

CHAPTER 2017-93

Committee Substitute for Committee Substitute for Committee Substitute for Senate Bill No. 398

An act relating to estoppel certificates; amending ss. 718.116, 719.108, and 720.30851, F.S.; revising requirements relating to the issuance of an estoppel certificate to specified persons; requiring a condominium, cooperative, or homeowners' association to designate a street or e-mail address on its website for estoppel certificate requests; specifying delivery requirements for an estoppel certificate; authorizing an estoppel certificate to be completed by specified persons; requiring that an estoppel certificate contain certain information; providing an effective period for an estoppel certificate based upon the date of issuance and form of delivery; prohibiting an association from charging a preparation and delivery fee or making certain claims if it fails to deliver an estoppel certificate within certain timeframes; revising fee requirements for preparing and delivering an estoppel certificate under various circumstances; authorizing the statement of moneys due to be delivered in one or more estoppel certificates under certain circumstances; providing limits on a total fee charged for the preparation and delivery of estoppel certificates; requiring that the authority to charge a fee for the preparation and delivery of estoppel certificates be established by a specified written resolution or provided by a certain type of contract; providing that the right to reimbursement may not be waived or modified by a contract or agreement; requiring that the prevailing party in an action to enforce a right to reimbursement be awarded certain damages, fees, and costs; requiring that certain fees be adjusted every certain number of years using a specified price index; requiring the Department of Business and Professional Regulation to periodically calculate the fees and publish the amounts on its website, subject to certain requirements; conforming provisions to changes made by the act; providing an effective date.

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

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

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

(8) Within 10 business ~~15~~ days after receiving a written or electronic request therefor from a unit owner or the unit owner's his or her designee, or a unit mortgagee or the unit mortgagee's his or her designee, the association shall issue the estoppel provide a certificate. Each association shall designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate issued pursuant to this section. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate signed by an officer or agent of the association stating all

assessments and other moneys owed to the association by the unit owner with respect to the condominium parcel.

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

- 1. Date of issuance:.....
- 2. Name(s) of the unit owner(s) as reflected in the books and records of the association:.....
- 3. Unit designation and address:.....
- 4. Parking or garage space number, as reflected in the books and records of the association:.....
- 5. Attorney’s name and contact information if the account is delinquent and has been turned over to an attorney for collection. No fee may be charged for this information.
- 6. Fee for the preparation and delivery of the estoppel certificate:.....
- 7. Name of the requestor:.....
- 8. Assessment information and other information:

ASSESSMENT INFORMATION:

- a. The regular periodic assessment levied against the unit is \$..... per ... (insert frequency of payment)....
- b. The regular periodic assessment is paid through ...(insert date paid through)....
- c. The next installment of the regular periodic assessment is due ... (insert due date)... in the amount of \$.....
- d. An itemized list of all assessments, special assessments, and other moneys owed on the date of issuance to the association by the unit owner for a specific unit is provided.
- e. An itemized list of any additional assessments, special assessments, and other moneys that are scheduled to become due for each day after the date of issuance for the effective period of the estoppel certificate is provided. In calculating the amounts that are scheduled to become due, the association may assume that any delinquent amounts will remain delinquent during the effective period of the estoppel certificate.

OTHER INFORMATION:

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

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

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

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

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

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

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

The association, at its option, may include additional information in the estoppel certificate. Any person other than the owner who relies upon such certificate shall be protected thereby.

(b) An estoppel certificate that is hand delivered or sent by electronic means has a 30-day effective period. An estoppel certificate that is sent by regular mail has a 35-day effective period. If additional information or a mistake related to the estoppel certificate becomes known to the association within the effective period, an amended estoppel certificate may be delivered and becomes effective if a sale or refinancing of the unit has not been completed during the effective period. A fee may not be charged for an amended estoppel certificate. An amended estoppel certificate must be delivered on the date of issuance, and a new 30-day or 35-day effective period begins on such date.

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

(d) If an association receives a request for an estoppel certificate from a unit owner or the unit owner's designee, or a unit mortgagee or the unit mortgagee's designee, and fails to deliver the estoppel certificate within 10

business days, a fee may not be charged for the preparation and delivery of that estoppel certificate.

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

(f)(e) Notwithstanding any limitation on transfer fees contained in s. 718.112(2)(i), an the association or its authorized agent may charge a reasonable fee for the preparation and delivery of an estoppel certificate, which may not exceed \$250, if, on the date the certificate is issued, no delinquent amounts are owed to the association for the applicable unit. If an estoppel certificate is requested on an expedited basis and delivered within 3 business days after the request, the association may charge an additional fee of \$100. If a delinquent amount is owed to the association for the applicable unit, an additional fee for the estoppel certificate may not exceed \$150 for the preparation of the certificate. The amount of the fee must be included on the certificate.

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

1. For 25 or fewer units, \$750.
2. For 26 to 50 units, \$1,000.
3. For 51 to 100 units, \$1,500.
4. For more than 100 units, \$2,500.

(h)(d) The authority to charge a fee for the preparation and delivery of the estoppel certificate must shall be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a unit but the closing does not occur and no later than 30 days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the unit owner, the fee shall be refunded to that payor within 30 days after receipt of the request. The refund is the obligation of the unit owner, and the association may collect it from that owner in the same manner as an assessment as provided in this section. The right to reimbursement may not be waived or modified by any contract or agreement. The prevailing party in any action brought to enforce a right of

reimbursement shall be awarded damages and all applicable attorney fees and costs.

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

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

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

(6) Within 10 business 15 days after receiving a written or electronic request for an estoppel certificate from a unit owner or the unit owner’s designee, or a unit mortgagee or the unit mortgagee’s designee, the association shall issue the estoppel certificate. Each association shall designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate issued pursuant to this section. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate.

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

1. Date of issuance:.....

2. Name(s) of the unit owner(s) as reflected in the books and records of the association:.....

3. Unit designation and address:.....

4. Parking or garage space number, as reflected in the books and records of the association:.....

5. Attorney’s name and contact information if the account is delinquent and has been turned over to an attorney for collection. No fee may be charged for this information.

6. Fee for the preparation and delivery of the estoppel certificate:.....

7. Name of the requestor:.....

8. Assessment information and other information:

ASSESSMENT INFORMATION:

a. The regular periodic assessment levied against the unit is \$..... per ... (insert frequency of payment)....

b. The regular periodic assessment is paid through ...(insert date paid through)....

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

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

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

OTHER INFORMATION:

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

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

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

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

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

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

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

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

(b) An estoppel certificate that is hand delivered or sent by electronic means has a 30-day effective period. An estoppel certificate that is sent by regular mail has a 35-day effective period. If additional information or a mistake related to the estoppel certificate becomes known to the association within the effective period, an amended estoppel certificate may be delivered and becomes effective if a sale or refinancing of the unit has not been completed during the effective period. A fee may not be charged for an amended estoppel certificate. An amended estoppel certificate must be delivered on the date of issuance, and a new 30-day or 35-day effective period begins on such date.

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

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

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

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

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

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

2. For 26 to 50 units, \$1,000.
3. For 51 to 100 units, \$1,500.
4. For more than 100 units, \$2,500.

(h) The authority to charge a fee for the preparation and delivery of the estoppel certificate must be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a parcel but the closing does not occur and no later than 30 days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the parcel owner, the fee shall be refunded to that payor within 30 days after receipt of the request. The refund is the obligation of the parcel owner, and the association may collect it from that owner in the same manner as an assessment as provided in this section. The right to reimbursement may not be waived or modified by any contract or agreement. The prevailing party in any action brought to enforce a right of reimbursement shall be awarded damages and all applicable attorney fees and costs.

(i) The fees specified in this subsection shall be adjusted every 5 years in an amount equal to the total of the annual increases for that 5-year period in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items. The Department of Business and Professional Regulation shall periodically calculate the fees, rounded to the nearest dollar, and publish the amounts, as adjusted, on its website by a unit owner or mortgagee, the association shall provide a certificate stating all assessments and other moneys owed to the association by the unit owner with respect to the cooperative parcel. Any person other than the unit owner who relies upon such certificate shall be protected thereby. Notwithstanding any limitation on transfer fees contained in s. 719.106(1)(i), the association or its authorized agent may charge a reasonable fee for the preparation of the certificate.

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

720.30851 Estoppel certificates.—Within 10 business 15 days after receiving a written or electronic the date on which a request for an estoppel certificate from a parcel owner or the parcel owner's designee, or a parcel mortgagee or the parcel mortgagee's designee, the association shall issue the estoppel certificate. Each association shall designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate issued pursuant to this section. The estoppel certificate must be provided by hand delivery, regular mail, or e-mail to the requestor on the date of issuance of the estoppel certificate.

(1) An estoppel certificate may be completed by any board member, authorized agent, or authorized representative of the association, including

any authorized agent, authorized representative, or employee of a management company authorized to complete this form on behalf of the board or association. The estoppel certificate must contain all of the following information and must be substantially in the following form:

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

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

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

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

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

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

(g) Name of the requestor:.....

(h) Assessment information and other information:

ASSESSMENT INFORMATION:

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

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

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

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

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

OTHER INFORMATION:

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

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

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

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

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

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

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

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

(2) An estoppel certificate that is hand delivered or sent by electronic means has a 30-day effective period. An estoppel certificate that is sent by regular mail has a 35-day effective period. If additional information or a mistake related to the estoppel certificate becomes known to the association within the effective period, an amended estoppel certificate may be delivered and becomes effective if a sale or refinancing of the parcel has not been completed during the effective period. A fee may not be charged for an amended estoppel certificate. An amended estoppel certificate must be delivered on the date of issuance, and a new 30-day or 35-day effective period begins on such date.

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

(4) If an association receives a request for an estoppel certificate from a parcel owner or the parcel owner's designee, or a parcel mortgagee or the parcel mortgagee's designee, and fails to deliver the estoppel certificate within 10 business days, a fee may not be charged for the preparation and delivery of that estoppel certificate for an estoppel certificate is received from

~~a parcel owner or mortgagee, or his or her designee, the association shall provide a certificate signed by an officer or authorized agent of the association stating all assessments and other moneys owed to the association by the parcel owner or mortgagee with respect to the parcel. An association may charge a fee for the preparation of such certificate, and the amount of such fee must be stated on the certificate.~~

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

~~(5)(2) A summary proceeding pursuant to s. 51.011 may be brought to compel compliance with this section, and the prevailing party is entitled to recover reasonable attorney attorney's fees.~~

(6) An association or its authorized agent may charge a reasonable fee for the preparation and delivery of an estoppel certificate, which may not exceed \$250, if, on the date the certificate is issued, no delinquent amounts are owed to the association for the applicable parcel. If an estoppel certificate is requested on an expedited basis and delivered within 3 business days after the request, the association may charge an additional fee of \$100. If a delinquent amount is owed to the association for the applicable parcel, an additional fee for the estoppel certificate may not exceed \$150.

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

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

~~(8)(3) The authority to charge a fee for the preparation and delivery of the estoppel certificate must shall be established by a written resolution adopted by the board or provided by a written management, bookkeeping, or maintenance contract and is payable upon the preparation of the certificate. If the certificate is requested in conjunction with the sale or mortgage of a parcel but the closing does not occur and no later than 30 days after the closing date for which the certificate was sought the preparer receives a written request, accompanied by reasonable documentation, that the sale did not occur from a payor that is not the parcel owner, the fee shall be refunded to that payor within 30 days after receipt of the request. The refund is the obligation of the parcel owner, and the association may collect it from~~

that owner in the same manner as an assessment as provided in this section. The right to reimbursement may not be waived or modified by any contract or agreement. The prevailing party in any action brought to enforce a right of reimbursement shall be awarded damages and all applicable attorney fees and costs.

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

Section 4. This act shall take effect July 1, 2017.

Approved by the Governor June 14, 2017.

Filed in Office Secretary of State June 14, 2017.