

1 A bill to be entitled
 2 An act relating to estoppel certificates; amending s.
 3 468.436, F.S.; making a technical change; amending ss.
 4 718.116, 719.108, and 720.30851, F.S.; requiring a
 5 community association to annually establish the
 6 authority to charge a fee for the preparation and
 7 delivery of an estoppel certificate; prohibiting an
 8 association from directly or indirectly charging fees
 9 that are not authorized by law for an estoppel
 10 certificate; specifying methods for paying the fee for
 11 the preparation and delivery of an estoppel
 12 certificate under certain circumstances; providing an
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Paragraph (b) of subsection (2) of section
 18 468.436, Florida Statutes, is amended to read:

19 468.436 Disciplinary proceedings.—

20 (2) The following acts constitute grounds for which the
 21 disciplinary actions in subsection (4) may be taken:

22 (b)1. Violation of ~~any provision of~~ this part.

23 2. Violation of any lawful order or rule rendered or
 24 adopted by the department or the council.

25 3. Being convicted of or pleading nolo contendere to a

26 felony in any court in the United States.

27 4. Obtaining a license or certification or any other
 28 order, ruling, or authorization by means of fraud,
 29 misrepresentation, or concealment of material facts.

30 5. Committing acts of gross misconduct or gross negligence
 31 in connection with the profession.

32 6. Contracting, on behalf of an association, with any
 33 entity in which the licensee has a financial interest that is
 34 not disclosed.

35 7. Violating any provision of chapter 718, chapter 719, or
 36 chapter 720 during the course of performing community
 37 association management services pursuant to a contract with a
 38 community association as defined in s. 468.431(1).

39 Section 2. Paragraph (i) of subsection (8) of section
 40 718.116, Florida Statutes, is redesignated as paragraph (k),
 41 paragraph (h) is amended, and new paragraphs (i) and (j) are
 42 added to that subsection, to read:

43 718.116 Assessments; liability; lien and priority;
 44 interest; collection.—

45 (8) Within 10 business days after receiving a written or
 46 electronic request therefor from a unit owner or the unit
 47 owner's designee, or a unit mortgagee or the unit mortgagee's
 48 designee, the association shall issue the estoppel certificate.
 49 Each association shall designate on its website a person or
 50 entity with a street or e-mail address for receipt of a request

51 for an estoppel certificate issued pursuant to this section. The
52 estoppel certificate must be provided by hand delivery, regular
53 mail, or e-mail to the requestor on the date of issuance of the
54 estoppel certificate.

55 (h) The authority to charge a fee for the preparation and
56 delivery of the estoppel certificate must be established
57 annually by a written resolution adopted by the board or
58 provided by a written management, bookkeeping, or maintenance
59 contract.

60 (i) An association may not directly or indirectly charge
61 any fee for an estoppel certificate other than those expressly
62 authorized by this section. Unauthorized fees or charges,
63 whether described as a convenience fee, an archive fee, a
64 service fee, a processing fee, a delivery fee, a credit card
65 fee, a certification fee, a third-party fee, or any other fee or
66 charge, are void and may be ignored by the requestor of the
67 certificate.

68 (j) If an estoppel certificate is requested in conjunction
69 with the sale or refinancing of a unit, the fee for the
70 preparation and delivery of the estoppel certificate must be
71 paid to the association from the closing or settlement proceeds.
72 If the closing does not occur, the fee for the preparation and
73 delivery of the estoppel certificate is payable by the unit
74 owner upon the expiration of the 30-day or 35-day effective
75 period of the certificate. The association may collect the fee

76 | in the same manner as an assessment against the unit ~~and is~~
 77 | ~~payable upon the preparation of the certificate. If the~~
 78 | ~~certificate is requested in conjunction with the sale or~~
 79 | ~~mortgage of a unit but the closing does not occur and no later~~
 80 | ~~than 30 days after the closing date for which the certificate~~
 81 | ~~was sought the preparer receives a written request, accompanied~~
 82 | ~~by reasonable documentation, that the sale did not occur from a~~
 83 | ~~payor that is not the unit owner, the fee shall be refunded to~~
 84 | ~~that payor within 30 days after receipt of the request. The~~
 85 | ~~refund is the obligation of the unit owner, and the association~~
 86 | ~~may collect it from that owner in the same manner as an~~
 87 | ~~assessment as provided in this section. The right to~~
 88 | ~~reimbursement may not be waived or modified by any contract or~~
 89 | ~~agreement. The prevailing party in any action brought to enforce~~
 90 | ~~a right of reimbursement shall be awarded damages and all~~
 91 | ~~applicable attorney fees and costs.~~

92 | Section 3. Paragraph (i) of subsection (6) of section
 93 | 719.108, Florida Statutes, is redesignated as paragraph (k),
 94 | paragraph (h) is amended, and new paragraphs (i) and (j) are
 95 | added to that subsection, to read:

96 | 719.108 Rents and assessments; liability; lien and
 97 | priority; interest; collection; cooperative ownership.—

98 | (6) Within 10 business days after receiving a written or
 99 | electronic request for an estoppel certificate from a unit owner
 100 | or the unit owner's designee, or a unit mortgagee or the unit

101 mortgagee's designee, the association shall issue the estoppel
102 certificate. Each association shall designate on its website a
103 person or entity with a street or e-mail address for receipt of
104 a request for an estoppel certificate issued pursuant to this
105 section. The estoppel certificate must be provided by hand
106 delivery, regular mail, or e-mail to the requestor on the date
107 of issuance of the estoppel certificate.

108 (h) The authority to charge a fee for the preparation and
109 delivery of the estoppel certificate must be established
110 annually by a written resolution adopted by the board or
111 provided by a written management, bookkeeping, or maintenance
112 contract.

113 (i) An association may not directly or indirectly charge
114 any fee for an estoppel certificate other than those expressly
115 authorized by this section. Unauthorized fees or charges,
116 whether described as a convenience fee, an archive fee, a
117 service fee, a processing fee, a delivery fee, a credit card
118 fee, a certification fee, a third-party fee, or any other fee or
119 charge, are void and may be ignored by the requestor of the
120 certificate.

121 (j) If an estoppel certificate is requested in conjunction
122 with the sale or refinancing of a unit, the fee for the
123 preparation and delivery of the estoppel certificate must be
124 paid to the association from the closing or settlement proceeds.
125 If the closing does not occur, the fee for the preparation and

126 delivery of the estoppel certificate is payable by the unit
127 owner upon the expiration of the 30-day or 35-day effective
128 period of the certificate. The association may collect the fee
129 in the same manner as an assessment against the unit and is
130 payable upon the preparation of the certificate. If the
131 certificate is requested in conjunction with the sale or
132 mortgage of a parcel but the closing does not occur and no later
133 than 30 days after the closing date for which the certificate
134 was sought the preparer receives a written request, accompanied
135 by reasonable documentation, that the sale did not occur from a
136 payor that is not the parcel owner, the fee shall be refunded to
137 that payor within 30 days after receipt of the request. The
138 refund is the obligation of the parcel owner, and the
139 association may collect it from that owner in the same manner as
140 an assessment as provided in this section. The right to
141 reimbursement may not be waived or modified by any contract or
142 agreement. The prevailing party in any action brought to enforce
143 a right of reimbursement shall be awarded damages and all
144 applicable attorney fees and costs.

145 Section 4. Subsection (9) of section 720.30851, Florida
146 Statutes, is renumbered as subsection (11), subsection (8) is
147 amended, and new subsections (9) and (10) are added to that
148 section, to read:

149 720.30851 Estoppel certificates.—Within 10 business days
150 after receiving a written or electronic request for an estoppel

151 certificate from a parcel owner or the parcel owner's designee,
152 or a parcel mortgagee or the parcel mortgagee's designee, the
153 association shall issue the estoppel certificate. Each
154 association shall designate on its website a person or entity
155 with a street or e-mail address for receipt of a request for an
156 estoppel certificate issued pursuant to this section. The
157 estoppel certificate must be provided by hand delivery, regular
158 mail, or e-mail to the requestor on the date of issuance of the
159 estoppel certificate.

160 (8) The authority to charge a fee for the preparation and
161 delivery of the estoppel certificate must be established
162 annually by a written resolution adopted by the board or
163 provided by a written management, bookkeeping, or maintenance
164 contract.

165 (9) An association may not directly or indirectly charge
166 any fee for an estoppel certificate other than those expressly
167 authorized by this section. Unauthorized fees or charges,
168 whether described as a convenience fee, an archive fee, a
169 service fee, a processing fee, a delivery fee, a credit card
170 fee, a certification fee, a third-party fee, or any other fee or
171 charge, are void and may be ignored by the requestor of the
172 certificate.

173 (10) If an estoppel certificate is requested in
174 conjunction with the sale or refinancing of a parcel, the fee
175 for the preparation and delivery of the estoppel certificate

176 must be paid to the association from the closing or settlement
177 proceeds. If the closing does not occur, the fee for the
178 preparation and delivery of the estoppel certificate is payable
179 by the unit owner upon the expiration of the 30-day or 35-day
180 effective period of the certificate. The association may collect
181 the fee in the same manner as an assessment against the parcel
182 ~~and is payable upon the preparation of the certificate. If the~~
183 ~~certificate is requested in conjunction with the sale or~~
184 ~~mortgage of a parcel but the closing does not occur and no later~~
185 ~~than 30 days after the closing date for which the certificate~~
186 ~~was sought the preparer receives a written request, accompanied~~
187 ~~by reasonable documentation, that the sale did not occur from a~~
188 ~~payor that is not the parcel owner, the fee shall be refunded to~~
189 ~~that payor within 30 days after receipt of the request. The~~
190 ~~refund is the obligation of the parcel owner, and the~~
191 ~~association may collect it from that owner in the same manner as~~
192 ~~an assessment as provided in this section. The right to~~
193 ~~reimbursement may not be waived or modified by any contract or~~
194 ~~agreement. The prevailing party in any action brought to enforce~~
195 ~~a right of reimbursement shall be awarded damages and all~~
196 ~~applicable attorney fees and costs.~~

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