

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

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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:

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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

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

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

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

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

3. If any of the information provided in the estoppel letter under paragraph (b) was inaccurate but the person who requested the estoppel letter did not timely receive a corrected 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) 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.