

1                   A bill to be entitled  
2           An act relating to mortgage payoff letters; amending  
3           s. 701.04, F.S.; revising the timeframe for a  
4           mortgagee or mortgage servicer to send or cause to be  
5           sent an estoppel letter with specified information to  
6           certain persons ; revising the circumstances under  
7           which a copy of the instrument showing title in the  
8           property or other lawful authorization must be  
9           included; requiring notice to the mortgagor of a  
10          request for an estoppel letter under certain  
11          circumstances; revising requirements for an estoppel  
12          letter; specifying prohibited actions by the mortgagee  
13          or mortgage servicer of certain mortgages and deeming  
14          such prohibited actions void and unenforceable;  
15          authorizing a corrected estoppel letter under certain  
16          circumstances; providing that a corrected estoppel  
17          letter supersedes any previous estoppel letter under  
18          certain circumstances; prohibiting the mortgagee or  
19          mortgage servicer from denying the accuracy of an  
20          estoppel letter under certain circumstances; providing  
21          construction; prohibiting payments received pursuant  
22          to an estoppel letter from being returned and  
23          requiring such payments to be applied to any unpaid  
24          balance of a mortgage; providing methods for sending a  
25          written request for an estoppel letter and for sending

26 | the estoppel letter; providing that the mortgagee or  
 27 | mortgage servicer is not required to pay for a common  
 28 | carrier delivery service; requiring the mortgagee or  
 29 | mortgage servicer to take certain actions within a  
 30 | specified time after the unpaid balance of a mortgage  
 31 | has been fully paid or paid pursuant to an estoppel  
 32 | letter; providing for liability under certain  
 33 | circumstances; authorizing attorney fees and costs;  
 34 | providing that certain persons may still be personally  
 35 | liable after recording a release of a mortgage;  
 36 | amending s. 701.041, F.S.; revising a definition;  
 37 | conforming provisions to changes made by the act;  
 38 | providing an effective date.

39 |

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

41 |

42 | Section 1. Section 701.04, Florida Statutes, is amended to  
 43 | read:

44 | 701.04 Cancellation of mortgages, liens, and judgments.—

45 | (1) (a) Within 10 ~~14~~ days after receipt of the written  
 46 | request of a mortgagor, a record title owner of the property, a  
 47 | fiduciary or trustee lawfully acting on behalf of a record title  
 48 | owner, or any other person lawfully authorized to act on behalf  
 49 | of a mortgagor or record title owner of the property, the  
 50 | mortgagee ~~holder of a mortgage shall deliver or cause the~~

51 mortgage servicer of the mortgage shall send or cause to be sent  
52 to deliver to the person making the request at a place  
53 designated in the written request an estoppel letter setting  
54 forth the unpaid balance of the loan secured by the mortgage. If  
55 the written request is made by a person other than the  
56 mortgagor, the request must include a copy of the instrument  
57 showing such person's title in the property or other lawful  
58 authorization, and the mortgagee or mortgage servicer must  
59 notify the mortgagor of the request.

60 ~~(a) If the mortgagor, or any person lawfully authorized to~~  
61 ~~act on behalf of the mortgagor, makes the request, the estoppel~~  
62 ~~letter must include an itemization of the principal, interest,~~  
63 ~~and any other charges properly due under or secured by the~~  
64 ~~mortgage and interest on a per-day basis for the unpaid balance.~~

65 (b) ~~If a record title owner of the property, or any person~~  
66 ~~lawfully authorized to act on behalf of a mortgagor or record~~  
67 ~~title owner of the property, makes the request:~~

68 ~~1. The request must include a copy of the instrument~~  
69 ~~showing title in the property or lawful authorization.~~

70 ~~2. The estoppel letter may include the itemization of~~  
71 ~~information required under paragraph (a), but must at a minimum~~  
72 ~~include:~~

73 1. The total unpaid balance of the loan due under or  
74 secured by the mortgage as of the date specified in the estoppel  
75 letter, including an itemization of the principal, interest, and

76 any other charges comprising the unpaid balance ~~on a per-day~~  
 77 ~~basis.~~; and

78 2. Interest accruing on a per-day basis for the unpaid  
 79 balance, if applicable.

80 (c)1. Except for mortgages for which a notice of lis  
 81 pendens in a foreclosure action or a suggestion of bankruptcy  
 82 has been properly filed and recorded, the mortgagee or mortgage  
 83 servicer may not qualify, reserve the right to change, or  
 84 condition or disclaim the reliance of others on the information  
 85 provided in an estoppel letter under paragraph (b), and any  
 86 attempt to do so is void and unenforceable. However, if the  
 87 mortgagee or mortgage servicer determines that any of the  
 88 information provided in the estoppel letter under paragraph (b)  
 89 was inaccurate, the mortgagee or mortgage servicer may send a  
 90 corrected estoppel letter to the person who requested the  
 91 estoppel letter.

92 2. If the person who requested the estoppel letter  
 93 receives a corrected estoppel letter by the end of normal  
 94 business hours at least 1 business day before a payment is made  
 95 in reliance on the previous estoppel letter, the corrected  
 96 estoppel letter supersedes all prior estoppel letters.

97 3. If any of the information provided in the estoppel  
 98 letter under paragraph (b) was inaccurate but the person who  
 99 requested the estoppel letter did not timely receive a corrected  
 100 estoppel letter as provided in subparagraph 2., the mortgagee or

101 mortgage servicer may not deny the accuracy of such information  
 102 as against any person who relied upon it. This subparagraph does  
 103 not affect the right of a mortgagee to recover any sum that it  
 104 did not include in an estoppel letter from any person liable for  
 105 payment of the loan or other obligations secured by the  
 106 mortgage, nor does it limit any claim or defense to recovery  
 107 that such person may have at law or in equity.

108 (d)3. The mortgagee or mortgage servicer ~~of the mortgagee~~  
 109 acting in accordance with a request in substantial compliance  
 110 with this subsection ~~paragraph~~ is expressly discharged from any  
 111 obligation or liability to any person on account of the release  
 112 of the requested information, other than the obligation to  
 113 comply with the terms of the estoppel letter.

114 (e) If a payment is received at the location and in the  
 115 manner specified by the mortgagee or mortgage servicer, the  
 116 mortgagee or mortgage servicer must accept and may not return  
 117 any payment received in reliance on an estoppel letter and must  
 118 promptly apply such payment to the unpaid balance of the loan  
 119 properly due under or secured by the mortgage.

120 (f)1. A written request for an estoppel letter under  
 121 paragraph (a) must be sent to the mortgagee or mortgage servicer  
 122 by first-class mail, postage prepaid; by common carrier delivery  
 123 service; or by e-mail, facsimile, or other electronic means at  
 124 the address made available by the mortgagee or mortgage servicer  
 125 for such purpose, or through an automated system provided by the

126 mortgagee or mortgage servicer for requesting an estoppel  
127 letter. The written request is considered received by the  
128 mortgagee or mortgage servicer:

129 a. Five days after the request sent by first-class mail is  
130 deposited with the United States Postal Service;

131 b. The day the request is delivered by a common carrier  
132 delivery service; or

133 c. The day the request is sent by e-mail, facsimile, or  
134 other electronic means or through an automated system provided  
135 by the mortgagee or mortgage servicer for requesting an estoppel  
136 letter.

137  
138 If any of the foregoing dates is a Saturday, Sunday, or legal  
139 holiday under the laws of this state or the United States, the  
140 request for an estoppel letter is considered received on the  
141 next business day.

142 2. The mortgagee or mortgage servicer must send an  
143 estoppel letter by first-class mail, by common carrier delivery  
144 service, or by e-mail, facsimile, or other electronic means, as  
145 directed in the written request, or through an automated system  
146 provided by the mortgagee or mortgage servicer for this purpose.  
147 However, the mortgagee or mortgage servicer is not required to  
148 pay for a common carrier delivery service. If the 10-day period  
149 after a written request is received by the mortgagee or mortgage  
150 servicer ends on a Saturday, Sunday, or legal holiday under the

151 laws of this state or the United States, the estoppel letter is  
 152 considered timely if it is sent by the close of business on the  
 153 next business day.

154 (g)(e) Notwithstanding s. 655.059, a mortgagee or mortgage  
 155 servicer mortgage holder may provide the financial information  
 156 required under this subsection to a person authorized under this  
 157 subsection to request the financial information notwithstanding  
 158 s. 655.059.

159 (2)(a) Within 60 days after the unpaid balance of a loan  
 160 secured by a mortgage has been fully paid or paid pursuant to an  
 161 estoppel letter under subsection (1), whichever is earlier, the  
 162 mortgagee or mortgage servicer shall execute in writing an  
 163 instrument acknowledging release of the mortgage; have the  
 164 instrument acknowledged, or proven, and duly entered in the  
 165 official records of the proper county; and send or cause to be  
 166 sent the recorded release to the mortgagor or record title owner  
 167 of the property. The prevailing party in a civil action brought  
 168 against the mortgagee or mortgage servicer to enforce the  
 169 requirements of this paragraph is entitled to reasonable  
 170 attorney fees and costs.

171 (b) The recorded release of the mortgage does not relieve  
 172 the mortgagor, or the mortgagor's successors or assigns, from  
 173 any personal liability on the loan or other obligations  
 174 previously secured by the mortgage.

175 (3)(2) Within 60 days after the unpaid balance ~~Whenever~~

176 ~~the amount of money due on a any mortgage, lien, or judgment has~~  
 177 ~~been fully paid to the person or party entitled to the payment~~  
 178 ~~thereof, the mortgagee, creditor, or assignee, or the attorney~~  
 179 ~~of record in the case of a judgment, to whom the payment was~~  
 180 ~~made, shall execute in writing an instrument acknowledging~~  
 181 ~~satisfaction of the mortgage, lien, or judgment; and have the~~  
 182 ~~instrument acknowledged, or proven, and duly entered in the~~  
 183 ~~official records of the proper county; and. Within 60 days after~~  
 184 ~~the date of receipt of the full payment of the mortgage, lien,~~  
 185 ~~or judgment, the person required to acknowledge satisfaction of~~  
 186 ~~the mortgage, lien, or judgment shall send or cause to be sent~~  
 187 ~~the recorded satisfaction to the person who has made the full~~  
 188 ~~payment. In the case of a civil action arising out of this~~  
 189 ~~section,~~ The prevailing party in a civil action brought against  
 190 the creditor or assignee, or the attorney of record in the case  
 191 of a judgment, to enforce the requirements of this subsection is  
 192 entitled to reasonable attorney fees and costs.

193 (4)-(3) ~~When Whenever~~ a writ of execution has been issued,  
 194 docketed, and indexed with a sheriff and the judgment upon which  
 195 it was issued has been fully paid, it is the responsibility of  
 196 the person party receiving payment to request, in writing,  
 197 addressed to the sheriff, return of the writ of execution as  
 198 fully satisfied.

199 Section 2. Paragraph (a) of subsection (1) and subsection  
 200 (2) of section 701.041, Florida Statutes, are amended to read:



201           701.041 Title insurer; mortgage release certificate.—  
 202           (1) DEFINITIONS.—For purposes of this section:  
 203           (a) "Estoppel letter" means a statement containing, at a  
 204 minimum, the information required in s. 701.04(1)(b) of the  
 205 amount of:  
 206           1. ~~The unpaid balance of a loan secured by a mortgage,~~  
 207 ~~including principal, interest, and any other charges properly~~  
 208 ~~due under or secured by the mortgage.~~  
 209           2. ~~Interest on a per-day basis for the unpaid balance.~~  
 210           (2) CERTIFICATE OF RELEASE.—An officer or duly appointed  
 211 agent of a title insurer may, on behalf of a mortgagor or a  
 212 person who acquired from the mortgagor title to all or a part of  
 213 the property described in a mortgage, execute a certificate of  
 214 release that complies with the requirements of this section and  
 215 record the certificate of release in the real property records  
 216 of each county in which the mortgage is recorded if a  
 217 satisfaction or release of the mortgage has not been executed  
 218 and recorded after the date payment in full of the loan properly  
 219 due under or secured by the mortgage was made in accordance with  
 220 an estoppel letter ~~a payoff statement~~ furnished by the mortgagee  
 221 or the mortgage servicer.  
 222           Section 3. This act shall take effect October 1, 2022.