



COMMUNITY BUILDER

Florida 2021 Legislative Session: Modification to Practices for Collecting Delinquent Assessments

The 2021 Florida legislative session was busy, to say the least. The session brought on substantial changes, updates, and improvements to the statutes that govern homeowners' associations, condominiums, and cooperatives. This special edition Community Builder has been produced to help board members better understand one of the more significant legislative updates affecting community associations' delinquency management activities. Sentry Management has taken action to ensure our communities comply with the new requirements.



The Florida legislature passed a bill, **effective July 1, 2021**, that modifies the collection of delinquent assessment procedures. The bill impacts Condominiums Chapter 718, Cooperatives Chapter 719, and Homeowners' Associations Chapter 720.

What has Changed?

Under Subsection §718.121, Fla. Stat, §719.108, Fla. Stat. and §720.3085, Fla. Stat.;

- Requires associations to provide a delinquent owner with a 30-day notice known as "Notice of Late Assessment" (NOLA), giving the owner 30 days to pay any delinquent assessments, late fees, and interest without incurring attorney charges. Failure to provide the owner with this 30-day notice will preclude the association from recovering its legal fees and legal costs related to a past due to assessment, i.e., any expenses incurred in the collections/foreclosure process. The notice must be sent by first-class US mail to the owner at their last address as reflected in the association's records. If that address is not the unit address, a copy must also be sent by first-class US mail to the unit address. The notice is deemed delivered upon mailing. A rebuttable presumption that the statement was mailed as required can be established by an affidavit executed by a board member, officer, or agent of the association.

- For Condominiums and Cooperatives, the Notice of Intent to Record a Claim of Lien must now provide owners with 45 days (previously 30) to pay delinquent amounts owed before the recordation of a claim of lien. This change aligns with Homeowners' Associations' legal requirements, which already allowed for 45 days. These changes will likely require your association to make significant changes to its collections policies and procedures, especially if the board has a written collection policy in place.
- For Condominiums, the Notice of Intent to Foreclose must now provide owners with 45 days (previously 30) to pay delinquent amounts owed before filing suit to Foreclose a Claim of Lien. This change aligns with Homeowners' Associations' legal requirements, which already allowed for 45 days. The association requires no action; the association's counsel will automatically incorporate the new 45-day wait period starting on **July 1st**.

How has Sentry responded to these changes?

Sentry Management monitored the progress of the bill and completed the modifications necessary to ensure we are complying with the new statutory requirements. Sentry will be mailing the required NOLA to those owners with a delinquent balance as of July. Taking this statutorily required step will allow association boards to proceed with its delinquency process with limited delay. As of July 1st, Sentry's process has been modified to include the NOLA as the second notice, after the friendly reminder, and will be sent 10-days after the associations' grace period. A \$25.00 fee will be charged by Sentry for this new service. The fee will be charged through the Association, and placed on the owner's account, just as this is the current process for other delinquency services. The NOLA is currently not listed in our service addendum as this is a new requirement due to Florida Statute. Please let us know if you have questions about this service and fee.

What does the board need to do?

While the physical process of adding the NOLA to the assessment management lifecycle process is already in effect, now is the time for the board to review their delinquency management policy (aka collections policy) and begin updating the policy to include the new statutorily required processes. Our Delinquency Services team is prepared to assist with these changes. An excellent operating practice is to review your policy annually in conjunction with your budget, allowing for any updates to take effect in the upcoming year.

As always, our team stands ready to support our Associations without interruption. If you're unsure of the current process or have questions regarding the statute change, please do not hesitate to reach out to the Sentry team and we will work through the process for your association.

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Erin Ortiz is the Manager of Delinquency Services at Sentry Management. She joined Sentry in 2013 after many years of business experience in operational planning and supervision. Erin's department boasts knowledgeable staff who provide specialized support for management of delinquency activity for all Sentry-managed communities.



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