



January 12, 2024

Fla. Senate Seeks To Block HOA's Property Fee Form Charges

By [Nate Beck](#) · 2024-01-12 20:36:35 -0500

A bill in the Florida Legislature would bar condo and homeowner associations from passing on to buyers and sellers the costs of drawing up a document to confirm outstanding charges tied to a property, in a service the measure's author said associations should offer for free.

If passed, S.B. 278 would prevent homeowners associations from charging a fee — typically about \$300 — to produce estoppel certificates. The documents are produced before closing to show how much owed money is tied to a property in charges such as condo association fees, outstanding claims or mortgage debt, according to a legislative analysis of the bill.

Condo and homeowner associations typically hire management companies to produce such estoppel certificates, passing on those costs to buyers and sellers. The proposal would instead require the associations to produce the certificates for free within 10 business days.

The [Florida Senate's](#) Judiciary Committee advanced the bill Tuesday on a 6-3 vote. The Senate's Fiscal Policy Committee is set to hear the bill during a Thursday meeting.

The bill's author, state Sen. Jonathan Martin, said during the Tuesday meeting that he's heard extreme stories of some parties to a sale being charged \$1,000 before closing just to see what's owed on a house.

"That's why we're getting involved in the situation," Martin said. "The fees do not actually represent the cost to prepare the document, a document that is simple to prepare. It is basic information that is kept and maintained already. It shouldn't cost any additional money for a buyer or seller to find out how much is owed."

Martin did not immediately respond to messages seeking comment Friday.

Current law allows associations to charge up to \$299 for a single parcel, plus an

additional \$119, at least, for expedited service to produce the certificate in three business days instead of 10. The fees were last adjusted for inflation in 2022 and are set to change again after five years.

Associations have a stake in ensuring the forms are completed accurately, according to the analysis from the Senate's Judiciary Committee staff.

"Completing the form requires time and skill," according to the analysis. "The association risks a financial loss should it incorrectly calculate monies due and thereafter is unable to collect; and the association risks an inability to enforce its covenants and rules if a current violation is overlooked."

Martin said associations should already have at hand the information needed for the forms, however.

"At its core, an estoppel certificate should be relatively easy to prepare," he said at Tuesday's meeting. "An association is just like any other business."

Roxana Dorigo is an executive at Miami-based KW Property Management & Consulting overseeing a company department that prepares estoppel certificates. She told Law360 on Friday that it takes work to investigate outstanding charges and double-check the forms.

Recently, calculating special assessments for condo associations has become more complicated after new regulations following the 2021 [Surfside](#) condo tower collapse near Miami, Dorigo said. So, nowadays, estoppel certificates with these assessments on condo buildings are checked for accuracy three times.

"We are, as a management company, taking liability for that document going out," Dorigo said. "We're putting our names on it. We are making sure the payoff is correct, the information is correct. That's why there are layers of review."

The legislative analysis said changes to how associations can charge for estoppel certificate fees could affect the groups' budgets, even possibly requiring mid-year budgetary amendments.

The analysis noted some associations have been accused of charging fees that aren't authorized by statutes, sometimes called "convenience," "archive" or "service" charges.

"Current law implies that such add-on fees are not authorized, but does not specifically prohibit such add-on fees," according to the analysis.