

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 that the authority to charge a fee for the  
17 estoppel certificate must be established by a  
18 specified written resolution or provided by a written  
19 management, bookkeeping, or maintenance contract;  
20 deleting obsolete provisions; conforming provisions to  
21 changes made by the act; providing an effective date.

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

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

27 718.116 Assessments; liability; lien and priority;  
 28 interest; collection.-

29 (8) An association shall issue an estoppel certificate to  
 30 a unit owner or the unit owner's designee or a unit mortgagee or  
 31 the unit mortgagee's designee within 10 business ~~15~~ days after  
 32 receiving a written or electronic request for the certificate.  
 33 An association must designate a person or entity, and such  
 34 designation must be available upon request, with a physical or  
 35 electronic address for receipt of a request for an estoppel  
 36 certificate issued pursuant to this section. The estoppel  
 37 certificate must be delivered by United States mail, by hand  
 38 delivery, or by electronic transmission to the requester on the  
 39 date of issuance. For purposes of delivery by United States  
 40 mail, the estoppel certificate is deemed delivered on the date  
 41 it is deposited in the mail.

42 (a) The estoppel certificate must contain all of the  
 43 following information as set forth in the official records of  
 44 the association, in substantially the following form, and may  
 45 include additional information as determined by the association:

- 47 Date of issuance:....
- 48 Effective through:...(insert effective period)....
- 49
- 50 Legal Name of Association:....
- 51 Association Address:....
- 52 DBPR License/Registration No. (if applicable):....

- 53
- 54       1. Name of unit owner(s):....
- 55       2. Unit designation:....
- 56             Parking/garage space number, if any:....
- 57             Storage locker number, if any:....
- 58       3. Unit address:....
- 59       4. Fee for preparation and delivery of the estoppel
- 60       certificate:....
- 61       5. Requested by:....
- 62       6. The regular periodic assessment levied against the
- 63       unit is \$.... per ...(insert frequency of payment)....
- 64       7. The regular periodic assessment is paid through
- 65       ...(insert date paid through)....
- 66       8. The next installment of the regular periodic
- 67       assessment is due ...(insert due date)... in the
- 68       amount of \$.....
- 69       9. Provide an itemized list of all assessments,
- 70       special assessments, other moneys owed, capital
- 71       contribution/resale/transfer fees owed, and credit
- 72       balances to the association by the unit owner for a
- 73       specific unit on the date of issuance. Specify any
- 74       delinquent amounts.
- 75       10. Provide an itemized list of any additional
- 76       assessments, special assessments, and other moneys
- 77       owed that are scheduled to become due for each day
- 78       after the date of issuance for the effective period of

79 the estoppel certificate that are known at the date of  
 80 issuance. In calculating the amounts that are  
 81 scheduled to become due, the association may assume  
 82 that any delinquent amounts will remain delinquent  
 83 during the effective period of the estoppel  
 84 certificate.

85 11. Describe all documented violations, if any, of  
 86 the declaration, bylaws, rules, or regulations  
 87 applicable to the unit.

88  
 89 Prepared by:...(Association or Authorized Agent of the  
 90 Association)...

91  
 92 Signed:....  
 93 ...(Officer or Authorized Agent of the Association)...

94 Print Name:....

95  
 96 (b) An estoppel certificate that is delivered on the date  
 97 of issuance has a 30-day effective period, except that an  
 98 estoppel certificate which is delivered by United States mail  
 99 has a 35-day effective period.

100 (c) An association waives the right to collect any moneys  
 101 owed in excess of the amounts specified in the estoppel  
 102 certificate from any person who in good faith relies upon the  
 103 estoppel certificate and from the person's successors and  
 104 assigns therefor from a unit owner or his or her designee, or a

105 ~~unit mortgagee or his or her designee, the association shall~~  
 106 ~~provide a certificate signed by an officer or agent of the~~  
 107 ~~association stating all assessments and other moneys owed to the~~  
 108 ~~association by the unit owner with respect to the condominium~~  
 109 ~~parcel.~~

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

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

116 ~~(e)~~ (e) Notwithstanding any limitation on transfer fees  
 117 contained in s. 718.112(2)(i), an ~~the~~ association or its  
 118 ~~authorized~~ agent may charge a reasonable fee for the preparation  
 119 of the estoppel certificate. However, the fee for the estoppel  
 120 certificate may not exceed \$250 if on the date the certificate  
 121 is issued, no delinquent amounts are owed to the association for  
 122 the applicable unit. If an estoppel certificate is requested on  
 123 an expedited basis and delivered within 3 business days after  
 124 the request, the association may charge an additional fee of  
 125 \$100. If delinquent amounts are owed to the association for the  
 126 applicable unit, an additional fee for the estoppel certificate  
 127 may not exceed \$200. The association may not charge a fee for an  
 128 estoppel certificate that is issued more than 10 business days  
 129 after it receives the request for the certificate. The maximum  
 130 allowable fees charged in accordance with this section shall be

131 adjusted every 3 years in an amount equal to the annual  
132 increases for that 3-year period in the Consumer Price Index for  
133 All Urban Consumers, U.S. City Average, All Items. The  
134 Department of Business and Professional Regulation shall  
135 periodically calculate the maximum allowable fees under this  
136 section, rounded to the nearest dollar, and publish the amounts,  
137 as adjusted, on its website. An association may not require  
138 payment of any fees, other than those authorized in this  
139 paragraph, as a condition for the preparation or delivery of an  
140 estoppel certificate ~~The amount of the fee must be included on~~  
141 ~~the certificate.~~

142 ~~(f)-(d) The authority to charge a fee for the certificate~~  
143 ~~shall be established by a written resolution adopted by the~~  
144 ~~board or provided by a written management, bookkeeping, or~~  
145 ~~maintenance contract and is payable upon the preparation of the~~  
146 ~~certificate. If the certificate is requested in conjunction with~~  
147 ~~the sale or mortgage of a unit but the closing does not occur~~  
148 ~~and no later than 30 days after the closing date for which the~~  
149 ~~certificate was sought the preparer receives a written request,~~  
150 ~~accompanied by reasonable documentation, that the sale did not~~  
151 ~~occur from a payor that is not the unit owner, the fee shall be~~  
152 ~~refunded to that payor within 30 days after receipt of the~~  
153 ~~request. The refund is the obligation of the unit owner, and the~~  
154 ~~association may collect it from that owner in the same manner as~~  
155 ~~an assessment as provided in this section.~~

156 (g) The authority to charge a fee for the estoppel

157 certificate must be established by a written resolution adopted  
 158 by the board or provided by a written management, bookkeeping,  
 159 or maintenance contract and is payable upon the preparation of  
 160 the certificate.

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

163 719.108 Rents and assessments; liability; lien and  
 164 priority; interest; collection; cooperative ownership.—

165 (6) An association shall issue an estoppel certificate to  
 166 a unit owner or the unit owner's designee or a unit mortgagee or  
 167 the unit mortgagee's designee within 10 business ~~15~~ days after  
 168 receiving a written or electronic request for the certificate.

169 An association must designate a person or entity, and such  
 170 designation must be available upon request, with a physical or  
 171 electronic address for receipt of a request for an estoppel  
 172 certificate issued pursuant to this section. The estoppel  
 173 certificate must be delivered by United States mail, by hand  
 174 delivery, or by electronic transmission to the requester on the  
 175 date of issuance. For purposes of delivery by United States  
 176 mail, the estoppel certificate is deemed delivered on the date  
 177 it is deposited in the mail.

178 (a) The estoppel certificate must contain all of the  
 179 following information as set forth in the official records of  
 180 the association, in substantially the following form, and may  
 181 include additional information as determined by the association:

182

183        Date of issuance:....  
 184        Effective through:...(insert effective period)....  
 185  
 186        Legal Name of Association:....  
 187        Association Address:....  
 188        DBPR License/Registration No. (if applicable):....  
 189  
 190        1. Name of unit owner(s):....  
 191        2. Unit designation:....  
 192            Parking/garage space number, if any:....  
 193            Storage locker number, if any:....  
 194        3. Unit address:....  
 195        4. Fee for preparation and delivery of the estoppel  
 196        certificate:....  
 197        5. Requested by:....  
 198        6. The regular periodic assessment levied against the  
 199        unit is \$.... per ...(insert frequency of payment)....  
 200        7. The regular periodic assessment is paid through  
 201        ...(insert date paid through)....  
 202        8. The next installment of the regular periodic  
 203        assessment is due ...(insert due date)... in the  
 204        amount of \$.....  
 205        9. Provide an itemized list of all assessments,  
 206        special assessments, other moneys owed, capital  
 207        contribution/resale/transfer fees owed, and credit  
 208        balances to the association by the unit owner for a

209 specific unit on the date of issuance. Specify any  
 210 delinquent amounts.

211 10. Provide an itemized list of any additional  
 212 assessments, special assessments, and other moneys  
 213 owed that are scheduled to become due for each day  
 214 after the date of issuance for the effective period of  
 215 the estoppel certificate that are known at the date of  
 216 issuance. In calculating the amounts that are  
 217 scheduled to become due, the association may assume  
 218 that any delinquent amounts will remain delinquent  
 219 during the effective period of the estoppel  
 220 certificate.

221 11. Describe all documented violations, if any, of  
 222 the cooperative documents, rules, or regulations  
 223 applicable to the unit.

224  
 225 Prepared by:...(Association or Authorized Agent of the  
 226 Association)...

227  
 228 Signed:....  
 229 ...(Officer or Authorized Agent of the Association)...

230 Print Name:....

231  
 232 (b) An estoppel certificate that is delivered on the date  
 233 of issuance has a 30-day effective period, except that an  
 234 estoppel certificate which is delivered by United States mail

235 has a 35-day effective period.

236 (c) An association waives the right to collect any moneys  
237 owed in excess of the amounts specified in the estoppel  
238 certificate from any person who in good faith relies upon the  
239 estoppel certificate and from that person's successors and  
240 assigns.

241 (d) A summary proceeding pursuant to s. 51.011 may be  
242 brought to compel compliance with this subsection, and in any  
243 such action the prevailing party is entitled to recover  
244 reasonable attorney fees. ~~by a unit owner or mortgagee, the~~  
245 ~~association shall provide a certificate stating all assessments~~  
246 ~~and other moneys owed to the association by the unit owner with~~  
247 ~~respect to the cooperative parcel. Any person other than the~~  
248 ~~unit owner who relies upon such certificate shall be protected~~  
249 ~~thereby.~~

250 (e) Notwithstanding any limitation on transfer fees  
251 contained in s. 719.106(1)(i), ~~an~~ the association or its  
252 authorized agent may charge a reasonable fee for the preparation  
253 of the estoppel certificate. However, the fee for the estoppel  
254 certificate may not exceed \$250 if on the date the certificate  
255 is issued, no delinquent amounts are owed to the association for  
256 the applicable unit. If an estoppel certificate is requested on  
257 an expedited basis and delivered within 3 business days after  
258 the request, the association may charge an additional fee of  
259 \$100. If delinquent amounts are owed to the association for the  
260 applicable unit, an additional fee for the estoppel certificate

261 may not exceed \$200. The association may not charge a fee for an  
262 estoppel certificate that is issued more than 10 business days  
263 after it receives a request for the certificate. The maximum  
264 allowable fees charged in accordance with this section shall be  
265 adjusted every 3 years in an amount equal to the annual  
266 increases for that 3-year period in the Consumer Price Index for  
267 All Urban Consumers, U.S. City Average, All Items. The  
268 Department of Business and Professional Regulation shall  
269 periodically calculate the maximum allowable fees under this  
270 section, rounded to the nearest dollar, and publish the amounts,  
271 as adjusted, on its website. An association may not require  
272 payment of any fees, other than those authorized in this  
273 paragraph, as a condition for the preparation or delivery of an  
274 estoppel certificate.

275 (f) If the certificate is requested in conjunction with  
276 the sale or mortgage of a unit but the closing does not occur  
277 and no later than 30 days after the closing date for which the  
278 certificate was sought the preparer receives a written request,  
279 accompanied by reasonable documentation, that the sale did not  
280 occur from a payor that is not the unit owner, the fee shall be  
281 refunded to that payor within 30 days after receipt of the  
282 request. The refund is the obligation of the unit owner, and the  
283 association may collect it from that owner in the same manner as  
284 an assessment as provided in this section.

285 (g) The authority to charge a fee for the estoppel  
286 certificate must be established by a written resolution adopted

287 by the board or provided by a written management, bookkeeping,  
 288 or maintenance contract and is payable upon the preparation of  
 289 the certificate.

290 Section 3. Section 720.30851, Florida Statutes, is amended  
 291 to read:

292 720.30851 Estoppel certificates.—An association shall  
 293 issue an estoppel certificate to a parcel owner or the parcel  
 294 owner's designee or a mortgagee or the mortgagee's designee  
 295 within ~~15~~ 10 business days after receiving a written or  
 296 electronic request for the certificate. An association must  
 297 designate a person or entity, and such designation must be  
 298 available upon request, with a physical or electronic address  
 299 for receipt of a request for an estoppel certificate issued  
 300 pursuant to this section. The estoppel certificate must be  
 301 delivered by United States mail, by hand delivery, or by  
 302 electronic transmission to the requester on the date of  
 303 issuance. For purposes of delivery by United States mail, the  
 304 estoppel certificate is deemed delivered on the date it is  
 305 deposited in the mail.

306 (1) The estoppel certificate must contain all of the  
 307 following information as set forth in the official records of  
 308 the association, in substantially the following form, and may  
 309 include additional information as determined by the association:

311 Date of issuance:....

312 Effective through:...(insert effective period)....

313  
 314       Legal Name of Association:....  
 315       Association Address:....  
 316       DBPR License/Registration No. (if applicable):....  
 317  
 318       1. Name of parcel owner(s):....  
 319       2. Parcel designation:....  
 320             Parking/garage space number, if any:....  
 321             Storage locker number, if any:....  
 322       3. Parcel address:....  
 323       4. Fee for preparation and delivery of the estoppel  
 324       certificate:....  
 325       5. Requested by:....  
 326       6. The regular periodic assessment levied against the  
 327       parcel is \$.... per ...(insert frequency of  
 328       payment)....  
 329       7. The regular periodic assessment is paid through  
 330       ...(insert date paid through)....  
 331       8. The next installment of the regular periodic  
 332       assessment is due ...(insert due date)... in the  
 333       amount of \$.....  
 334       9. Provide an itemized list of all assessments,  
 335       special assessments, other moneys owed, capital  
 336       contribution/resale/transfer fees owed, and credit  
 337       balances to the association by the parcel owner for a  
 338       specific parcel on the date of issuance. Specify any

339 delinquent amounts.  
 340 10. Provide an itemized list of any additional  
 341 assessments, special assessments, and other moneys  
 342 owed that are scheduled to become due for each day  
 343 after the date of issuance for the effective period of  
 344 the estoppel certificate that are known at the date of  
 345 issuance. In calculating the amounts that are  
 346 scheduled to become due, the association may assume  
 347 that any delinquent amounts will remain delinquent  
 348 during the effective period of the estoppel  
 349 certificate.

350 11. Describe all documented violations, if any, of  
 351 the governing documents applicable to the parcel.

353 Prepared by:...(Association or Authorized Agent of the  
 354 Association)...

356 Signed:....  
 357 ...(Officer or Authorized Agent of the Association)...

358 Print Name:....

360 (2) An estoppel certificate that is delivered on the date  
 361 of issuance has a 30-day effective period, except that an  
 362 estoppel certificate which is delivered by United States mail  
 363 has a 35-day effective period.

364 (3) An association waives the right to collect any moneys

365 owed in excess of the amounts specified in the estoppel  
366 certificate from any person who in good faith relies upon the  
367 estoppel certificate and from that person's successors and  
368 assigns the date on which a request for an estoppel certificate  
369 is received from a parcel owner or mortgagee, or his or her  
370 designee, the association shall provide a certificate signed by  
371 an officer or authorized agent of the association stating all  
372 assessments and other moneys owed to the association by the  
373 parcel owner or mortgagee with respect to the parcel. An  
374 association may charge a fee for the preparation of such  
375 certificate, and the amount of such fee must be stated on the  
376 certificate.

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

379 (4)~~(2)~~ A summary proceeding pursuant to s. 51.011 may be  
380 brought to compel compliance with this section, and the  
381 prevailing party is entitled to recover reasonable attorney  
382 attorney's fees.

383 (5) An association or its agent may charge a reasonable  
384 fee for the preparation of the estoppel certificate. However,  
385 the fee for the estoppel certificate may not exceed \$250 if on  
386 the date the certificate is issued, no delinquent amounts are  
387 owed to the association for the applicable parcel. If an  
388 estoppel certificate is requested on an expedited basis and  
389 delivered within 3 business days after the request, the  
390 association may charge an additional fee of \$100. If delinquent

391 amounts are owed to the association for the applicable parcel,  
392 an additional fee for the certificate may not exceed \$200. The  
393 association may not charge a fee for an estoppel certificate  
394 that is issued more than 10 business days after it receives the  
395 request for the certificate. The maximum allowable fees charged  
396 in accordance with this section shall be adjusted every 3 years  
397 in an amount equal to the annual increases for that 3-year  
398 period in the Consumer Price Index for All Urban Consumers, U.S.  
399 City Average, All Items. The department shall periodically  
400 calculate the maximum allowable fees under this section, rounded  
401 to the nearest dollar, and publish the amounts, as adjusted, on  
402 its website. An association may not require payment of any fees,  
403 other than those authorized in this subsection, as a condition  
404 for the preparation or delivery of an estoppel certificate.

405 ~~(6)(3) The authority to charge a fee for the certificate~~  
406 ~~shall be established by a written resolution adopted by the~~  
407 ~~board or provided by a written management, bookkeeping, or~~  
408 ~~maintenance contract and is payable upon the preparation of the~~  
409 ~~certificate. If the certificate is requested in conjunction with~~  
410 ~~the sale or mortgage of a parcel but the closing does not occur~~  
411 ~~and no later than 30 days after the closing date for which the~~  
412 ~~certificate was sought the preparer receives a written request,~~  
413 ~~accompanied by reasonable documentation, that the sale did not~~  
414 ~~occur from a payor that is not the parcel owner, the fee shall~~  
415 ~~be refunded to that payor within 30 days after receipt of the~~  
416 ~~request. The refund is the obligation of the parcel owner, and~~

CS/CS/CS/HB 203

2016

417 | the association may collect it from that owner in the same  
418 | manner as an assessment as provided in this section.

419 |       (7) The authority to charge a fee for the estoppel  
420 | certificate must be established by a written resolution adopted  
421 | by the board or provided by a written management, bookkeeping,  
422 | or maintenance contract and is payable upon the preparation of  
423 | the certificate.

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