

## **NOTICE OF STATUTORY CHANGE TO ESTOPPEL REQUIREMENTS**

On June 14, 2017, Governor Rick Scott signed Senate Bill 398. This new law makes substantial changes to the Florida statutes governing “estoppel certificates” (also known as payoff letters) for community associations. Specifically the bill has amended Chapter 718.116 (condominiums), Chapter 719.108 (cooperatives), and Chapter 720.30851 (homeowner’s associations). These amendment provisions take effect as of July 1, 2017. A summary of the changes made by the bill can be found on the back of this notice.

The most significant changes involve the form and content of estoppel certificates/payoff letters and Accordingly, our firm has prepared standardized estoppel forms that comply with the terms of the new statutes.

- If you use our firm to issue estoppel certificates: We will immediately begin using this new form for all estoppels prepared by our office as of July 1, 2017. However, the revised estoppel certificates require significantly more information to be provided, such as the name and contact information of the association’s insurers. We will need your cooperation in complying with the new requirements, and will be sending each of you information request forms as needed.
- If your association prepares its own estoppel certificates, or employs a management company to do so: Please contact our office for additional details regarding compliance with the new laws.
- All Associations: **RESOLUTIONS MUST BE ADOPTED TO AUTHORIZE THE ISSUANCE OF ESTOPPELS AND THE CHARGING OF HIGHER FEES AUTHORIZED BY THE NEW LAWS.** Your association may have already adopted such

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resolutions, but a revised resolution may be appropriate. Please contact our office immediately to obtain a form resolution that may be adopted in compliance with the new statutes.

In addition to the above changes, the deadlines, procedures, and requirements surrounding the estoppels process have been altered dramatically. A review of your current procedures will be necessary to avoid potential liability or waiver of rights. Please contact us at your earliest convenience to discuss how we can help provide a smooth and effective transition under the new laws.

Sincerely,

Ross Earle Bonan & Ensor, P.A.

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Summary of Changes to Chapter 718.116 , Chapter 719.108 , and  
Chapter 720.30851

- Revises the period in which an association must respond to a request for an estoppel certificate from 15 days to 10 business days.
- Requires an association to designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate. [1]

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- Provides an estoppel certificate delivered by hand, mail, or e-mail has a 30-day effective period, and a certificate sent by regular mail has a 35-day effective period.
- Identifies the persons who may complete the estoppel certificate on behalf of the board or association.
- Specifies the information the association must provide in the estoppel certificate.
- Prohibits an association from charging a fee for an amended estoppel certificate, and provides a new effective period of 30 days or 35 days, depending on the method used to deliver the amended certificate.
- Provides an association waives the right to collect any moneys owed in excess of the amounts set forth in the estoppel certificate from any person, and his or her successors and assigns, who in good faith relies upon the certificate.
- Prohibits an association from charging a fee for preparing and delivering an estoppel certificate that is requested, if it is not delivered within 10 business days.
- Authorizes the use of a summary proceeding pursuant to s. 51.011, F.S., to compel compliance with the estoppel certificate requirements for a cooperative association, as existing law provides for condominium and homeowners' associations.
- Permits an association to charge a maximum fee of \$250 for the preparation and delivery of an estoppel certificate, if there are no delinquent amounts owed to the association.

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- Permits an association to charge an additional \$100 fee for an expedited estoppel certificate delivered within 3 business days after a request for an expedited certificate.
- Permits an association to charge an additional maximum fee of \$150, if there is a delinquent amount owed to the association.
- Specifies the maximum fee an association may charge when it receives simultaneous requests for estoppel certificates for multiple units or parcels owned by the same person and there are no past due monetary obligations owed to the association.
- Provides a lender or purchaser who pays for the preparation of an estoppel certificate may not waive the right to reimbursement if the closing does not occur and the prevailing party in a suit to enforce a right of reimbursement shall be awarded damages, attorney fees, and costs.
- Authorizes a cooperative to charge a fee for preparing and delivering an estoppel certificate but the authorization must be established by a written resolution adopted by either the board or a written management, booking, or maintenance contract.
- Requires the Department of Business and Professional Regulation to adjust the estoppel certificate fees for inflation every five years, rounded to the nearest dollar, and to publish the adjusted amounts on its website.

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[1] Your Association may not be required to have a website, however, if you do have one, then it **MUST** be updated with contract information for estoppel requests. NOTICE OF STATUTORY CHANGE TO ESTOPPEL REQUIREMENTS

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