

By Senator Burgess

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1 A bill to be entitled
2 An act relating to mortgage payoff letters; amending
3 s. 701.04, F.S.; revising the timeframe in which
4 mortgagees must send an estoppel letter after
5 receiving a written request; revising requirements for
6 written requests for estoppel letters; revising
7 requirements for estoppel letters; prohibiting
8 mortgagees or servicers of mortgages from taking
9 certain actions relating to reliance on information in
10 estoppel letters; authorizing mortgagees or servicers
11 of mortgages to send corrected estoppel letters that
12 supersede earlier estoppel letters under certain
13 circumstances; prohibiting mortgagees or servicers of
14 mortgages from denying the accuracy of information in
15 estoppel letters if a person reasonably and
16 detrimentally relied upon such information; providing
17 prohibitions and requirements for mortgagees and
18 servicers of mortgages relating to funds received in
19 response to an estoppel letter; requiring mortgagees
20 and servicers of mortgages to execute and record a
21 specified instrument after certain payments are
22 received; specifying that recording a satisfaction of
23 the mortgage does not relieve mortgagors or successors
24 or assigns of mortgagors from personal liability on
25 the loan or obligations secured by the mortgage;
26 entitling prevailing parties to attorney fees and
27 costs; amending s. 701.041, F.S.; revising the
28 definition of the term "estoppel letter"; making a
29 technical change; providing an effective date.

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

Section 1. Section 701.04, Florida Statutes, is amended to read:

701.04 Cancellation of mortgages, liens, and judgments.—

(1) (a) Within 10 ~~14~~ days after receipt of the written request of a mortgagor, a record title owner of the property, a fiduciary or trustee lawfully acting on behalf of a record title owner, or any other person lawfully authorized to act on behalf of a mortgagor or record title owner of the property, the mortgagee shall send holder of a mortgage shall deliver or cause the servicer of the mortgage to send deliver to the person making the request at a place designated in the written request an estoppel letter setting forth the unpaid balance of the loan properly due under or secured by the mortgage. If the request is made by a person other than a mortgagor, the request must include a copy of the instrument showing title in the property or lawful authorization

~~(a) If the mortgagor, or any person lawfully authorized to act on behalf of the mortgagor, makes the request, the estoppel letter must include an itemization of the principal, interest, and any other charges properly due under or secured by the mortgage and interest on a per-day basis for the unpaid balance.~~

~~(b) If a record title owner of the property, or any person lawfully authorized to act on behalf of a mortgagor or record title owner of the property, makes the request:~~

~~1. The request must include a copy of the instrument showing title in the property or lawful authorization.~~

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59 (b)2. The estoppel letter ~~may include the itemization of~~
60 ~~information required under paragraph (a), but must,~~ at a
61 minimum, include:

62 1. The ~~total~~ unpaid balance of the loan properly due under
63 or secured by the mortgage, including an itemization of the
64 principal, interest, and other charges comprising the unpaid
65 balance; and

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

67 (c) The mortgagee or servicer of the mortgage may not
68 qualify, reserve the right to change, or condition or disclaim
69 the reliance of others on the required information provided in
70 the estoppel letter pursuant to paragraph (b) ~~on a per-day~~
71 basis.

72 (d)3. The mortgagee or servicer of the mortgagee acting in
73 accordance with a request in substantial compliance with this
74 subsection paragraph is expressly discharged from any obligation
75 or liability to any person on account of the release of the
76 requested information, other than the obligation to comply with
77 the terms of the estoppel letter.

78 (e) If the mortgagee or servicer of the mortgage determines
79 that any of the required information provided in the estoppel
80 letter pursuant to paragraph (b) was inaccurate, the mortgagee
81 or servicer of the mortgage may send a corrected estoppel
82 letter. If the mortgagor or record title owner of the property,
83 or any person lawfully authorized to act on behalf of the
84 mortgagor or record title owner, receives and has a reasonable
85 opportunity to act upon a corrected estoppel letter before
86 making payment, the corrected estoppel letter supersedes any
87 earlier estoppel letter.

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88 (f) If any of the required information provided in the
89 estoppel letter pursuant to paragraph (b) was inaccurate, the
90 mortgagee or servicer of the mortgage may not deny the accuracy
91 of that information if a person reasonably and detrimentally
92 relied upon such information.

93 (g) A mortgagee or servicer of the mortgage may not refuse
94 to accept or return any funds received in response to an
95 estoppel letter and must promptly apply such funds to the unpaid
96 balance of the loan properly due under or secured by the
97 mortgage.

98 (h)1. A written request for an estoppel letter under
99 paragraph (a) must be sent to the mortgagee or servicer of the
100 mortgage, using address information made available by the
101 mortgagee or servicer of the mortgage for such purpose, by
102 first-class mail, common carrier delivery service, facsimile
103 transmission, or e-mail. The request shall be deemed received by
104 the mortgagee or servicer the day that it is sent by facsimile
105 transmission or e-mail, the fifth day after it is deposited with
106 the U.S. Postal Service for prepaid first-class delivery, or the
107 day of delivery by a common carrier delivery service.

108 2. The mortgagee or servicer of the mortgage shall send the
109 estoppel letter by first-class mail, common carrier delivery
110 service, facsimile transmission, or e-mail, as directed in the
111 written request, provided, however, that the mortgagee or
112 servicer is not required to pay for common carrier delivery
113 service. If the 10th day after receipt of a written request is a
114 Saturday, Sunday, or legal holiday under the laws of this state
115 or the United States, the estoppel letter shall be considered
116 timely if sent on the next business day.

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117 (i)~~(e)~~ A mortgage holder may provide the financial
118 information required under this subsection to a person
119 authorized under this subsection to request the financial
120 information notwithstanding s. 655.059.

121 (2) Whenever the amount of money due on any mortgage has
122 either been fully paid or paid pursuant to an estoppel letter,
123 the mortgagee or servicer of the mortgage must, within 60 days,
124 execute in writing an instrument acknowledging satisfaction of
125 the mortgage and have the instrument acknowledged, or proven,
126 and duly entered in the official records of the proper county
127 and send or cause to be sent the recorded satisfaction to the
128 mortgagor or record title owner of the property. Recording a
129 satisfaction of the mortgage by the mortgagee or servicer of the
130 mortgage does not relieve the mortgagor, or the mortgagor's
131 successors or assigns, from any personal liability on the loan
132 or other obligations secured by the mortgage.

133 (3) Whenever the amount of money due on any mortgage, lien,
134 or judgment has been fully paid to the person or party entitled
135 to the payment thereof, the mortgagee, creditor, or assignee, or
136 the attorney of record in the case of a judgment, to whom the
137 payment was made, shall execute in writing an instrument
138 acknowledging satisfaction of the mortgage, lien, or judgment
139 and have the instrument acknowledged, or proven, and duly
140 entered in the official records of the proper county. Within 60
141 days after the date of receipt of the full payment of the
142 mortgage, lien, or judgment, the person required to acknowledge
143 satisfaction of the mortgage, lien, or judgment shall send or
144 cause to be sent the recorded satisfaction to the person who has
145 made the full payment. In the case of a civil action arising out

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146 of this section, the prevailing party is entitled to attorney
147 fees and costs.

148 ~~(4)~~(3) Whenever a writ of execution has been issued,
149 docketed, and indexed with a sheriff and the judgment upon which
150 it was issued has been fully paid, it is the responsibility of
151 the party receiving payment to request, in writing, addressed to
152 the sheriff, return of the writ of execution as fully satisfied.

153 (5) In the case of a civil action arising out of this
154 section, the prevailing party is entitled to attorney fees and
155 costs.

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

158 701.041 Title insurer; mortgage release certificate.—

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

160 (a) "Estoppel letter" means a statement of the amount of:

161 1. The unpaid balance of a loan properly due under or
162 secured by a mortgage, including principal, interest, and any
163 other charges comprising the unpaid balance ~~properly due under~~
164 ~~or secured by the mortgage.~~

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

166 (2) CERTIFICATE OF RELEASE.—An officer or duly appointed
167 agent of a title insurer may, on behalf of a mortgagor or a
168 person who acquired from the mortgagor title to all or a part of
169 the property described in a mortgage, execute a certificate of
170 release that complies with the requirements of this section and
171 record the certificate of release in the real property records
172 of each county in which the mortgage is recorded if a
173 satisfaction or release of the mortgage has not been executed
174 and recorded after the date payment in full of the loan secured

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175 by the mortgage was made in accordance with an estoppel letter a
176 ~~payoff statement~~ furnished by the mortgagee or the mortgage
177 servicer.

178 Section 3. This act shall take effect October 1, 2022.