

WFG Informational Bulletin

To: All Florida Policy Issuing Agents of WFG National Title Insurance Company
From: WFG Underwriting Department
Date: June 7, 2023
Bulletin No.: FL 2023-24
Subject: Mortgage Payoff Letters SB 708

On May 25, 2023, Governor DeSantis signed Senate Bill 708 in to law which takes effect on October 1, 2023 ("Bill"). The Bill revises F.S. 701.04 pertaining to mortgage payoff letters (estoppel letters). The most significant change is that lenders may not include conditional language in their estoppel letters, or reserve the right to change an estoppel letter after the mortgagor or record title owner relies on the letter.

The Bill revises F.S. 701.04 as follows:

Timing

Within 10 days (a change from 14 days) after receipt of a written request for a payoff from the mortgagor, or the record title owner, or from any other person authorized to act for the mortgagor or owner of record, a mortgagee or its servicer must send an estoppel letter to the requestor.

No Conditional Language

Except for mortgages in foreclosure in which a lis pendens has been recorded, or when a suggestion of bankruptcy has been recorded, a mortgagee or its servicer may not condition, or reserve the right to change or disclaim the information contained in an estoppel letter. Any attempt by the lender to do so is void.

Reliance on Estoppel Letter. Payment made in reliance on an estoppel letter must be accepted by the mortgagee or its servicer and the payment cannot be returned to the payor. The mortgagee or its servicer must promptly apply the payment to the unpaid balance of the loan. The mortgagee may recover from the mortgagor any sum erroneously not included in the estoppel letter but cannot recover the omitted sum from the property.

Corrected Estoppel Letter

If a mortgagee or its servicer determines that a previously issued estoppel letter contains inaccurate information, a corrected estoppel letter may be sent to the requestor. If the corrected estoppel letter is received by the requestor by 3pm at least one business day before payment is made by the requestor based on the original estoppel letter, the corrected estoppel letter replaces all previous estoppel letters. If the corrected estoppel letter is not timely received by the requestor, the mortgagee or its servicer cannot deny the accuracy of the original estoppel letter when payment is made based on the original estoppel letter.

Retroactive

The Bill is effective on October 1, 2023 but it is retroactive. The Bill “applies to all mortgages, and all loans secured by such mortgages, existing as of, or entered into on or after, October 1, 2023.”

Click [SB 708](#) for a copy of the Bill.

Information Bulletins are designed to provide our agents with information we think will help in managing their business or just being better title professionals, but which does not rise to the level of being an underwriting mandate and are not within the scope of the agency agreement.