

HB 611

2015

1 A bill to be entitled
 2 An act relating to residential properties; amending
 3 ss. 718.116 and 720.30851, F.S.; providing
 4 requirements relating to the request for an estoppel
 5 certificate by a unit or parcel owner; providing that
 6 the association waives the right to collect any moneys
 7 owed in excess of the amounts set forth in the
 8 estoppel certificate under certain conditions;
 9 providing that the association waives any claim
 10 against a person or entity who would have relied in
 11 good faith upon the estoppel certificate under certain
 12 conditions; providing and revising fee and
 13 supplemental fee requirements; providing an effective
 14 date.

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

17
 18 Section 1. Subsection (8) of section 718.116, Florida
 19 Statutes, is amended to read:

20 718.116 Assessments; liability; lien and priority;
 21 interest; collection.—

22 (8) Within 10 ~~15~~ days after receiving a written request
 23 for an estoppel certificate ~~therefor~~ from a unit owner or his or
 24 her designee, or a unit mortgagee or his or her designee, the
 25 association shall deliver by mail, hand, or electronic means an
 26 estoppel ~~provide a~~ certificate signed by an officer or agent of

HB 611

2015

27 | the association. The estoppel certificate must be dated as of
28 | the date it is delivered and must state ~~stating~~ all assessments
29 | and other moneys owed to the association by the unit owner with
30 | respect to the unit, as reflected in records maintained pursuant
31 | to s. 718.111(12), through a date that is at least 30 days after
32 | the date of the estoppel certificate ~~condominium parcel.~~

33 | (a) An association waives the right to collect any moneys
34 | owed in excess of the amounts set forth in the estoppel
35 | certificate from any person or entity who in good faith relies
36 | upon that certificate ~~Any person other than the owner who relies~~
37 | ~~upon such certificate shall be protected thereby.~~

38 | (b) If an association has received a written request for
39 | an estoppel certificate from a unit owner or his or her
40 | designee, or a unit mortgagee or his or her designee, and fails
41 | to deliver an estoppel certificate as required by this section,
42 | the association waives any claim, including a claim for its lien
43 | against the unit, against any person or entity who would have in
44 | good faith relied upon that certificate, had it been so
45 | delivered, for any moneys owed to the association by the unit
46 | owner with respect to the unit for 40 days after the date of
47 | receipt of the request ~~A summary proceeding pursuant to s.~~
48 | ~~51.011 may be brought to compel compliance with this subsection,~~
49 | ~~and in any such action the prevailing party is entitled to~~
50 | ~~recover reasonable attorney's fees.~~

51 | (c) Notwithstanding any limitation on transfer fees
52 | contained in s. 718.112(2)(i), an ~~the~~ association or its

53 authorized agent may charge a ~~reasonable~~ fee as provided in this
54 paragraph for the preparation and delivery of the estoppel
55 certificate. The amount of the fee must be included on the
56 estoppel certificate. If the estoppel certificate is requested
57 in conjunction with the sale or refinancing of a unit, the fee
58 and any supplemental fees pursuant to this paragraph shall be
59 due and payable no earlier than the closing of the sale or
60 refinancing, and shall be paid from closing settlement proceeds.
61 If the closing does not occur within 120 days after the date the
62 estoppel certificate is delivered, the fee for the estoppel
63 certificate is the obligation of the unit owner and the
64 association may collect the fee only in the same manner as an
65 assessment against the unit owner as set forth in this section.
66 The preparation and delivery of an estoppel certificate may not
67 be conditioned upon the payment of any other fees. The
68 association may collect reasonable attorney fees and costs in
69 connection with the collection of past due moneys. The amount of
70 the fee may not exceed \$100. However, one or more of the
71 following supplemental fees may be added:

72 1. If the unit owner is delinquent with respect to moneys
73 owed to the association, and the association has referred the
74 account to an attorney or other agent for collection, an
75 additional fee not to exceed \$50 may be charged.

76 2. If a request to expedite delivery of the estoppel
77 certificate is made and the estoppel certificate is delivered no
78 later than the date requested, an additional fee not to exceed

79 \$50 may be charged.

80 3. If an additional estoppel certificate is requested
81 within 30 days after the most recently delivered estoppel
82 certificate, an additional fee not to exceed \$50 for each such
83 estoppel certificate may be charged.

84 4. If an estoppel certificate is issued to correct an
85 error or omission in a previously issued estoppel certificate,
86 no additional fee may be charged.

87 (d) If estoppel certificates for multiple units owned by
88 the same unit owner are simultaneously requested from the same
89 association and there are no past due monetary obligations owed
90 to the association, the statement of moneys due for those units
91 may be delivered in one or more estoppel certificates, and,
92 though the fee for each unit shall be computed as set forth in
93 paragraph (c), the total fee that the association may charge for
94 the preparation and delivery of the estoppel certificate or
95 estoppel certificates may not exceed, in the aggregate:

96 1. For 25 or fewer units, \$750.

97 2. For 26 to 50 units, \$1,000.

98 3. For 51 to 100 units, \$1,500.

99 4. For more than 100 units, \$2,500.

100 (e)-~~(d)~~ The authority to charge a fee for the estoppel
101 certificate shall be established by a written resolution adopted
102 by the board or provided by a written management, bookkeeping,
103 or maintenance contract and is payable upon the preparation of
104 the certificate. If the certificate is requested in conjunction

105 ~~with the sale or mortgage of a unit but the closing does not~~
 106 ~~occur and no later than 30 days after the closing date for which~~
 107 ~~the certificate was sought the preparer receives a written~~
 108 ~~request, accompanied by reasonable documentation, that the sale~~
 109 ~~did not occur from a payor that is not the unit owner, the fee~~
 110 ~~shall be refunded to that payor within 30 days after receipt of~~
 111 ~~the request. The refund is the obligation of the unit owner, and~~
 112 ~~the association may collect it from that owner in the same~~
 113 ~~manner as an assessment as provided in this section.~~

114 (f) A summary procedure pursuant to s. 51.011 may be
 115 brought to compel compliance with this subsection, and in any
 116 such action the prevailing party is entitled to recover
 117 reasonable attorney fees.

118 Section 2. Section 720.30851, Florida Statutes, is amended
 119 to read:

120 720.30851 Estoppel certificates.—Within 10 ~~15~~ days after
 121 the date on which a request for an estoppel certificate is
 122 received from a parcel owner or mortgagee, or his or her
 123 designee, the association shall deliver by mail, hand, or
 124 electronic means an estoppel ~~provide~~ a certificate signed by an
 125 officer or authorized agent of the association. The estoppel
 126 certificate must be dated as of the date it is delivered and
 127 must state ~~stating~~ all assessments and other moneys owed to the
 128 association by the parcel owner or mortgagee with respect to the
 129 parcel, as reflected in records maintained pursuant to s.
 130 720.303(4), through a date that is at least 30 days after the

131 date of the estoppel certificate. ~~An association may charge a~~
132 ~~fee for the preparation of such certificate, and the amount of~~
133 ~~such fee must be stated on the certificate.~~

134 (1) An association waives the right to collect any moneys
135 owed in excess of the amounts set forth in the estoppel
136 certificate from any person or entity who in good faith relies
137 upon that certificate ~~Any person other than a parcel owner who~~
138 ~~relies upon a certificate receives the benefits and protection~~
139 ~~thereof.~~

140 (2) If an association has received a written request for
141 an estoppel certificate from a parcel owner or his or her
142 designee, or a mortgagee or his or her designee, and fails to
143 deliver an estoppel certificate as required by this section, the
144 association waives any claim, including a claim for its lien
145 against the parcel, against any person or entity who would have
146 in good faith relied upon that certificate, had it been so
147 delivered, for any moneys owed to the association by the parcel
148 owner with respect to the parcel for 40 days after the date of
149 receipt of the request ~~A summary proceeding pursuant to s.~~
150 ~~51.011 may be brought to compel compliance with this section,~~
151 ~~and the prevailing party is entitled to recover reasonable~~
152 ~~attorney's fees.~~

153 (3) An association or its authorized agent may charge a
154 fee as provided in this subsection for the preparation and
155 delivery of the estoppel certificate. The amount of the fee must
156 be included on the estoppel certificate. If the estoppel

157 certificate is requested in conjunction with the sale or
158 refinancing of a parcel, the fee and any supplemental fees
159 pursuant to this subsection shall be due and payable no earlier
160 than the closing of the sale or refinancing, and shall be paid
161 from the closing settlement proceeds. If the closing does not
162 occur within 120 days after the date the estoppel certificate is
163 delivered, the fee for the estoppel certificate is the
164 obligation of the parcel owner and the association may collect
165 the fee only in the same manner as an assessment against the
166 parcel owner as set forth in s. 720.3085. The preparation and
167 delivery of an estoppel certificate may not be conditioned upon
168 the payment of any other fees. The association may collect
169 reasonable attorney fees and costs in connection with the
170 collection of past due moneys. The amount of the fee may not
171 exceed \$100. However, one or more of the following supplemental
172 fees may be added:

173 (a) If the parcel owner is delinquent with respect to
174 moneys owed to the association, and the association has referred
175 the account to an attorney or other agent for collection, an
176 additional fee not to exceed \$50 may be charged.

177 (b) If a request to expedite delivery of the estoppel
178 certificate is made and the estoppel certificate is delivered no
179 later than the date requested, an additional fee not to exceed
180 \$50 may be charged.

181 (c) If an additional estoppel certificate is requested
182 within 30 days after the most recently delivered estoppel

183 certificate, an additional fee not to exceed \$50 for each such
 184 estoppel certificate may be charged.

185 (d) If an estoppel certificate is issued to correct an
 186 error or omission in a previously issued estoppel certificate,
 187 no additional fee may be charged.

188 (4) If estoppel certificates for multiple parcels owned by
 189 the same parcel owner are simultaneously requested from the same
 190 association and there are no past due monetary obligations owed
 191 to the association, the statement of moneys due for those
 192 parcels may be delivered in one or more estoppel certificates,
 193 and, though the fee for each parcel shall be computed as set
 194 forth in subsection (3), the total fee that the association may
 195 charge for the preparation and delivery of the estoppel
 196 certificate or estoppel certificates may not exceed, in the
 197 aggregate:

198 (a) For 25 or fewer parcels, \$750.

199 (b) For 26 to 50 parcels, \$1,000.

200 (c) For 51 to 100 parcels, \$1,500.

201 (d) For more than 100 parcels, \$2,500.

202 (5) The authority to charge a fee for the estoppel
 203 certificate shall be established by a written resolution adopted
 204 by the board or provided by a written management, bookkeeping,
 205 or maintenance contract and is payable upon the preparation of
 206 the certificate. If the certificate is requested in conjunction
 207 with the sale or mortgage of a parcel but the closing does not
 208 occur and no later than 30 days after the closing date for which

HB 611

2015

209 ~~the certificate was sought the preparer receives a written~~
210 ~~request, accompanied by reasonable documentation, that the sale~~
211 ~~did not occur from a payor that is not the parcel owner, the fee~~
212 ~~shall be refunded to that payor within 30 days after receipt of~~
213 ~~the request. The refund is the obligation of the parcel owner,~~
214 ~~and the association may collect it from that owner in the same~~
215 ~~manner as an assessment as provided in this section.~~

216 (6) A summary procedure pursuant to s. 51.011 may be
217 brought to compel compliance with this section, and in any such
218 action the prevailing party is entitled to recover reasonable
219 attorney fees.

220 Section 3. This act shall take effect July 1, 2015.