PULLMAN & COMLEY, LLC

# SPECIAL DISTRICT UPDATE

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## What the Subprime Mortgage Collapse Means to Your District

Residential foreclosures have nearly doubled as compared to a year ago, thanks to higher mortgage rates, declining property values and record defaults on "subprime" loans to homeowners with poor credit ratings. More and more residents of your district are likely to find themselves facing foreclosure.

This can have major implications for your district as a whole. If a mortgage bank starts a foreclosure on a property in your district, it may name the district itself as a defendant in the lawsuit because Connecticut state law says the bank will not take full title unless all subsequent encumbrancers are made parties. As a governmental entity with "super-priority" for its taxes, a district is not ordinarily supposed to be named as a defendant – but it does happen, forcing the district to try to convince the bank's attorney to release the district from the lawsuit.

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In addition, an "under foreclosure" sign might be placed on the property, interested bidders might enter the community to inspect it or a public auction might occur on its front lawn – all of which could compromise security and property values throughout the neighborhood. The best way to protect the district's interests is to hire a lawyer to represent the district throughout the foreclosure process.

## New Law Regulates Bank Garnishments for Unpaid Taxes

Effective October 1, 2007, a new law in Connecticut creates detailed procedures for retrieving funds from the bank account of a resident to satisfy unpaid district taxes. Previously, it was often difficult to discover where the resident maintained accounts, prompting some municipalities to serve multiple warrants on several banks at a time – sometimes by the hundreds. From now on, a more orderly procedure must be followed.

The new law prohibits serving a warrant for one tax debtor on more than one bank at a time. The district must instead wait up to 20 days for the bank to respond that it does not have funds available for collection from that debtor before the district can try another bank.

The new law also prohibits serving warrants for more than 15 debtors on a single bank at a time. Instead, banks must specify an office, fax number and name or department for receiving a "request for information" in which the district can list the name and last-known address of up to 250 debtors. The bank must respond within five business days (ten for larger requests) by identifying which debtors hold an account there. The district then has 180 days to serve the bank with warrants for each. Except when the debtor is a business or corporation, the bank freezes the account to give the debtor an opportunity to ask a court to determine that the funds are legally protected from garnishment before the money is forwarded to the district.

## District Agreements to Share Functions and Resources

Tax districts can team up with towns or other districts to conduct their operations by signing "interlocal agreements" after a public hearing. Districts often find they can carry out their day-to-day tasks and long-range plans more

effectively and less expensively by partnering with their municipal neighbors.

If the agreement is between two Connecticut districts to perform some function jointly, its provisions must require an effectiveness review every five years and authorize member entities to withdraw from the arrangement. Districts can also sign contracts with other municipal entities within or outside of Connecticut to share or exchange personnel, equipment and other resources. The purposes can range from fire, police and utilities services to transportation and public facilities, planning, engineering and recreation. The contract must explain how to settle any disputes between the member entities and be limited to a term of no more than 40 years. Depending on the situation, state or federal aid may even be available.

For more information about mortgage foreclosures, bank garnishments, interlocal agreements or any other tax district issue, please contact Adam J. Cohen in our Bridgeport office at 203-330-2230 or by email at ajcohen@pullcom.com.

Adam J. Cohen is a member of the firm's Litigation Department and chair of its Community Law Section. Adam focuses his practice on the issues which face communities and businesses. He regularly lectures to, writes about and represents special districts and other municipalities in matters ranging from revenue collection to commercial disputes.

Visit our website: **www.pullcom.com**


850 Main Street
Bridgeport, CT 06604
Phone: (203) 330-2000
Fax: (203) 576-8888

170 Mason Street
Greenwich, CT 06830
Phone: (203) 618-4408
Fax: (203) 618-4422

90 State House Square
Hartford, CT 06103
Phone: (860) 424-4300
Fax: (860) 424-4370

300 Atlantic Street
Stamford, CT 06901
Phone: (203) 324-5000
Fax: (203) 363-8659

253 Post Road West
Westport, CT 06880
Phone: (203) 254-5000
Fax: (203) 254-5070

50 Main Street
White Plains, NY 10606
Phone: (914) 682-6895
Fax: (914) 682-6894



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PULLMAN & COMLEY, LLC
850 MAIN STREET
P.O. BOX 7006
BRIDGEPORT, CT 06601-7006

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