

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 for periodic adjustment of the maximum
17 amounts; requiring the Department of Business and
18 Professional Regulation to calculate and publish the
19 maximum allowable fees on its website; providing that
20 the authority to charge a fee for the estoppel
21 certificate must be established by a specified written
22 resolution or provided by a written management,
23 bookkeeping, or maintenance contract; deleting
24 obsolete provisions; conforming provisions to changes
25 made by the act; providing an effective date.
26

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

28

29 Section 1. Subsection (8) of section 718.116, Florida
30 Statutes, is amended to read:

31 718.116 Assessments; liability; lien and priority;
32 interest; collection.—

33 (8) An association shall issue an estoppel certificate to
34 a unit owner or the unit owner's designee or a unit mortgagee or
35 the unit mortgagee's designee within 10 business 15 days after
36 receiving a written or electronic request for the certificate.
37 The estoppel certificate must be delivered by mail, by hand
38 delivery, or by electronic means to the requester on the date of
39 issuance.

40 (a) The estoppel certificate must contain all of the
41 following:

42 1. The date of issuance.

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

48 3. The amount of any additional assessments and other
49 moneys that are scheduled to become due for each day after the
50 date of issuance for the 30-day or 35-day effective period of
51 the estoppel certificate. This amount is limited to amounts
52 authorized by statute to be recorded in the official records of

53 the association under s. 718.111(12). In calculating the amounts
54 that are scheduled to become due, the association may assume
55 that any delinquent amounts will remain delinquent during the
56 effective period of the estoppel certificate.

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

60 5. The signature of an officer or agent of the
61 association.

62 (b) An estoppel certificate that is delivered on the date
63 of issuance has a 30-day effective period. An estoppel
64 certificate that is mailed to the requester has a 35-day
65 effective period.

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

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

78 (d) ~~(b)~~ A summary proceeding pursuant to s. 51.011 may be

79 brought to compel compliance with this subsection, and in any
80 such action the prevailing party is entitled to recover
81 reasonable attorney ~~attorney's~~ fees.

82 (e)1.(e) Notwithstanding any limitation on transfer fees
83 contained in s. 718.112(2)(i), an ~~the~~ association or its
84 ~~authorized~~ agent may charge a reasonable fee, which may not
85 exceed its reasonable costs to prepare and deliver ~~for the~~
86 ~~preparation of the~~ estoppel certificate. However, the fee for
87 the estoppel certificate may not exceed \$200 if on the date the
88 certificate is issued, no delinquent amounts are owed to the
89 association for the applicable unit. If an estoppel certificate
90 is requested on an expedited basis and delivered within 3
91 business days after the request, the association may charge an
92 additional fee of \$100. If delinquent amounts are owed to the
93 association for the applicable unit, an additional fee for the
94 estoppel certificate may not exceed \$200. The association may
95 not charge a fee for an estoppel certificate that is issued more
96 than 10 business days after it receives the request for the
97 certificate. The maximum allowable fees charged in accordance
98 with this section shall be adjusted every 3 years in an amount
99 equal to the annual increases for that 3-year period in the
100 Consumer Price Index for All Urban Consumers, U.S. City Average,
101 All Items. The Department of Business and Professional
102 Regulation shall periodically calculate the maximum allowable
103 fees under this section, rounded to the nearest dollar, and
104 publish the amounts, as adjusted, on its website ~~The amount of~~

105 ~~the fee must be included on the certificate.~~

106 2. If the estoppel certificate is requested in conjunction
107 with the sale or refinancing of a unit, the fee for the
108 certificate shall be paid to the association from the closing or
109 settlement proceeds. If the closing does not occur, the fee for
110 the certificate is the obligation of the unit owner, and the
111 association may collect the fee in the same manner as an
112 assessment against the unit. An association may not require the
113 payment of any other fees as a condition for the preparation or
114 delivery of an estoppel certificate.

115 ~~(f)(d) The authority to charge a fee for the estoppel~~
116 ~~certificate must ~~shall~~ be established by a written resolution~~
117 ~~adopted by the board or provided by a written management,~~
118 ~~bookkeeping, or maintenance contract and is payable upon the~~
119 ~~preparation of the certificate. If the certificate is requested~~
120 ~~in conjunction with the sale or mortgage of a unit but the~~
121 ~~closing does not occur and no later than 30 days after the~~
122 ~~closing date for which the certificate was sought the preparer~~
123 ~~receives a written request, accompanied by reasonable~~
124 ~~documentation, that the sale did not occur from a payor that is~~
125 ~~not the unit owner, the fee shall be refunded to that payor~~
126 ~~within 30 days after receipt of the request. The refund is the~~
127 ~~obligation of the unit owner, and the association may collect it~~
128 ~~from that owner in the same manner as an assessment as provided~~
129 ~~in this section.~~

130 Section 2. Subsection (6) of section 719.108, Florida

131 Statutes, is amended to read:

132 719.108 Rents and assessments; liability; lien and
133 priority; interest; collection; cooperative ownership.—

134 (6) An association shall issue an estoppel certificate to
135 a unit owner or the unit owner's designee or a unit mortgagee or
136 the unit mortgagee's designee within 10 business ~~15~~ days after
137 receiving a written or electronic request for the certificate.
138 The estoppel certificate must be delivered by mail, by hand
139 delivery, or by electronic means to the requester on the date of
140 issuance.

141 (a) The estoppel certificate must contain all of the
142 following:

143 1. The date of issuance.

144 2. The amount of all assessments and other moneys owed to
145 the association by the unit owner for a specific unit on the
146 date of issuance. This amount is limited to the amounts
147 authorized to be recorded in the official records of the
148 association under s. 719.104(2).

149 3. The amount of any additional assessments and other
150 moneys that are scheduled to become due for each day after the
151 date of issuance for the 30-day or 35-day effective period of
152 the estoppel certificate. This amount is limited to the amounts
153 authorized to be recorded in the official records of the
154 association under s. 719.104(2). In calculating the amounts that
155 are scheduled to become due, the association may assume that any
156 delinquent amounts will remain delinquent during the effective

157 period of the estoppel certificate.

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

161 5. The signature of an officer or agent of the
162 association.

163 (b) An estoppel certificate that is delivered on the date
164 of issuance has a 30-day effective period. An estoppel
165 certificate that is mailed to the requester has a 35-day
166 effective period.

167 (c) An association waives the right to collect any moneys
168 owed in excess of the amounts specified in the estoppel
169 certificate from any person who in good faith relies upon the
170 estoppel certificate and from that person's successors and
171 assigns.

172 (d) A summary proceeding pursuant to s. 51.011 may be
173 brought to compel compliance with this subsection, and in any
174 such action the prevailing party is entitled to recover
175 reasonable attorney fees. ~~by a unit owner or mortgagee, the~~
176 ~~association shall provide a certificate stating all assessments~~
177 ~~and other moneys owed to the association by the unit owner with~~
178 ~~respect to the cooperative parcel. Any person other than the~~
179 ~~unit owner who relies upon such certificate shall be protected~~
180 ~~thereby.~~

181 (e)1. Notwithstanding any limitation on transfer fees
182 contained in s. 719.106(1)(i), an the association or its

183 authorized agent may charge a ~~reasonable~~ fee, which may not
184 exceed its reasonable costs to prepare and deliver ~~for the~~
185 ~~preparation of~~ the estoppel certificate. However, the fee for
186 the estoppel certificate may not exceed \$200 if on the date the
187 certificate is issued, no delinquent amounts are owed to the
188 association for the applicable unit. If an estoppel certificate
189 is requested on an expedited basis and delivered within 3
190 business days after the request, the association may charge an
191 additional fee of \$100. If delinquent amounts are owed to the
192 association for the applicable unit, an additional fee for the
193 estoppel certificate may not exceed \$200. The association may
194 not charge a fee for an estoppel certificate that is issued more
195 than 10 business days after it receives a request for the
196 certificate. The maximum allowable fees charged in accordance
197 with this section shall be adjusted every 3 years in an amount
198 equal to the annual increases for that 3-year period in the
199 Consumer Price Index for All Urban Consumers, U.S. City Average,
200 All Items. The Department of Business and Professional
201 Regulation shall periodically calculate the maximum allowable
202 fees under this section, rounded to the nearest dollar, and
203 publish the amounts, as adjusted, on its website.

204 2. If the estoppel certificate is requested in conjunction
205 with the sale or refinancing of a unit, the fee for the
206 certificate shall be paid to the association from the closing or
207 settlement proceeds. If the closing does not occur, the fee for
208 the certificate is the obligation of the unit owner, and the

209 association may collect the fee in the same manner as an
 210 assessment against the unit. An association may not require the
 211 payment of any other fees as a condition for the preparation or
 212 delivery of an estoppel certificate.

213 (f) The authority to charge a fee for the estoppel
 214 certificate must be established by a written resolution adopted
 215 by the board or provided by a written management, bookkeeping,
 216 or maintenance contract.

217 Section 3. Section 720.30851, Florida Statutes, is amended
 218 to read:

219 720.30851 Estoppel certificates.—An association shall
 220 issue an estoppel certificate to a parcel owner or the parcel
 221 owner's designee or a mortgagee or the mortgagee's designee
 222 within ~~10 business~~ 15 days after receiving a written or
 223 electronic request for the certificate. The estoppel certificate
 224 must be delivered by mail, by hand delivery, or by electronic
 225 means to the requester on the date of issuance.

226 (1) The estoppel certificate must contain all of the
 227 following:

228 (a) The date of issuance.

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

234 (c) The amount of any additional assessments and other

235 moneys that are scheduled to become due for each day after the
236 date of issuance for the 30-day or 35-day effective period of
237 the estoppel certificate. This amount is limited to amounts
238 authorized by statute to be recorded in the official records of
239 the association under s. 720.303(4). In calculating the amounts
240 that are scheduled to become due, the association may assume
241 that any delinquent amounts will remain delinquent during the
242 effective period of the estoppel certificate.

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

246 (e) The signature of an officer or agent of the
247 association.

248 (2) An estoppel certificate that is delivered on the date
249 of issuance has a 30-day effective period. An estoppel
250 certificate that is mailed to the requester has a 35-day
251 effective period.

252 (3) An association waives the right to collect any moneys
253 owed in excess of the amounts specified in the estoppel
254 certificate from any person who in good faith relies upon the
255 estoppel certificate and from that person's successors and
256 assigns. ~~the date on which a request for an estoppel certificate~~
257 ~~is received from a parcel owner or mortgagee, or his or her~~
258 ~~designee, the association shall provide a certificate signed by~~
259 ~~an officer or authorized agent of the association stating all~~
260 ~~assessments and other moneys owed to the association by the~~

261 ~~parcel owner or mortgagee with respect to the parcel. An~~
262 ~~association may charge a fee for the preparation of such~~
263 ~~certificate, and the amount of such fee must be stated on the~~
264 ~~certificate.~~

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

267 (4)-(2) A summary proceeding pursuant to s. 51.011 may be
268 brought to compel compliance with this section, and the
269 prevailing party is entitled to recover reasonable attorney
270 attorney's fees.

271 (5) (a) An association or its agent may charge a fee, which
272 may not exceed its reasonable costs to prepare and deliver the
273 estoppel certificate. However, the fee for the estoppel
274 certificate may not exceed \$200 if on the date the certificate
275 is issued, no delinquent amounts are owed to the association for
276 the applicable parcel. If an estoppel certificate is requested
277 on an expedited basis and delivered within 3 business days after
278 the request, the association may charge an additional fee of
279 \$100. If delinquent amounts are owed to the association for the
280 applicable parcel, an additional fee for the certificate may not
281 exceed \$200. The association may not charge a fee for an
282 estoppel certificate that is issued more than 10 business days
283 after it receives the request for the certificate. The maximum
284 allowable fees charged in accordance with this section shall be
285 adjusted every 3 years in an amount equal to the annual
286 increases for that 3-year period in the Consumer Price Index for

287 All Urban Consumers, U.S. City Average, All Items. The
 288 department shall periodically calculate the maximum allowable
 289 fees under this section, rounded to the nearest dollar, and
 290 publish the amounts, as adjusted, on its website.

291 (b) If the estoppel certificate is requested in
 292 conjunction with the sale or refinancing of a parcel, the fee
 293 for the certificate shall be paid to the association from the
 294 closing or settlement proceeds. If the closing does not occur,
 295 the fee for the certificate is the obligation of the parcel
 296 owner, and the association may collect the fee in the same
 297 manner as an assessment against the parcel. An association may
 298 not require the payment of any other fees as a condition for the
 299 preparation or delivery of an estoppel certificate.

300 (6)(3)- The authority to charge a fee for the estoppel
 301 certificate ~~must shall~~ be established by a written resolution
 302 adopted by the board or provided by a written management,
 303 bookkeeping, or maintenance contract ~~and is payable upon the~~
 304 ~~preparation of the certificate. If the certificate is requested~~
 305 ~~in conjunction with the sale or mortgage of a parcel but the~~
 306 ~~closing does not occur and no later than 30 days after the~~
 307 ~~closing date for which the certificate was sought the preparer~~
 308 ~~receives a written request, accompanied by reasonable~~
 309 ~~documentation, that the sale did not occur from a payor that is~~
 310 ~~not the parcel owner, the fee shall be refunded to that payor~~
 311 ~~within 30 days after receipt of the request. The refund is the~~
 312 ~~obligation of the parcel owner, and the association may collect~~

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313 | ~~it from that owner in the same manner as an assessment as~~
314 | ~~provided in this section.~~

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