

1 A bill to be entitled  
2 An act relating to estoppel letters; amending s.  
3 701.04, F.S.; revising the timeframe within which a  
4 mortgagee or mortgage servicer must send or cause to  
5 be sent an estoppel letter containing specified  
6 information; revising the circumstances under which a  
7 copy of the instrument showing title in the property  
8 or other lawful authorization must be included in a  
9 request for an estoppel letter; requiring notice to  
10 the mortgagor of a request for an estoppel letter  
11 under certain circumstances; revising requirements for  
12 an estoppel letter; prohibiting certain actions by the  
13 mortgagee or mortgage servicer; authorizing the  
14 mortgagee or mortgage servicer to send a corrected  
15 estoppel letter under certain circumstances; requiring  
16 a mortgagee or mortgage servicer to provide a copy of  
17 a corrected estoppel letter to a mortgagor under  
18 certain circumstances; providing that a corrected  
19 estoppel letter supersedes any previous estoppel  
20 letter under certain circumstances; prohibiting the  
21 mortgagee or mortgage servicer from denying the  
22 accuracy of certain information provided in an  
23 estoppel letter under certain circumstances; providing  
24 construction; prohibiting payments received pursuant  
25 to an estoppel letter from being returned and

26 requiring such payments to be promptly applied to any  
27 unpaid balance of the loan properly due under or  
28 secured by a mortgage; providing methods for sending a  
29 written request for an estoppel letter and for sending  
30 an estoppel letter; providing that the mortgagee or  
31 mortgage servicer is not required to pay for a common  
32 carrier delivery service; requiring the mortgagee or  
33 mortgage servicer to take certain actions within a  
34 specified time after the unpaid balance of a loan  
35 properly secured by a mortgage has been fully paid or  
36 paid pursuant to an estoppel letter; authorizing  
37 reasonable attorney fees and costs for specified  
38 parties in certain civil actions; providing that  
39 certain persons may still be personally liable for a  
40 loan or other obligation after the recording of a  
41 release of a mortgage; conforming provisions to  
42 changes made by the act; amending s. 701.041, F.S.;  
43 revising the definition of the term "estoppel letter";  
44 conforming provisions to changes made by the act;  
45 providing legislative findings; providing for  
46 retroactive applicability; providing an effective  
47 date.

48  
49 Be It Enacted by the Legislature of the State of Florida:  
50

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

53 701.04 Cancellation of mortgages, liens, and judgments.—

54 (1) (a) Within 10 ~~14~~ days after receipt of the written  
 55 request of a mortgagor, a record title owner of the property, a  
 56 fiduciary or trustee lawfully acting on behalf of a record title  
 57 owner, or any other person lawfully authorized to act on behalf  
 58 of a mortgagor or record title owner of the property, the  
 59 ~~mortgagee holder of a mortgage shall deliver or mortgage cause~~  
 60 ~~the servicer shall send or cause to be sent of the mortgage to~~  
 61 ~~deliver to the person making the request at a place designated~~  
 62 ~~in the written request~~ an estoppel letter setting forth the  
 63 unpaid balance of the loan secured by the mortgage. If the  
 64 written request is made by a person other than the mortgagor,  
 65 the request must include a copy of the instrument showing such  
 66 person's title in the property or other lawful authorization,  
 67 and the mortgagee or mortgage servicer must notify the mortgagor  
 68 of the request.

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

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

76 ~~title owner of the property, makes the request:~~

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

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

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

86 2. Interest accruing on a per-day basis for the unpaid  
87 balance from and after the date specified in the estoppel  
88 letter, if applicable.

89 (c)1. Except for mortgages for which a notice of lis  
90 pendens in a foreclosure action or a suggestion of bankruptcy  
91 has been properly filed and recorded, the mortgagee or mortgage  
92 servicer may not qualify, reserve the right to change, or  
93 condition or disclaim the reliance of others on the information  
94 provided in an estoppel letter under paragraph (b), and any  
95 attempt to do so is void and unenforceable. However, if the  
96 mortgagee or mortgage servicer determines that any of the  
97 information provided in the estoppel letter under paragraph (b)  
98 was inaccurate, the mortgagee or mortgage servicer may send a  
99 corrected estoppel letter to the person who requested the  
100 estoppel letter in the same manner as used to respond to the

101 original written request. If the original written request is  
102 made by a person other than the mortgagor, the mortgagee or  
103 mortgage servicer must also provide a copy of any corrected  
104 estoppel letter to the mortgagor.

105 2. If the person who requested the original estoppel  
106 letter under paragraph (a) receives a corrected estoppel letter  
107 by 3 p.m. in such person's time zone at least 1 business day  
108 before a payment is issued in reliance on the previous estoppel  
109 letter, the corrected estoppel letter supersedes all prior  
110 estoppel letters.

111 3. If any of the information provided in the estoppel  
112 letter under paragraph (b) was inaccurate, but the person who  
113 requested the estoppel letter did not timely receive a corrected  
114 estoppel letter as provided in subparagraph 2., the mortgagee or  
115 mortgage servicer may not deny the accuracy of such information  
116 as against any person who relied on it. This subparagraph does  
117 not affect the right of a mortgagee to recover any sum that it  
118 did not include in an estoppel letter from any person liable for  
119 payment of the loan or other obligations secured by the  
120 mortgage, nor does it limit any claim or defense to recovery  
121 which such person may have at law or in equity ~~on a per-day~~  
122 basis.

123 (d)3. The mortgagee or mortgage servicer ~~of the mortgagee~~  
124 acting in accordance with a request in substantial compliance  
125 with this subsection ~~paragraph~~ is expressly discharged from any

126 obligation or liability to any person on account of the release  
127 of the requested information, other than the obligation to  
128 comply with the terms of the estoppel letter.

129 (e) If a payment is received at the location and in the  
130 manner specified by the mortgagee or mortgage servicer, the  
131 mortgagee or mortgage servicer must accept and may not return  
132 any payment received in reliance on an estoppel letter and must  
133 promptly apply such payment to the unpaid balance of the loan  
134 properly due under or secured by the mortgage.

135 (f)1. A written request for an estoppel letter under  
136 paragraph (a) must be sent to the mortgagee or mortgage servicer  
137 by first-class mail, postage prepaid; by common carrier delivery  
138 service; or by e-mail, facsimile, or other electronic means at  
139 the address made available by the mortgagee or mortgage servicer  
140 for such purpose or through an automated system provided by the  
141 mortgagee or mortgage servicer for requesting an estoppel  
142 letter. The written request is considered received by the  
143 mortgagee or mortgage servicer:

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

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

148 c. The day the request is sent by e-mail, facsimile, or  
149 other electronic means or through an automated system provided  
150 by the mortgagee or mortgage servicer for requesting an estoppel

151 letter.

152

153 If any of the days in sub-subparagraph a., sub-subparagraph b.,  
154 or sub-subparagraph c. fall on a Saturday, Sunday, or holiday  
155 specified in s. 110.117(1) or the laws of the United States, the  
156 request for an estoppel letter is considered timely received by  
157 the mortgagee or mortgage servicer on the next business day.

158 2. The mortgagee or mortgage servicer must send an  
159 estoppel letter by first-class mail, postage prepaid; by common  
160 carrier delivery service; or by e-mail, facsimile, or other  
161 electronic means, as directed in the written request, or through  
162 an automated system provided by the mortgagee or mortgage  
163 servicer for this purpose. However, the mortgagee or mortgage  
164 servicer is not required to pay for a common carrier delivery  
165 service. If the 10-day period after a written request is  
166 received by the mortgagee or mortgage servicer ends on a  
167 Saturday, Sunday, or holiday specified in s. 110.117(1) or the  
168 laws of the United States, the estoppel letter is considered  
169 timely if it is sent by the close of business on the next  
170 business day.

171 (g)-(e) Notwithstanding s. 655.059, a mortgagee or mortgage  
172 servicer ~~mortgage holder~~ may provide the financial information  
173 required under this subsection to a person authorized under this  
174 subsection to request the financial information ~~notwithstanding~~  
175 s. ~~655.059~~.

176 (2) (a) Within 60 days after the unpaid balance of a loan  
 177 secured by a mortgage has been fully paid or paid pursuant to an  
 178 estoppel letter under subsection (1), whichever is earlier, the  
 179 mortgagee or mortgage servicer shall execute in writing an  
 180 instrument acknowledging release of the mortgage; have the  
 181 instrument acknowledged, or proven, and send it or cause it to  
 182 be sent for recording in the official records of the proper  
 183 county; and send or cause to be sent the recorded release to the  
 184 mortgagor or record title owner of the property. The prevailing  
 185 party in a civil action brought against the mortgagee or  
 186 mortgage servicer to enforce the requirements of this paragraph  
 187 is entitled to reasonable attorney fees and costs.

188 (b) The recorded release of the mortgage does not relieve  
 189 the mortgagor, or the mortgagor's successors or assigns, from  
 190 any personal liability on the loan or other obligations  
 191 previously secured by the mortgage.

192 (3) ~~(2)~~ Within 60 days after the unpaid balance ~~Whenever~~  
 193 ~~the amount of money due on a any mortgage, lien, or judgment has~~  
 194 ~~been fully paid to the person or party entitled to the payment~~  
 195 ~~thereof, the mortgagee, creditor, or assignee, or the attorney~~  
 196 ~~of record in the case of a judgment, to whom the payment was~~  
 197 ~~made, shall execute in writing an instrument acknowledging~~  
 198 ~~satisfaction of the mortgage, lien, or judgment; and have the~~  
 199 ~~instrument acknowledged, or proven, and~~ send it or cause it to  
 200 be sent for recording ~~duly entered~~ in the official records of



201 the proper county; ~~and. Within 60 days after the date of receipt~~  
 202 ~~of the full payment of the mortgage, lien, or judgment, the~~  
 203 ~~person required to acknowledge satisfaction of the mortgage,~~  
 204 ~~lien, or judgment shall~~ send or cause to be sent the recorded  
 205 satisfaction to the person who has made the full payment. ~~In the~~  
 206 ~~ease of a civil action arising out of this section,~~ The  
 207 prevailing party in a civil action brought against the creditor  
 208 or assignee, or the attorney of record in the case of a  
 209 judgment, to enforce the requirements of this subsection is  
 210 entitled to reasonable attorney fees and costs.

211 ~~(4)-(3)~~ When ~~Whenever~~ a writ of execution has been issued,  
 212 docketed, and indexed with a sheriff and the judgment upon which  
 213 it was issued has been fully paid, it is the responsibility of  
 214 the person party receiving payment to request, in writing,  
 215 addressed to the sheriff, return of the writ of execution as  
 216 fully satisfied.

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

219 701.041 Title insurer; mortgage release certificate.—

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

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

224 ~~1. The unpaid balance of a loan secured by a mortgage,~~  
 225 ~~including principal, interest, and any other charges properly~~

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226 ~~due under or secured by the mortgage.~~

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

228 (2) CERTIFICATE OF RELEASE.—An officer or duly appointed  
229 agent of a title insurer may, on behalf of a mortgagor or a  
230 person who acquired from the mortgagor title to all or a part of  
231 the property described in a mortgage, execute a certificate of  
232 release that complies with the requirements of this section and  
233 record the certificate of release in the real property records  
234 of each county in which the mortgage is recorded if a  
235 satisfaction or release of the mortgage has not been executed  
236 and recorded after the date payment in full of the loan properly  
237 due under or secured by the mortgage was made in accordance with  
238 an estoppel letter ~~a payoff statement~~ furnished by the mortgagee  
239 or ~~the~~ mortgage servicer.

240 Section 3. The Legislature finds that the timeliness and  
241 accuracy of an estoppel letter is critical because the parties  
242 to a real estate transaction must rely on the estoppel letter to  
243 establish the loan payoff amount necessary to release the  
244 mortgage, which in turn will allow the owner to confer clean  
245 title to a buyer or to refinance the property. The Legislature  
246 further finds that estoppel letters increasingly contain  
247 conditional language disclaiming the ability of an owner to rely  
248 on the stated loan payoff amounts, extending even to the return  
249 of such payments submitted by owners. These practices create  
250 unnecessary delays in the efficient operation of this state's

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251 real estate market, which is a vital economic contributor to  
252 this state, and impose needless costs and burdens on property  
253 owners and buyers. In addition, the Legislature finds that real  
254 estate lending, mortgages, real estate transactions, and  
255 estoppel letters are extensively regulated under both Florida  
256 and federal law. The Legislature finds and determines that this  
257 act makes changes to state law which appropriately balance the  
258 parties' interests, are reasonable and necessary to serve and  
259 achieve an important state interest, are necessary for the  
260 prosperity and welfare of the state and its property owners and  
261 inhabitants, and must be applied to existing mortgages in order  
262 to provide effective relief.

263       Section 4. This act applies to all mortgages, and all  
264 loans secured by such mortgages, existing as of, or entered into  
265 on or after, October 1, 2023.

266       Section 5. This act shall take effect October 1, 2023.