

1 A bill to be entitled
 2 An act relating to estoppel certificates; amending ss.
 3 718.116, 719.108, and 720.30851, F.S.; prohibiting
 4 community associations from charging a fee for the
 5 preparation and delivery of estoppel certificates;
 6 conforming provisions to changes made by the act;
 7 amending s. 689.28, F.S.; conforming a provision to
 8 changes made by the act; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraphs (a) and (d) through (i) of
 13 subsection (8) of section 718.116, Florida Statutes, are amended
 14 to read:

15 718.116 Assessments; liability; lien and priority;
 16 interest; collection.—

17 (8) Within 10 business days after receiving a written or
 18 electronic request therefor from a unit owner or the unit
 19 owner's designee, or a unit mortgagee or the unit mortgagee's
 20 designee, the association shall issue the estoppel certificate.
 21 Each association shall designate on its website a person or
 22 entity with a street or e-mail address for receipt of a request
 23 for an estoppel certificate issued pursuant to this section. The
 24 estoppel certificate must be provided by hand delivery, regular
 25 mail, or e-mail to the requestor on the date of issuance of the

51 | ...(insert date paid through)....

52 | c. The next installment of the regular periodic assessment
53 | is due ...(insert due date)... in the amount of \$.....

54 | d. An itemized list of all assessments, special
55 | assessments, and other moneys owed on the date of issuance to
56 | the association by the unit owner for a specific unit is
57 | provided.

58 | e. An itemized list of any additional assessments, special
59 | assessments, and other moneys that are scheduled to become due
60 | for each day after the date of issuance for the effective period
61 | of the estoppel certificate is provided. In calculating the
62 | amounts that are scheduled to become due, the association may
63 | assume that any delinquent amounts will remain delinquent during
64 | the effective period of the estoppel certificate.

65 | OTHER INFORMATION:

66 | f. Is there a capital contribution fee, resale fee,
67 | transfer fee, or other fee due?(Yes)(No). If yes,
68 | specify the type and the amount of the fee.

69 | g. Is there any open violation of rule or regulation
70 | noticed to the unit owner in the association official records?
71 |(Yes)(No).

72 | h. Do the rules and regulations of the association
73 | applicable to the unit require approval by the board of
74 | directors of the association for the transfer of the unit?
75 |(Yes)(No). If yes, has the board approved the transfer

76 | of the unit?(Yes)(No) .

77 | i. Is there a right of first refusal provided to the
78 | members or the association?(Yes)(No). If yes, have
79 | the members or the association exercised that right of first
80 | refusal?(Yes)(No) .

81 | j. Provide a list of, and contact information for, all
82 | other associations of which the unit is a member.

83 | k. Provide contact information for all insurance
84 | maintained by the association.

85 | l. Provide the signature of an officer or authorized agent
86 | of the association.

87 | The association, at its option, may include additional
88 | information in the estoppel certificate.

89 | ~~(d) If an association receives a request for an estoppel~~
90 | ~~certificate from a unit owner or the unit owner's designee, or a~~
91 | ~~unit mortgagee or the unit mortgagee's designee, and fails to~~
92 | ~~deliver the estoppel certificate within 10 business days, a fee~~
93 | ~~may not be charged for the preparation and delivery of that~~
94 | ~~estoppel certificate.~~

95 | (d)(e) A summary proceeding pursuant to s. 51.011 may be
96 | brought to compel compliance with this subsection, and in any
97 | such action the prevailing party is entitled to recover
98 | reasonable attorney fees.

99 | (e)(f) An association may not charge a fee for the
100 | preparation and delivery of an estoppel certificate

101 ~~Notwithstanding any limitation on transfer fees contained in s.~~
102 ~~718.112(2)(k), an association or its authorized agent may charge~~
103 ~~a reasonable fee for the preparation and delivery of an estoppel~~
104 ~~certificate, which may not exceed \$250, if, on the date the~~
105 ~~certificate is issued, no delinquent amounts are owed to the~~
106 ~~association for the applicable unit. If an estoppel certificate~~
107 ~~is requested on an expedited basis and delivered within 3~~
108 ~~business days after the request, the association may charge an~~
109 ~~additional fee of \$100. If a delinquent amount is owed to the~~
110 ~~association for the applicable unit, an additional fee for the~~
111 ~~estoppel certificate may not exceed \$150.~~

112 ~~(g) If estoppel certificates for multiple units owned by~~
113 ~~the same owner are simultaneously requested from the same~~
114 ~~association and there are no past due monetary obligations owed~~
115 ~~to the association, the statement of moneys due for those units~~
116 ~~may be delivered in one or more estoppel certificates, and, even~~
117 ~~though the fee for each unit shall be computed as set forth in~~
118 ~~paragraph (f), the total fee that the association may charge for~~
119 ~~the preparation and delivery of the estoppel certificates may~~
120 ~~not exceed, in the aggregate:~~

- 121 ~~1. For 25 or fewer units, \$750.~~
- 122 ~~2. For 26 to 50 units, \$1,000.~~
- 123 ~~3. For 51 to 100 units, \$1,500.~~
- 124 ~~4. For more than 100 units, \$2,500.~~

125 ~~(h) The authority to charge a fee for the preparation and~~

126 ~~delivery of the estoppel certificate must be established by a~~
127 ~~written resolution adopted by the board or provided by a written~~
128 ~~management, bookkeeping, or maintenance contract and is payable~~
129 ~~upon the preparation of the certificate. If the certificate is~~
130 ~~requested in conjunction with the sale or mortgage of a unit but~~
131 ~~the closing does not occur and no later than 30 days after the~~
132 ~~closing date for which the certificate was sought the preparer~~
133 ~~receives a written request, accompanied by reasonable~~
134 ~~documentation, that the sale did not occur from a payor that is~~
135 ~~not the unit owner, the fee shall be refunded to that payor~~
136 ~~within 30 days after receipt of the request. The refund is the~~
137 ~~obligation of the unit owner, and the association may collect it~~
138 ~~from that owner in the same manner as an assessment as provided~~
139 ~~in this section. The right to reimbursement may not be waived or~~
140 ~~modified by any contract or agreement. The prevailing party in~~
141 ~~any action brought to enforce a right of reimbursement shall be~~
142 ~~awarded damages and all applicable attorney fees and costs.~~

143 ~~(i) The fees specified in this subsection shall be~~
144 ~~adjusted every 5 years in an amount equal to the total of the~~
145 ~~annual increases for that 5-year period in the Consumer Price~~
146 ~~Index for All Urban Consumers, U.S. City Average, All Items. The~~
147 ~~Department of Business and Professional Regulation shall~~
148 ~~periodically calculate the fees, rounded to the nearest dollar,~~
149 ~~and publish the amounts, as adjusted, on its website.~~

150 Section 2. Paragraphs (a) and (d) through (i) of

151 subsection (6) of section 719.108, Florida Statutes, are amended
152 to read:

153 719.108 Rents and assessments; liability; lien and
154 priority; interest; collection; cooperative ownership.—

155 (6) Within 10 business days after receiving a written or
156 electronic request for an estoppel certificate from a unit owner
157 or the unit owner's designee, or a unit mortgagee or the unit
158 mortgagee's designee, the association shall issue the estoppel
159 certificate. Each association shall designate on its website a
160 person or entity with a street or e-mail address for receipt of
161 a request for an estoppel certificate issued pursuant to this
162 section. The estoppel certificate must be provided by hand
163 delivery, regular mail, or e-mail to the requestor on the date
164 of issuance of the estoppel certificate.

165 (a) An estoppel certificate may be completed by any board
166 member, authorized agent, or authorized representative of the
167 association, including any authorized agent, authorized
168 representative, or employee of a management company authorized
169 to complete this form on behalf of the board or association. The
170 estoppel certificate must contain all of the following
171 information and must be substantially in the following form:

- 172 1. Date of issuance:....
173 2. Name(s) of the unit owner(s) as reflected in the books
174 and records of the association:....
175 3. Unit designation and address:....

201 the effective period of the estoppel certificate.

202 OTHER INFORMATION:

203 f. Is there a capital contribution fee, resale fee,
 204 transfer fee, or other fee due?(Yes)(No). If yes,
 205 specify the type and amount of the fee.

206 g. Is there any open violation of rule or regulation
 207 noticed to the unit owner in the association official records?
 208(Yes)(No).

209 h. Do the rules and regulations of the association
 210 applicable to the unit require approval by the board of
 211 directors of the association for the transfer of the unit?
 212(Yes)(No). If yes, has the board approved the transfer
 213 of the unit?(Yes)(No).

214 i. Is there a right of first refusal provided to the
 215 members or the association?(Yes)(No). If yes, have
 216 the members or the association exercised that right of first
 217 refusal?(Yes)(No).

218 j. Provide a list of, and contact information for, all
 219 other associations of which the unit is a member.

220 k. Provide contact information for all insurance
 221 maintained by the association.

222 l. Provide the signature of an officer or authorized agent
 223 of the association.

224 The association, at its option, may include additional
 225 information in the estoppel certificate.

226 ~~(d) If an association receives a request for an estoppel~~
227 ~~certificate from a unit owner or the unit owner's designee, or a~~
228 ~~unit mortgagee or the unit mortgagee's designee, and fails to~~
229 ~~deliver the estoppel certificate within 10 business days, a fee~~
230 ~~may not be charged for the preparation and delivery of that~~
231 ~~estoppel certificate.~~

232 (d)-(e) A summary proceeding pursuant to s. 51.011 may be
233 brought to compel compliance with this subsection, and in any
234 such action the prevailing party is entitled to recover
235 reasonable attorney fees.

236 (e)-(f) An association may not charge a fee for the
237 preparation and delivery of an estoppel certificate
238 ~~Notwithstanding any limitation on transfer fees contained in s.~~
239 ~~719.106(1)(i), an association or its authorized agent may charge~~
240 ~~a reasonable fee for the preparation and delivery of an estoppel~~
241 ~~certificate, which may not exceed \$250 if, on the date the~~
242 ~~certificate is issued, no delinquent amounts are owed to the~~
243 ~~association for the applicable unit. If an estoppel certificate~~
244 ~~is requested on an expedited basis and delivered within 3~~
245 ~~business days after the request, the association may charge an~~
246 ~~additional fee of \$100. If a delinquent amount is owed to the~~
247 ~~association for the applicable unit, an additional fee for the~~
248 ~~estoppel certificate may not exceed \$150.~~

249 ~~(g) If estoppel certificates for multiple units owned by~~
250 ~~the same owner are simultaneously requested from the same~~

251 ~~association and there are no past due monetary obligations owed~~
252 ~~to the association, the statement of moneys due for those units~~
253 ~~may be delivered in one or more estoppel certificates, and, even~~
254 ~~though the fee for each unit shall be computed as set forth in~~
255 ~~paragraph (f), the total fee that the association may charge for~~
256 ~~the preparation and delivery of the estoppel certificates may~~
257 ~~not exceed, in the aggregate:~~

- 258 ~~1. For 25 or fewer units, \$750.~~
- 259 ~~2. For 26 to 50 units, \$1,000.~~
- 260 ~~3. For 51 to 100 units, \$1,500.~~
- 261 ~~4. For more than 100 units, \$2,500.~~

262 ~~(h) The authority to charge a fee for the preparation and~~
263 ~~delivery of the estoppel certificate must be established by a~~
264 ~~written resolution adopted by the board or provided by a written~~
265 ~~management, bookkeeping, or maintenance contract and is payable~~
266 ~~upon the preparation of the certificate. If the certificate is~~
267 ~~requested in conjunction with the sale or mortgage of a parcel~~
268 ~~but the closing does not occur and no later than 30 days after~~
269 ~~the closing date for which the certificate was sought the~~
270 ~~preparer receives a written request, accompanied by reasonable~~
271 ~~documentation, that the sale did not occur from a payor that is~~
272 ~~not the parcel owner, the fee shall be refunded to that payor~~
273 ~~within 30 days after receipt of the request. The refund is the~~
274 ~~obligation of the parcel owner, and the association may collect~~
275 ~~it from that owner in the same manner as an assessment as~~

276 ~~provided in this section. The right to reimbursement may not be~~
277 ~~waived or modified by any contract or agreement. The prevailing~~
278 ~~party in any action brought to enforce a right of reimbursement~~
279 ~~shall be awarded damages and all applicable attorney fees and~~
280 ~~costs.~~

281 ~~(i) The fees specified in this subsection shall be~~
282 ~~adjusted every 5 years in an amount equal to the total of the~~
283 ~~annual increases for that 5-year period in the Consumer Price~~
284 ~~Index for All Urban Consumers, U.S. City Average, All Items. The~~
285 ~~Department of Business and Professional Regulation shall~~
286 ~~periodically calculate the fees, rounded to the nearest dollar,~~
287 ~~and publish the amounts, as adjusted, on its website.~~

288 Section 3. Subsections (1) and (4) through (9) of section
289 720.30851, Florida Statutes, are amended to read:

290 720.30851 Estoppel certificates.—Within 10 business days
291 after receiving a written or electronic request for an estoppel
292 certificate from a parcel owner or the parcel owner's designee,
293 or a parcel mortgagee or the parcel mortgagee's designee, the
294 association shall issue the estoppel certificate. Each
295 association shall designate on its website a person or entity
296 with a street or e-mail address for receipt of a request for an
297 estoppel certificate issued pursuant to this section. The
298 estoppel certificate must be provided by hand delivery, regular
299 mail, or e-mail to the requestor on the date of issuance of the
300 estoppel certificate.

301 (1) An estoppel certificate may be completed by any board
 302 member, authorized agent, or authorized representative of the
 303 association, including any authorized agent, authorized
 304 representative, or employee of a management company authorized
 305 to complete this form on behalf of the board or association. The
 306 estoppel certificate must contain all of the following
 307 information and must be substantially in the following form:

308 (a) Date of issuance:....

309 (b) Name(s) of the parcel owner(s) as reflected in the
 310 books and records of the association:....

311 (c) Parcel designation and address:....

312 (d) Parking or garage space number, as reflected in the
 313 books and records of the association:....

314 (e) Attorney's name and contact information if the account
 315 is delinquent and has been turned over to an attorney for
 316 collection. No fee may be charged for this information.

317 ~~(f) Fee for the preparation and delivery of the estoppel~~
 318 ~~certificate:....~~

319 (f)~~(g)~~ Name of the requestor:....

320 (g)~~(h)~~ Assessment information and other information:

321 ASSESSMENT INFORMATION:

322 1. The regular periodic assessment levied against the
 323 parcel is \$.... per ...(insert frequency of payment)....

324 2. The regular periodic assessment is paid through
 325 ...(insert date paid through)....

326 3. The next installment of the regular periodic assessment
327 is due ...(insert due date)... in the amount of \$.....

328 4. An itemized list of all assessments, special
329 assessments, and other moneys owed on the date of issuance to
330 the association by the parcel owner for a specific parcel is
331 provided.

332 5. An itemized list of any additional assessments, special
333 assessments, and other moneys that are scheduled to become due
334 for each day after the date of issuance for the effective period
335 of the estoppel certificate is provided. In calculating the
336 amounts that are scheduled to become due, the association may
337 assume that any delinquent amounts will remain delinquent during
338 the effective period of the estoppel certificate.

339 OTHER INFORMATION:

340 6. Is there a capital contribution fee, resale fee,
341 transfer fee, or other fee due?(Yes)(No). If yes,
342 specify the type and amount of the fee.

343 7. Is there any open violation of rule or regulation
344 noticed to the parcel owner in the association official records?
345(Yes)(No).

346 8. Do the rules and regulations of the association
347 applicable to the parcel require approval by the board of
348 directors of the association for the transfer of the parcel?
349(Yes)(No). If yes, has the board approved the transfer
350 of the parcel?(Yes)(No).

351 9. Is there a right of first refusal provided to the
 352 members or the association?(Yes)(No). If yes, have
 353 the members or the association exercised that right of first
 354 refusal?(Yes)(No).

355 10. Provide a list of, and contact information for, all
 356 other associations of which the parcel is a member.

357 11. Provide contact information for all insurance
 358 maintained by the association.

359 12. Provide the signature of an officer or authorized
 360 agent of the association.

361 The association, at its option, may include additional
 362 information in the estoppel certificate.

363 ~~(4) If an association receives a request for an estoppel~~
 364 ~~certificate from a parcel owner or the parcel owner's designee,~~
 365 ~~or a parcel mortgagee or the parcel mortgagee's designee, and~~
 366 ~~fails to deliver the estoppel certificate within 10 business~~
 367 ~~days, a fee may not be charged for the preparation and delivery~~
 368 ~~of that estoppel certificate.~~

369 (4)~~(5)~~ A summary proceeding pursuant to s. 51.011 may be
 370 brought to compel compliance with this section, and the
 371 prevailing party is entitled to recover reasonable attorney
 372 fees.

373 (5)~~(6)~~ An association may not charge a fee for the
 374 preparation and delivery of an estoppel certificate ~~or its~~
 375 ~~authorized agent may charge a reasonable fee for the preparation~~

376 ~~and delivery of an estoppel certificate, which may not exceed~~
377 ~~\$250, if, on the date the certificate is issued, no delinquent~~
378 ~~amounts are owed to the association for the applicable parcel.~~
379 ~~If an estoppel certificate is requested on an expedited basis~~
380 ~~and delivered within 3 business days after the request, the~~
381 ~~association may charge an additional fee of \$100. If a~~
382 ~~delinquent amount is owed to the association for the applicable~~
383 ~~parcel, an additional fee for the estoppel certificate may not~~
384 ~~exceed \$150.~~

385 ~~(7) If estoppel certificates for multiple parcels owned by~~
386 ~~the same owner are simultaneously requested from the same~~
387 ~~association and there are no past due monetary obligations owed~~
388 ~~to the association, the statement of moneys due for those~~
389 ~~parcels may be delivered in one or more estoppel certificates,~~
390 ~~and, even though the fee for each parcel shall be computed as~~
391 ~~set forth in subsection (6), the total fee that the association~~
392 ~~may charge for the preparation and delivery of the estoppel~~
393 ~~certificates may not exceed, in the aggregate:~~

- 394 ~~(a) For 25 or fewer parcels, \$750.~~
395 ~~(b) For 26 to 50 parcels, \$1,000.~~
396 ~~(c) For 51 to 100 parcels, \$1,500.~~
397 ~~(d) For more than 100 parcels, \$2,500.~~

398 ~~(8) The authority to charge a fee for the preparation and~~
399 ~~delivery of the estoppel certificate must be established by a~~
400 ~~written resolution adopted by the board or provided by a written~~

401 ~~management, bookkeeping, or maintenance contract and is payable~~
402 ~~upon the preparation of the certificate. If the certificate is~~
403 ~~requested in conjunction with the sale or mortgage of a parcel~~
404 ~~but the closing does not occur and no later than 30 days after~~
405 ~~the closing date for which the certificate was sought the~~
406 ~~preparer receives a written request, accompanied by reasonable~~
407 ~~documentation, that the sale did not occur from a payor that is~~
408 ~~not the parcel owner, the fee shall be refunded to that payor~~
409 ~~within 30 days after receipt of the request. The refund is the~~
410 ~~obligation of the parcel owner, and the association may collect~~
411 ~~it from that owner in the same manner as an assessment as~~
412 ~~provided in this section. The right to reimbursement may not be~~
413 ~~waived or modified by any contract or agreement. The prevailing~~
414 ~~party in any action brought to enforce a right of reimbursement~~
415 ~~shall be awarded damages and all applicable attorney fees and~~
416 ~~costs.~~

417 ~~(9) The fees specified in this section shall be adjusted~~
418 ~~every 5 years in an amount equal to the total of the annual~~
419 ~~increases for that 5-year period in the Consumer Price Index for~~
420 ~~All Urban Consumers, U.S. City Average, All Items. The~~
421 ~~Department of Business and Professional Regulation shall~~
422 ~~periodically calculate the fees, rounded to the nearest dollar,~~
423 ~~and publish the amounts, as adjusted, on its website.~~

424 Section 4. Paragraph (c) of subsection (2) of section
425 689.28, Florida Statutes, is amended to read:

426 689.28 Prohibition against transfer fee covenants.—
 427 (2) DEFINITIONS.—As used in this section, the term:
 428 (c) "Transfer fee" means a fee or charge required by a
 429 transfer fee covenant and payable upon the transfer of an
 430 interest in real property, or payable for the right to make or
 431 accept such transfer, regardless of whether the fee or charge is
 432 a fixed amount or is determined as a percentage of the value of
 433 the property, the purchase price, or other consideration given
 434 for the transfer. The following are not transfer fees for
 435 purposes of this section:
 436 1. Any consideration payable by the grantee to the grantor
 437 for the interest in real property being transferred, including
 438 any subsequent additional consideration for the property payable
 439 by the grantee based upon any subsequent appreciation,
 440 development, or sale of the property. For the purposes of this
 441 subparagraph, an interest in real property may include a
 442 separate mineral estate and its appurtenant surface access
 443 rights.
 444 2. Any commission payable to a licensed real estate broker
 445 for the transfer of real property pursuant to an agreement
 446 between the broker and the grantor or the grantee, including any
 447 subsequent additional commission for that transfer payable by
 448 the grantor or the grantee based upon any subsequent
 449 appreciation, development, or sale of the property.
 450 3. Any interest, charges, fees, or other amounts payable

451 by a borrower to a lender pursuant to a loan secured by a
 452 mortgage against real property, including, but not limited to,
 453 any fee payable to the lender for consenting to an assumption of
 454 the loan or a transfer of the real property subject to the
 455 mortgage, any fees or charges payable to the lender for estoppel
 456 letters or certificates, and any shared appreciation interest or
 457 profit participation or other consideration described in s.
 458 687.03(4) and payable to the lender in connection with the loan.

459 4. Any rent, reimbursement, charge, fee, or other amount
 460 payable by a lessee to a lessor under a lease, including, but
 461 not limited to, any fee payable to the lessor for consenting to
 462 an assignment, subletting, encumbrance, or transfer of the
 463 lease.

464 5. Any consideration payable to the holder of an option to
 465 purchase an interest in real property or the holder of a right
 466 of first refusal or first offer to purchase an interest in real
 467 property for waiving, releasing, or not exercising the option or
 468 right upon the transfer of the property to another person.

469 6. Any tax, fee, charge, assessment, fine, or other amount
 470 payable to or imposed by a governmental authority.

471 7. Any fee, charge, assessment, fine, or other amount
 472 payable to a homeowners', condominium, cooperative, mobile home,
 473 or property owners' association pursuant to a declaration or
 474 covenant or law applicable to such association, ~~including, but~~
 475 ~~not limited to, fees or charges payable for estoppel letters or~~

476 ~~certificates issued by the association or its authorized agent.~~

477 8. Any fee, charge, assessment, dues, contribution, or
478 other amount imposed by a declaration or covenant encumbering
479 four or more parcels in a community, as defined in s. 720.301,
480 and payable to a nonprofit or charitable organization for the
481 purpose of supporting cultural, educational, charitable,
482 recreational, environmental, conservation, or other similar
483 activities benefiting the community that is subject to the
484 declaration or covenant.

485 9. Any fee, charge, assessment, dues, contribution, or
486 other amount pertaining to the purchase or transfer of a club
487 membership relating to real property owned by the member,
488 including, but not limited to, any amount determined by
489 reference to the value, purchase price, or other consideration
490 given for the transfer of the real property.

491 10. Any payment required pursuant to an environmental
492 covenant.

493 Section 5. This act shall take effect July 1, 2024.