

REAL ESTATE ALERT

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Explanation of changes to estoppel certificates for associations in Florida



On June 14, 2017, Gov. Rick Scott approved Senate Bill 398 relating to estoppel certificates for condominium, cooperative and homeowners' associations.

What was the issue with the prior law?

Condominium, cooperative and homeowners' associations in Florida had different laws pertaining to estoppel certificates. Also, the Community Association Living Study Council, a creation of the Florida legislature, recommended changes to estoppel certificate fees. Accordingly, the new bill harmonizes the various associations' laws and makes changes to estoppel certificate fees.

What is new?

The changes to Sections 718.116, 719.108 and 720.30851 revise the requirements for estoppel certificates issued by condominium, cooperative and homeowners' associations as follows:

1. Associations must respond to requests for estoppel certificates within 10 business days.
2. An association must designate on its website a person or entity with a street or e-mail address for receipt of a request for an estoppel certificate.

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3. An estoppel certificate that is hand-delivered or sent by e-mail has a 30-day effective period; by regular mail, a 35-day effective period.
4. An estoppel certificate may be completed by any board member, authorized agent or authorized representative of the association.
5. An association is prohibited from charging a fee for an amended estoppel certificate, and the new effective period begins on the date of issuance for such amended certificate.
6. An association waives the right to collect monies owed in excess of the amounts set forth in the estoppel certificate from any person who in good faith relies upon the certificate.
7. An association is prohibited from charging a fee for preparing and delivering an estoppel certificate that is requested, if it is not delivered within 10 business days.
8. Fees an association may charge cannot exceed specified amounts, even if multiple units owned by the same owner are simultaneously requested from the same association. The total fee an association may charge cannot exceed:
 - a. \$250 for the preparation and delivery of an estoppel certificate (if there are no delinquent amounts owed to the association)
 - b. \$100 as an additional fee for an expedited estoppel certificate delivered within 3 business days
 - c. \$150 as an additional fee if there is a delinquent amount owed to the association

Subject to certain requirements, the total fee an association may charge for the preparation and delivery of estoppel certificates is now specified when estoppel certificates for multiple units owned by the same owner are simultaneously requested from the same association as follows:

- d. For 25 or fewer units (or parcels), \$750
- e. For 26 to 50 units (or parcels), \$1,000

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- f. For 51 to 100 units (or parcels), \$1,500
 - g. For more than 100 units (or parcels), \$2,500
9. 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.
 10. A cooperative may now charge a fee for preparing and delivering an estoppel certificate but the authorization must be established by a written resolution.
 11. The Florida Department of Business and Professional Regulation must adjust the estoppel certificate fees for inflation every five years. These will be published on its website.

These changes are effective July 1, 2017.

For more information please contact [Ted Walters](#), [Javier Pacheco](#), [Josh Bialek](#) or any member of Porter Wright's [Real Estate Practice Group](#).

