

1                   A bill to be entitled  
2           An act relating to mortgage payoff letters; amending  
3           s. 701.04, F.S.; requiring a mortgagee or servicer of  
4           a mortgage to send or cause to be sent an estoppel  
5           letter with specified information to certain persons  
6           within a specified time; requiring a copy of the  
7           instrument showing title in the property or other  
8           lawful authorization under certain circumstances;  
9           providing requirements for an estoppel letter;  
10          prohibiting certain actions by the mortgagee or  
11          servicer of the mortgage; authorizing a corrected  
12          estoppel letter under certain circumstances; providing  
13          that a corrected estoppel letter supersedes any  
14          previous estoppel letter under certain circumstances;  
15          prohibiting the mortgagee or servicer of the mortgage  
16          from denying the accuracy of an estoppel letter;  
17          requiring payments received pursuant to an estoppel  
18          letter to be applied to any unpaid balance of a  
19          mortgage; providing methods for sending a written  
20          request for an estoppel letter and for sending the  
21          estoppel letter; providing that the mortgagee or  
22          servicer of the mortgage is not responsible for the  
23          costs of a common carrier delivery service; providing  
24          for liability under certain circumstances; authorizing  
25          certain damages and attorney fees and costs;

26 prohibiting punitive damages; requiring the mortgagee  
 27 or servicer of the mortgage to take certain actions  
 28 within a specified time after the unpaid balance of a  
 29 mortgage has been fully paid; providing that certain  
 30 persons may still be personally liable after recording  
 31 a satisfaction of a mortgage; amending s. 701.041,  
 32 F.S.; revising a definition; conforming provisions to  
 33 changes made by the act; providing an effective date.  
 34

35 Be It Enacted by the Legislature of the State of Florida:  
 36

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

39 701.04 Cancellation of mortgages, liens, and judgments.—

40 (1) (a) Within 10 ~~14~~ days after receipt of the written  
 41 request of a mortgagor, a record title owner of the property, a  
 42 fiduciary or trustee lawfully acting on behalf of a record title  
 43 owner, or any other person lawfully authorized to act on behalf  
 44 of a mortgagor or record title owner of the property, the  
 45 mortgagee ~~holder of a mortgage shall deliver or cause the~~  
 46 servicer of the mortgage shall send or cause to be sent to  
 47 ~~deliver to the person making the request at a place designated~~  
 48 ~~in the written request~~ an estoppel letter setting forth the  
 49 unpaid balance of the loan properly due under or secured by the  
 50 mortgage as of the payoff date specified in the written request.

51 If the written request is made by a person other than the  
 52 mortgagor, the request must include a copy of the instrument  
 53 showing title in the property or other lawful authorization.

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

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

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

64 ~~2. The estoppel letter may include the itemization of~~  
 65 ~~information required under paragraph (a), but must at a minimum~~  
 66 ~~include:~~

67 1. The ~~total~~ unpaid balance of the loan properly due under  
 68 or secured by the mortgage as of the payoff date specified in  
 69 the written request, including an itemization of the principal,  
 70 interest, and any other charges comprising the unpaid balance ~~on~~  
 71 a per-day basis.

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

73 (c)1. The mortgagee or servicer of the mortgage may not  
 74 qualify, reserve the right to change, or condition or disclaim  
 75 the reliance of others on the information provided in the

76 estoppel letter under paragraph (b), and any attempt to do so is  
77 void and unenforceable. However, if the mortgagee or servicer of  
78 the mortgage determines that any of the information provided in  
79 the estoppel letter under paragraph (b) was understated, the  
80 mortgagee or servicer of the mortgage may send a corrected  
81 estoppel letter.

82 2. If the mortgagor or record title owner of the property,  
83 or any other person lawfully authorized to act on behalf of the  
84 mortgagor or record title owner of the property, receives and  
85 has a reasonable opportunity to act upon a corrected estoppel  
86 letter before making a payment, the corrected estoppel letter  
87 supersedes any previous estoppel letter.

88 3. If any of the information provided in the estoppel  
89 letter under paragraph (b) was understated, the mortgagee or  
90 servicer of the mortgage may not deny the accuracy of such  
91 information if a person reasonably and detrimentally relied on  
92 that information.

93 (d)3- The mortgagee or servicer of the mortgage ~~mortgagee~~  
94 acting in accordance with a request in substantial compliance  
95 with this subsection ~~paragraph~~ is expressly discharged from any  
96 obligation or liability to any person on account of the release  
97 of the requested information, other than the obligation to  
98 comply with the terms of the estoppel letter.

99 (e) The mortgagee or servicer of the mortgage may not  
100 refuse to accept or return any payment received in response to

101 an estoppel letter but must promptly apply such payment to the  
102 unpaid balance of the loan properly due under or secured by the  
103 mortgage.

104 (f)1. A written request for an estoppel letter under  
105 paragraph (a) must be sent to the mortgagee or servicer of the  
106 mortgage at the address made available by the mortgagee or  
107 servicer of the mortgage for such purpose by first-class mail, a  
108 common carrier delivery service, or e-mail or other electronic  
109 format or facsimile. The written request is considered received  
110 by the mortgagee or servicer of the mortgage:

111 a. Four days after the request, properly addressed with  
112 postage prepaid for first-class delivery, is deposited with the  
113 United States Postal Service;

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

116 c. The day the request is sent by e-mail or other  
117 electronic format or facsimile.

118 2. The mortgagee or servicer of the mortgage must send the  
119 estoppel letter by first-class mail, a common carrier delivery  
120 service, or e-mail or other electronic format or facsimile as  
121 directed in the written request. However, the mortgagee or  
122 servicer of the mortgage is not required to pay for a common  
123 carrier delivery service. If the 10-day period after a written  
124 request is received by the mortgagee or servicer of the mortgage  
125 ends on a Saturday, Sunday, or legal holiday, the estoppel

126 letter is considered timely if it is sent by the close of  
127 business on the next business day.

128 (g) If a mortgagee or servicer of the mortgage does not  
129 timely send the estoppel letter in compliance with this  
130 subsection, the mortgagee or servicer of the mortgage is liable  
131 to the mortgagor or record title owner of the property, or any  
132 other person lawfully authorized to act on behalf of the  
133 mortgagor or record title owner of the property, for actual  
134 damages caused by such failure plus \$500 in statutory damages.  
135 Punitive damages may not be awarded in a civil action brought  
136 under this paragraph. The prevailing party in a civil action  
137 brought under this paragraph is entitled to reasonable attorney  
138 fees and costs.

139 (h)~~(e)~~ Notwithstanding s. 655.059, a mortgagee or servicer  
140 of the mortgage holder may provide the financial information  
141 required under this subsection to a person authorized under this  
142 subsection to request the financial information notwithstanding  
143 s. 655.059.

144 (2) Within 60 days after the unpaid balance on a mortgage  
145 has been fully paid or has been paid pursuant to an estoppel  
146 letter, whichever is earlier, the mortgagee or servicer of the  
147 mortgage shall execute in writing an instrument acknowledging  
148 satisfaction of the mortgage; have the instrument acknowledged,  
149 or proven, and duly entered in the official records of the  
150 proper county; and send or cause to be sent the recorded

151 satisfaction to the mortgagor or record title owner of the  
152 property. The recorded satisfaction of the mortgage does not  
153 relieve the mortgagor or record title owner of the property, or  
154 their successors or assigns, from any personal liability on the  
155 loan or other obligations secured by the mortgage. The  
156 prevailing party in a civil action brought under this subsection  
157 is entitled to reasonable attorney fees and costs.

158 (3)-(2) Within 60 days after the unpaid balance ~~Whenever~~  
159 ~~the amount of money due on a any mortgage, lien, or judgment has~~  
160 ~~been fully paid to the person or party entitled to the payment~~  
161 ~~thereof, the mortgagee, creditor, or assignee, or the attorney~~  
162 ~~of record in the case of a judgment, to whom the payment was~~  
163 ~~made, shall execute in writing an instrument acknowledging~~  
164 ~~satisfaction of the mortgage, lien, or judgment; and have the~~  
165 ~~instrument acknowledged, or proven, and duly entered in the~~  
166 ~~official records of the proper county; and. Within 60 days after~~  
167 ~~the date of receipt of the full payment of the mortgage, lien,~~  
168 ~~or judgment, the person required to acknowledge satisfaction of~~  
169 ~~the mortgage, lien, or judgment shall send or cause to be sent~~  
170 ~~the recorded satisfaction to the person~~ or party ~~who has made~~  
171 ~~the full payment. In the case of a civil action arising out of~~  
172 ~~this section, The prevailing party~~ in a civil action brought  
173 under this subsection ~~is entitled to~~ reasonable ~~attorney fees~~  
174 ~~and costs.~~

175 (4)-(3) When ~~Whenever~~ a writ of execution has been issued,

176 docketed, and indexed with a sheriff and the judgment upon which  
 177 it was issued has been fully paid, it is the responsibility of  
 178 the party receiving payment to request, in writing, addressed to  
 179 the sheriff, return of the writ of execution as fully satisfied.

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

182 701.041 Title insurer; mortgage release certificate.—

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

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

185 1. The unpaid balance of a loan properly due under or  
 186 secured by a mortgage as of the payoff date specified in the  
 187 written request, including an itemization of the principal,  
 188 interest, and any other charges comprising the unpaid balance  
 189 ~~properly due under or secured by the mortgage.~~

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

191 (2) CERTIFICATE OF RELEASE.—An officer or duly appointed  
 192 agent of a title insurer may, on behalf of a mortgagor or a  
 193 person who acquired from the mortgagor title to all or a part of  
 194 the property described in a mortgage, execute a certificate of  
 195 release that complies with the requirements of this section and  
 196 record the certificate of release in the real property records  
 197 of each county in which the mortgage is recorded if a  
 198 satisfaction or release of the mortgage has not been executed  
 199 and recorded after the date payment in full of the loan properly  
 200 due under or secured by the mortgage was made in accordance with



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201 | an estoppel letter ~~a payoff statement~~ furnished by the mortgagee  
202 | or ~~the mortgage servicer~~ of the mortgage.

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