortgage, lien, or judgment, the~~
120 ~~person required to acknowledge satisfaction of the mortgage,~~
121 ~~lien, or judgment shall send or cause to be sent the recorded~~
122 ~~satisfaction to the person who has made the full payment. In the~~
123 ~~case of a civil action arising out of this section, The~~
124 prevailing party in a civil action brought against the creditor
125 or assignee, or the attorney of record in the case of a
126 judgment, to enforce the requirements of this subsection is
127 entitled to reasonable attorney fees and costs.



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128 ~~(4)-(3)~~ When ~~Whenever~~ a writ of execution has been issued,
129 docketed, and indexed with a sheriff and the judgment upon which
130 it was issued has been fully paid, it is the responsibility of
131 the person party receiving payment to request, in writing,
132 addressed to the sheriff, return of the writ of execution as
133 fully satisfied.

134 Section 2. Paragraph (a) of subsection (1) and subsection
135 (2) of section 701.041, Florida Statutes, are amended to read:

136 701.041 Title insurer; mortgage release certificate.—

137 (1) DEFINITIONS.—For purposes of this section:

138 (a) "Estoppel letter" means a statement containing, at a
139 minimum, the information required in s. 701.04(1)(b) ~~of the~~
140 amount of:

141 ~~1. The unpaid balance of a loan secured by a mortgage,~~
142 ~~including principal, interest, and any other charges properly~~
143 ~~due under or secured by the mortgage.~~

144 ~~2. Interest on a per-day basis for the unpaid balance.~~

145 (2) CERTIFICATE OF RELEASE.—An officer or duly appointed
146 agent of a title insurer may, on behalf of a mortgagor or a
147 person who acquired from the mortgagor title to all or a part of
148 the property described in a mortgage, execute a certificate of
149 release that complies with the requirements of this section and
150 record the certificate of release in the real property records
151 of each county in which the mortgage is recorded if a
152 satisfaction or release of the mortgage has not been executed
153 and recorded after the date payment in full of the loan properly
154 due under or secured by the mortgage was made in accordance with
155 an estoppel letter ~~a payoff statement~~ furnished by the mortgagee
156 or ~~the~~ mortgage servicer.



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157 Section 3. The Legislature finds that the timeliness and
158 accuracy of an estoppel letter is critical because the parties
159 to a real estate transaction must rely on the estoppel letter to
160 establish the loan payoff amount necessary to release the
161 mortgage, which in turn will allow the owner to confer clean
162 title to a buyer or to refinance the property. The Legislature
163 further finds that estoppel letters increasingly contain
164 conditional language disclaiming the ability of an owner to rely
165 on the stated loan payoff amounts, extending even to the return
166 of such payments submitted by owners, creating unnecessary
167 delays in the efficient operation of the state's real estate
168 market, which is a vital economic contributor to the state, and
169 imposing needless costs and burdens on property owners and
170 buyers. Additionally, the Legislature finds that real estate
171 lending, mortgages, real estate transactions, and estoppel
172 letters are extensively regulated under both state and federal
173 law. The Legislature finds and determines that this act makes
174 changes to state law that appropriately balance the parties'
175 interests, are reasonable and necessary to serve and achieve an
176 important state interest, are necessary for the prosperity and
177 welfare of the state and its property owners and inhabitants,
178 and must be applied to existing mortgages in order to provide
179 effective relief.

180 Section 4. This act applies to all mortgages, and all loans
181 secured by such mortgages, existing as of, or entered into on or
182 after, October 1, 2022.

183 Section 5. This act shall take effect October 1, 2022.

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185 ===== T I T L E A M E N D M E N T =====



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186 And the title is amended as follows:

187 Delete lines 18 - 36

188 and insert:

189 providing methods for sending a corrected estoppel
190 letter; prohibiting the mortgagee or mortgage servicer
191 from denying the accuracy of certain information
192 provided in an estoppel letter under certain
193 circumstances; prohibiting payments received pursuant
194 to an estoppel letter from being returned and
195 requiring such payments to be promptly applied to any
196 unpaid balance of the loan properly due under or
197 secured by a mortgage; providing methods for sending a
198 written request for an estoppel letter and for sending
199 an estoppel letter; providing that the mortgagee or
200 mortgage servicer is not required to pay for a common
201 carrier delivery service; requiring the mortgagee or
202 mortgage servicer to take certain actions within a
203 specified time after the unpaid balance of a loan
204 properly secured by a mortgage has been fully paid or
205 paid pursuant to an estoppel letter; authorizing
206 reasonable attorney fees and costs; amending s.