

## ***They're baaaaaack!***

*A preview of the 2017 Legislative Session's biggest priority for associations*



As you read this, our elected State Representatives and Senators will be trekking to Tallahassee to begin the 2017 Florida Legislative Session.

Florida's lawmakers are only in full Session for sixty days, from March 7th through May 5th 2017. Our elected lawmakers convene at the state Capitol in Tallahassee to review and debate thousands of bills, and then send a few of them to the Governor's desk.

For more than twenty-five years, I've kept my eye on many of those bills related to associations — and we're watching several again this year. But one terrible bill is back again, rising from the dead like a Legislative Zombie: Estoppel, also known as "the Home Tax" (House Bill 483 and Senate Bill 398). The St.Petersblog called last years bill " a grotesque price-fixing bill."

### ***Estopp-what?***

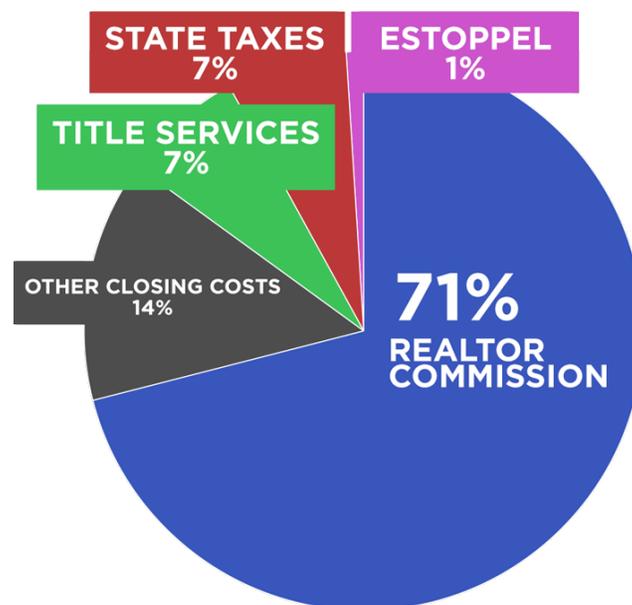
You may already know what Estoppel means, but let's take a moment to review just in case.

An Estoppel is a critical and legally binding document protecting potential home-buyers by disclosing liens, overdue fees and other money owed to your association.

In a standard real estate transaction, community associations are required to provide buyers and sellers with this financial and legally-binding information. If it's wrong, the Association may lose assessments and worse, could be responsible for substantial attorneys fees. So..it better be perfect!

Estoppel are prepared by homeowners associations or their agents, and they cost associations time and money to prepare. The Estoppel doesn't simply appear by "just pushing a button" as lobbyists argue and some lawmakers believe — there are real costs, time and liability to your Association, and real consequences for information wrong or incomplete.

You might think the Estoppel is the major part of any real estate deal with all the Legislative attention received in recent years, but they're not. In fact, estoppel fees are *dead last* when compared to all other real estate charges — just 1 percent of most real estate transactions. Compare this to the whopping 78% that realtor commissions and title services make up.



So it makes you wonder, who exactly keeps pushing for these new laws shifting the burden from an individual buyer/seller to your Association? You're right to ask.

### ***Some En-Title-d Special Interests...***

Since the housing recovery began, Realtor and Title company profits have rebounded to record levels. Good for them. But they decided record profits of nearly eighty cents on the dollar aren't enough — so Title Companies and Realtors decided to go after miniscule (to them but not to associations) estoppel fees.

The 2017 Estoppel Bills will:

**Loss of Historic Legal Rights:** Under past - and the newly proposed laws, homeowner, townhome and condominium associations will lose rights to collect money owed associations. For example, communities will lose the right to recover and collect unpaid fees and assessments if an Estoppel is not provided by a date-certain. Currently, associations have a right to lien in an effort to recover what is owed your association. If we choose to live in an Association, we all agree to fairly share costs. A loss of these historic legal rights would lead to, in many cases, significantly higher fees and assessments being placed on those already paying and (sometimes) struggling to pay for someone else's delinquent costs.

**"Pay at closing":** Instead of paying for an Estoppel when the service is rendered, like every other transaction, homeowner associations will be forced, by law, to pre-pay closing costs for real estate transactions where the association is not even a party! And what happens if the sale doesn't close, for any reason? You — the association, managers, and homeowners — must pay the costs of the estoppel's preparation through higher fees and assessments. You wouldn't hire someone to cut your lawn, but only pay them if your home sells. And it is doubtful anyone would agree to cut your lawn on the basis of such an arbitrary contingency. Estoppel requests are the same exact thing.

**Price-Fixing:** Every single Estoppel is different and unique, depending on what liens, fees, ownership (is it bank owned?) and other costs associated with the home, condo, and town home. Preparing a legally BINDING Estoppel takes time, precision and costs money. But Realtors and title companies want to arbitrarily cap (price-fix) what your association may charge (usually the seller) for preparing these Estoppels. And guess what happens when the costs for preparing an Estoppel exceeds the arbitrary cap? You guessed it. Associations in many cases would have to assess higher fees on everyone else in the association to pay for these individual home sales.

Let's be clear: this new Estoppel bill changes the purpose of a legal document designed to protect homeowners into a tax increase. These bad bills are simply a new "Home Tax." It's not right.

### *What it means for you...*

**Homeowners:** Homeowners could see increased association fees, in the range of 10% to 20% on the low end and more than 30 % on the high end.

**Associations:** Associations and their business partners will be forced to take valuable time away from important homeowner needs to prepare a much more complicated and time-consuming Estoppel. Even worse, your Association faces a likelihood they will not be reimbursed for legal and other fees to prepare the Estoppel if a home does not sell.

Managers: With capped fees, shorter time to prepare estoppels, more required legal pitfalls, and unpaid estoppels due to failed closings; managers will find themselves with less time and less money to do more work with increased legal liability. Once the Estoppel is prepared-you're stuck.

### ***Estoppel-ing the madness***

Thanks to YOU, the work of groups like The Community Association Network, The Space Coast Communities Association, CEOMC, and excellent professional advocacy, we have successfully defeated the Home Tax in 2015 and 2016.

But now, the Home Tax is back for another bite at the apple in 2017. Senator Kathleen Passidomo has filed **Senate Bill 398**, a "greatest hits" list of all of the Home Tax's aforementioned worst ideas. Rep. Byron Donalds has filed the identical House bill, **House Bill 483**.

### ***Only YOU can estoppel the Home Tax***

Here's the good news: despite the well-funded influence of powerful special interest groups like Title companies and Realtors, lawmakers still listen to their constituents, which is exactly why this legislation has thankfully been defeated the last two years. We will again need YOU to speak up loudly against the Home Tax.

Fortunately, making your voice heard couldn't be easier, and takes virtually no time. Here's exactly what to do:

- Visit [www.SmashTheHomeTax.com](http://www.SmashTheHomeTax.com) to personally email your State Representative and State Senator. Enter your home address or click the "locate me" button.
- Write a short, personal note asking them to oppose SB 398 and HB 483. A few phrases to get you started include:
  - **Please don't raise my association fees. Vote no on the Home Tax and SB 398 and HB 483.**
  - **Please do not support the Home Tax. Vote No on SB 398 and HB 483.**
  - **Our community association cannot afford SB 398 and HB 483, the Home Tax.**
  - **Support your homeowners. OPPOSE SB 398 and HB 483, the Home Tax.**
- Hit send. You're done!

Defeating the Home Tax for a third straight year will take everyone — homeowners, association board members, and managers — speaking with one powerful voice. Special interests have spent millions to line their pockets with more profits at our expense.

But together, we will estoppel them in their tracks, once again.

Yours in Community,

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