

WEBINAR

UNDERSTANDING THE FLORIDA HOA ESTOPPEL LAW

Presented by Mandy Seckinger





About the Presenter

MANDY SECKINGER

Business Development Manager &
Certified Continuing Education Instructor

Course Description

This course will assist you in better understanding the Florida estoppel law, monetary cap on fees for obtaining HOA (Home Owner Association) Estoppel letters, and turnaround times for receiving HOA certificates. The course will also uncover buyer requirements, seller obligations and what is covered in the event a purchase and sale agreement cancels.

This is a 60-minute live presentation designed to provide general information on the importance of verifying HOA membership information and the requirements the new buyer needs to know prior to joining the HOA.

Course Outline

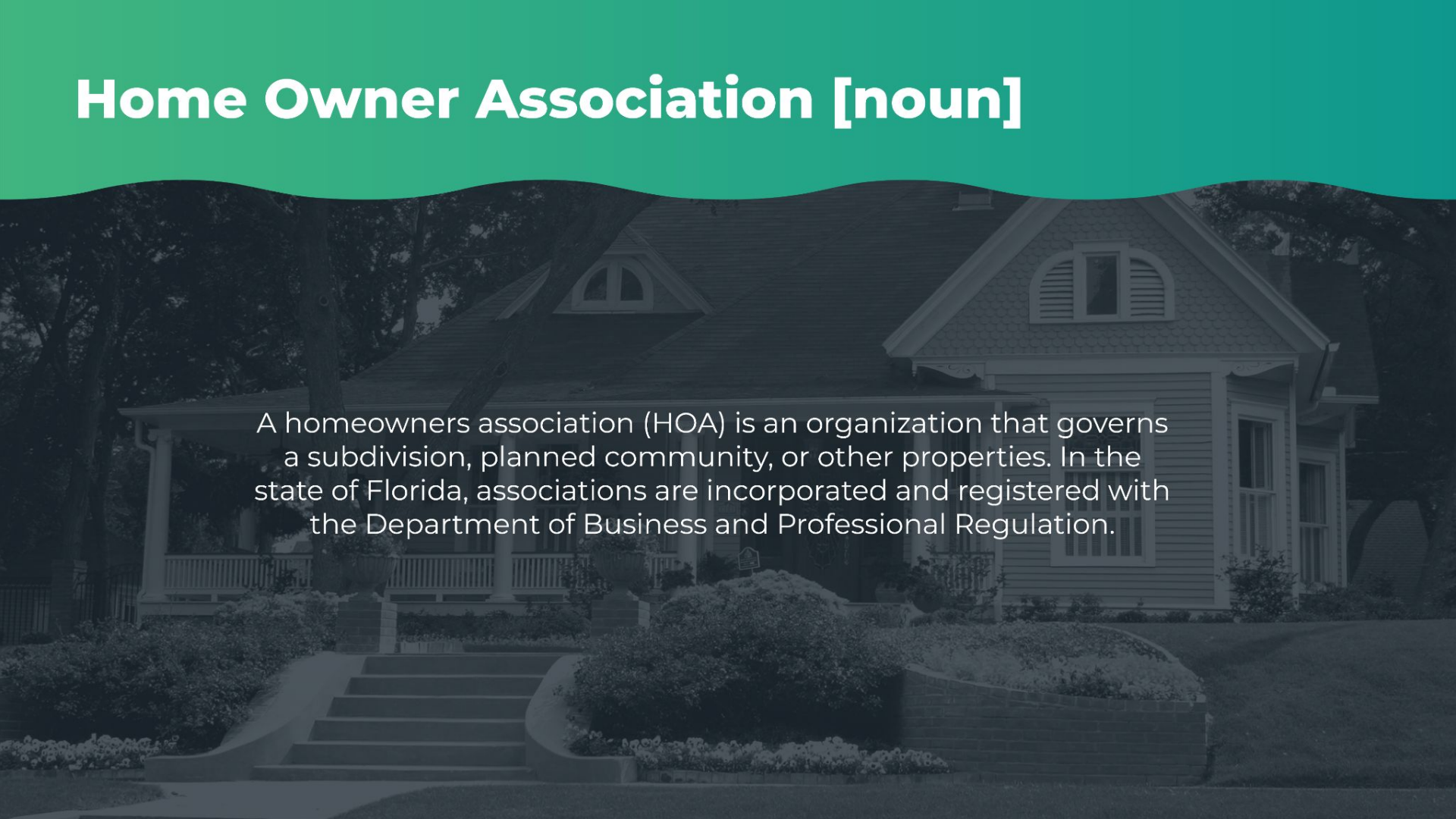
1	General Overview
2	Definition of an HOA (Home Owner Association)
3	Florida Statute Effective Date and Fees
4	Florida Statute for Turnaround Time
5	What Title Agents, Buyers and Sellers Can Do in Preparation for Closing
6	Contract Cancellations & Refunds
7	Conclusion

General Overview

The following presentation will provide an overview of the Florida Estoppel Statute, monetary cap on fees for obtaining HOA (Home Owner Association) Estoppel letters, and turnaround times for receiving HOA certificates.


The course will also uncover buyer requirements, seller obligations and what is covered in the event a purchase and sale agreement cancels.

Home Owner Association [noun]



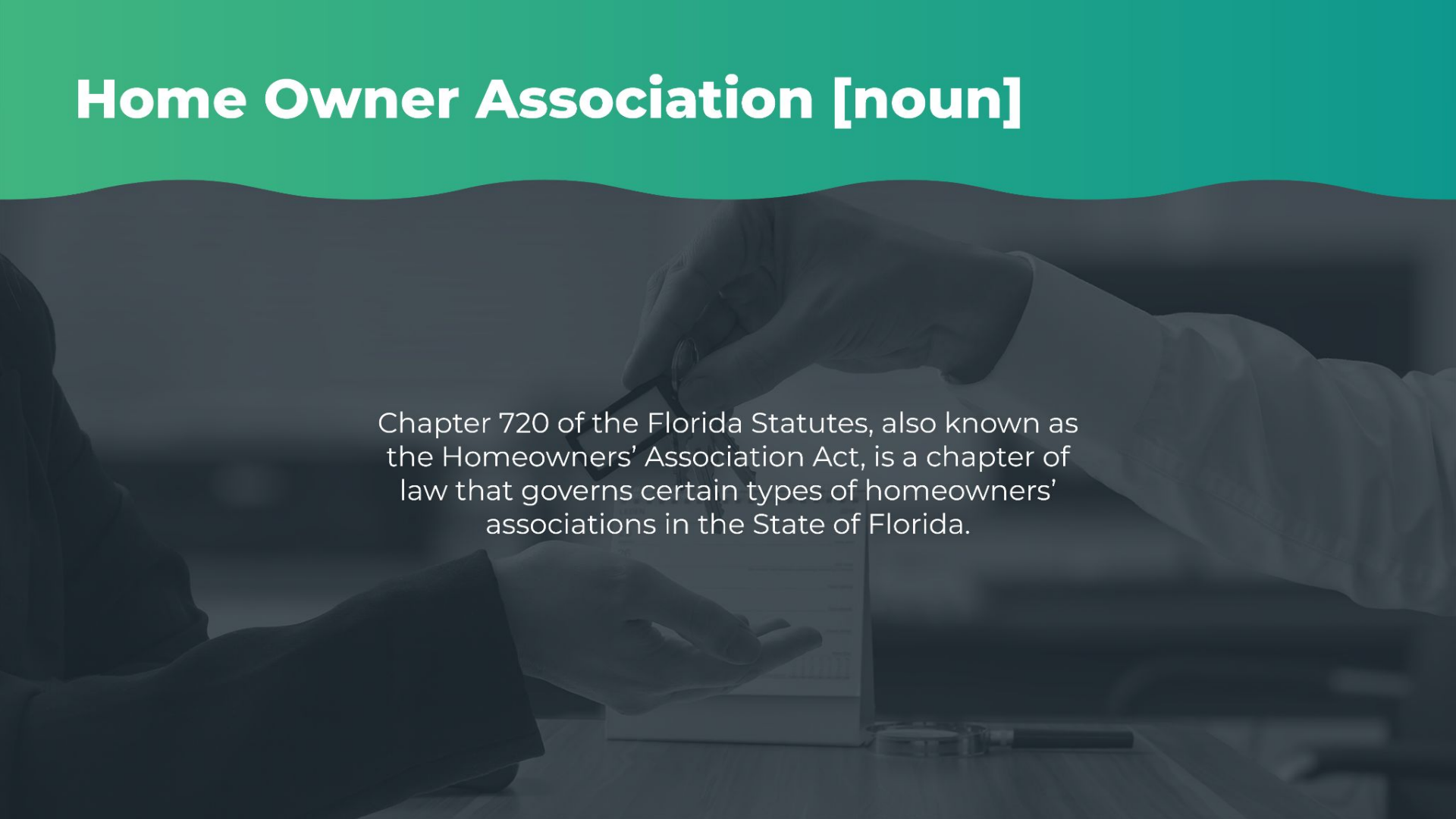
A homeowners association (HOA) is an organization that governs a subdivision, planned community, or other properties. In the state of Florida, associations are incorporated and registered with the Department of Business and Professional Regulation.

Home Owner Association [noun]

A grayscale photograph showing a person's hands holding a blueprint of a house. The blueprint is held over a surface of solar panels. A pen is visible in the upper right, and a calculator is partially visible on the right side. The background is a solid teal color.

The association creates and enforces rules that are intended to maintain certain aesthetic standards, provide amenities, and improve home values for owners, who have voting memberships.

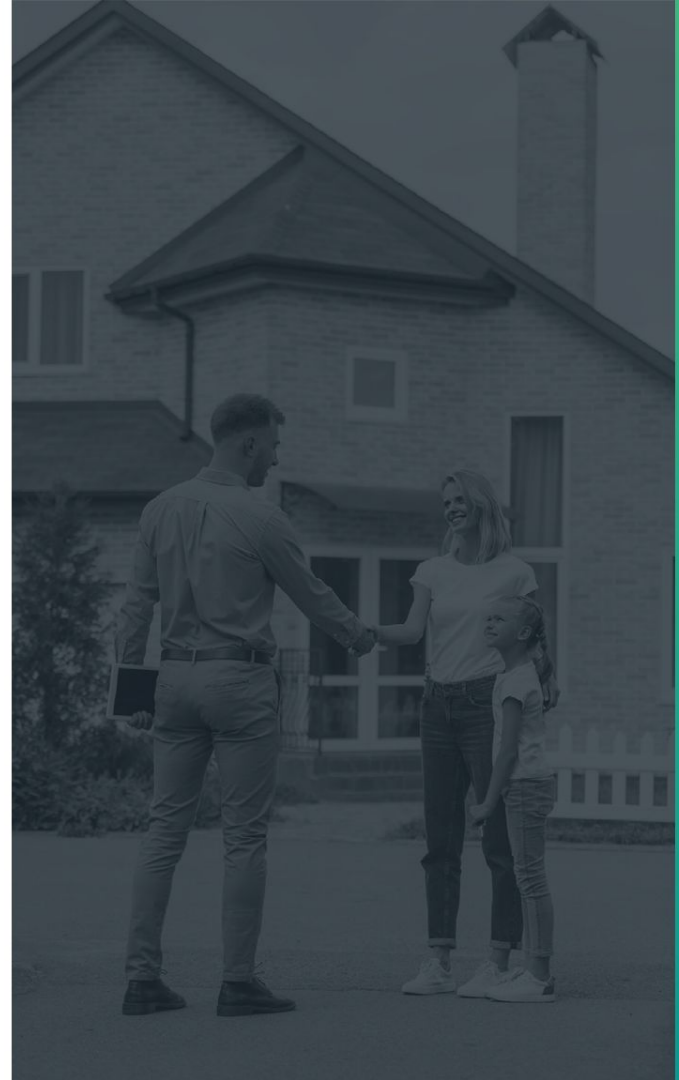
Home Owner Association [noun]

A person wearing a white lab coat is holding a magnifying glass over a document on a desk. The background is a blurred office setting. The text is overlaid on the image.

Chapter 720 of the Florida Statutes, also known as the Homeowners' Association Act, is a chapter of law that governs certain types of homeowners' associations in the State of Florida.

Types of HOAs

- Condominium Owners Association (COA)
- Common Interest Community (CIC)
- Mobile Home Parks
- RV Parks
- And other subdivision communities



HOA Dues

In most cases, buying in a community association of any type will result in mandatory membership as a condition of parcel ownership. The association has the authority to levy assessments, dues that may be charged monthly, quarterly, or yearly, and other fees that, if unpaid, may become a lien on the property.

Some HOAs may be voluntary.

What isn't an HOA?

Community Development Districts (CDDs) and special taxing districts are not considered forms of community associations.

Who lives in associations?

According to HOA-USA, over 40 million households or 53% of owner-occupied households in the United States are located within some form of a community association.

THE FLORIDA ESTOPPEL LAW

FLORIDA STATUTE EFFECTIVE DATE AND FEES

What Prompted The Need For Change?

FL Senate Bill 398, Passed on July 1, 2017

- Caps exorbitant fees
- Streamlines estoppel letter requests
- Tightens turnaround times
- Requires estoppel information to be valid for 30 days



FLORIDA STATUTE EFFECTIVE DATE AND FEES

The Cap on Fees



The fee for the preparation and delivery of an estoppel certificate is set at \$250



If an estoppel certificate is requested on an expedited basis AND delivered within 3 business days, the association may charge an additional rush fee of \$100.



An additional fee may not exceed \$150 if a delinquent amount is owed

Total Cost for one Association Estoppel should not exceed \$500 total if all apply.

FLORIDA STATUTE EFFECTIVE DATE AND FEES

Pricing on Multiple Parcels

FOR 25 OR FEWER PARCELS

\$750

FOR 26 TO 50 PARCELS

\$1,000

FOR 51 TO 100 PARCELS

\$1,500

FOR 100+ PARCELS

\$2,500

Turnaround Times

Estoppel Certificates must be issued within 10 business days after receiving a written or electronic request from a unit owner or the unit owner's designee.

If the HOA or Management company offers a rush option, it should be within 3 business days



Assessment Information

Some of the information required in Florida HOA certificate are:

- The regular periodic assessments levied against the property
- What date the regular periodic assessment is paid through
- When the next installment is due and the amount
- An itemized list of any additional assessments, special assessments, and other moneys that are scheduled to become due



Assessment Information (cont.)

- If there is a capital contribution fee, resale fee, transfer fee, or other fee due and the amount
- If there are any open violations
- If there is buyer approval required by the board of directors of the association
- If there is right of first refusal and if so, has the association exercised that right
- Contact information for all other associations of which the property is a member
- Contact information for all insurance maintained by the association



Is This Still Good?

The effective date of the Estoppel Certificate depends on how it's delivered.



Hand-delivered or emailed certificates



Certificates received by regular mail

**A Title Agent can request an updated Estoppel,
but be sure to follow the association's process.**

Rules For Redo's

An association waives the right to collect more money than what is stated in the estoppel certificate.

BUT

If the association makes a mistake, they have a right to issue a new certificate within the effective date if:

1.

The closing or refinancing hasn't been completed yet

2.

No additional fee is charged for the amended certificate

3.

A new 30-day or 35-day effective period begins on the same date the new certificate is issued

PREPARING FOR A CLOSING IN AN HOA

Steps for Title Agents

1. Know the legal name of the subdivision

- Conduct a county assessor property search
- Review the property deed or mortgage
- Reference a title commitment or the legal description



Steps for Title Agents

2. Find the association's corporate information

- Visit Florida Corporations Commission (dos.myflorida.com/sunbiz) and conduct a corporation search
- Typically, you can download the association's articles of incorporation and annual reports at no cost.
- Conduct an Association Contact Information Search
 - Florida Department of State <http://search.sunbiz.org/Inquiry/CorporationSearch/ByNam>



Steps for Title Agents

3. Find & verify the correct association

- Visit the county recorder's website to view all the documents your association has recorded, including the Declaration and plats.
- Find the management company by looking at the registered agent on Sunbiz
- Search for additional information online and make phone calls to the correct parties found.
- Review plat or subdivision map, CC&R's, deed



Steps for Title Agents

4. Look for additional associations

- Read your association's CC&Rs to make sure no other associations exist.
- The CC&Rs will provide the legal description of the property subject to the association. This information is usually found as an Exhibit to the CC&Rs.



Steps for Title Agents

5. Contact Homeowners' Association

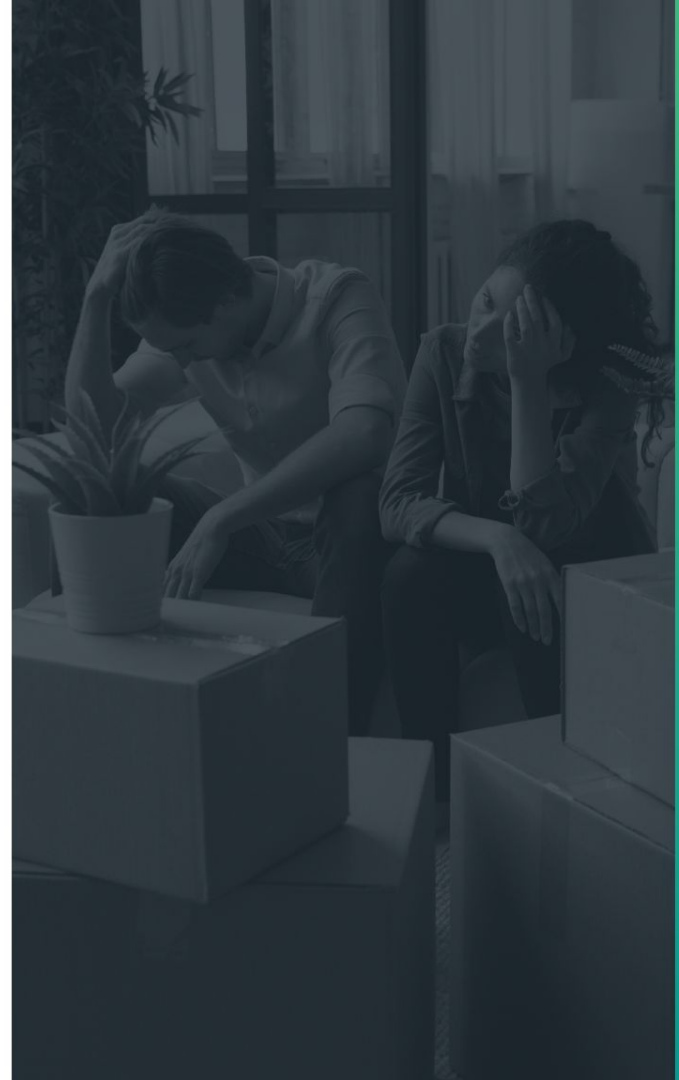
The Florida Estoppel Law states that each association:

“...shall designate a person or entity with a street or email address for receipt of a request for an estoppel certificate.”



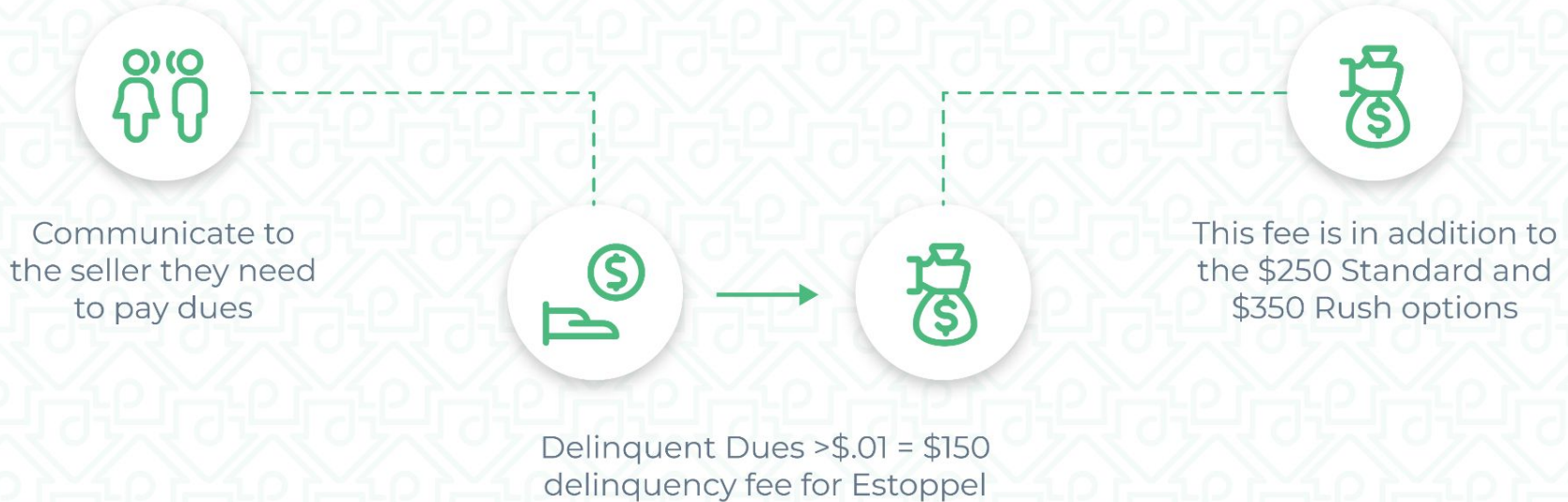
Avoid **Pain Points** of an HOA

1. Late Requests
2. Improper payment
3. Missing documentation
4. Property Managers are busy
5. Did you follow the HOA's estoppel process?



Communicate with Sellers

The sales process can lead to unpaid dues!



Communicate with Buyers



Let buyers know that they should always request this information in writing.



Ordering an Association Estoppel or HOA Resale Package is the only way to ensure a buyer isn't held responsible for the previous owner's violations or unpaid dues, fees, and other assessments.



The payment of the estoppel fee must be negotiated between the buyer and the seller while the property is under contract.



Buyer should review all documents and be aware of what is required to move into the association **before closing** (Buyer Approval, Background Checks, etc.)

Timing Is Everything

When is the best time to request an Estoppel? It depends on:



**Delinquency
Dates**



**Your Closing
Date**



**Additional
Information**

**Carefully review the
Estoppel for correct date,
fees, violations, and even
correct address!**



CONTRACT CANCELLATIONS & REFUNDS

Contract Cancellations & Quick Refunds

What can agents do if the contract cancels to get their refund back quicker?

1.

Has the estoppel been delivered?

2.

Know the closing date listed on the Estoppel

3.

Get a refund

4.

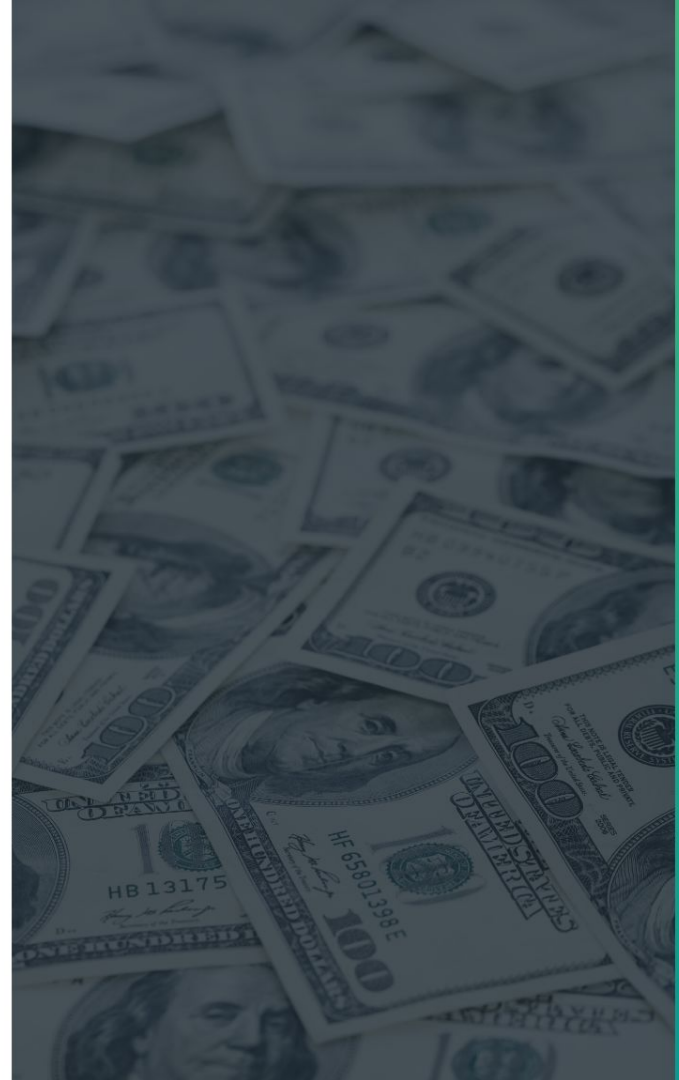
Protect your transactions paid by check

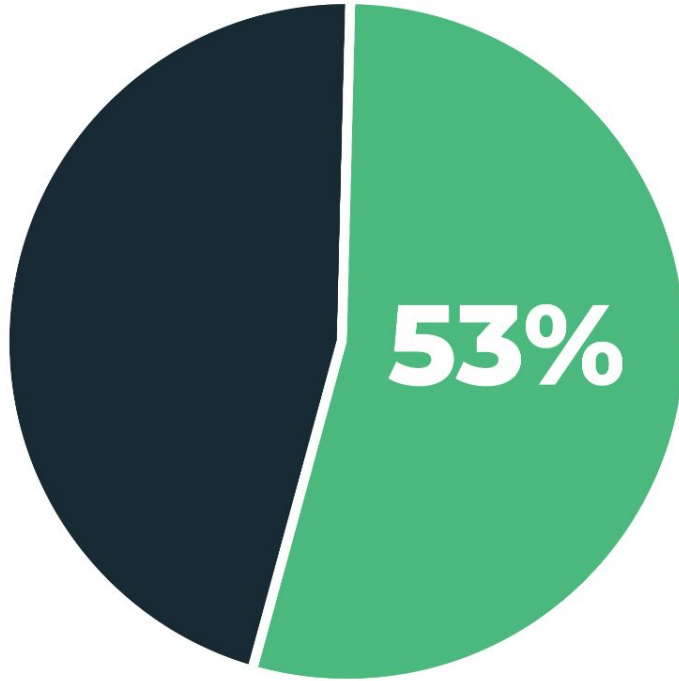
Someone Still Has To Pay

Why does the HOA charge even if it's canceled?

1. HOA's have to pay staff to fulfill requests
2. Send staff out to check for violations
3. Multiple people can work on one Estoppel.

Important: The association can and will charge the seller for the cost of the estoppel when the deal cancels. Communicate this with the buyer and seller's agent and/or the seller directly early on to set expectations.





Of owner-occupied households in the US are located within some form of community association

The Florida Estoppel Law is set up to control costs associated with buying and selling in a community association. By setting a cap of fee for estoppel requests, standardizing turnaround times and the required content in these documents, both buyers and sellers will have a better closing experience.

THANK YOU!

Any Questions?



Course Credit Info

This webinar has been approved by the Florida Department of Financial Services for 1 Standard CE Credit. All attendees will receive a follow up email with a form that must be completed by title agents for final approval.

This webinar has been approved by the Florida Bar for:

CLE Credits - General 1.0

Certification Credits - Condominium and Planned Development

Law 1.0 and Real Estate 1.0

Florida Bar Reference Number: 2003335N

Florida Bar members should report their credits online at www.floridabar.org.

Contact Information

Please email Mandy Seckinger at **mandy.seckinger@proplogix.com** if you have any additional questions or concerns!

For more information on our CE/CLE courses for Title and Real Estate Agents, visit:
<https://www.proplogix.com/our-educational-offering>

Thank you!

