

# Condominium Update

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## New Law Regulates Communications with Delinquent Residents

Effective on July 1, 2007, a new consumer protection law in Connecticut prohibits “any abusive, harassing, fraudulent, deceptive or misleading representation, device or practice to collect or attempt to collect a debt.” Although designed to target for-profit businesses, the law is almost certainly written broadly enough to cover virtually all condominiums and other private communities which collect money from residents.

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Regulations written by the State Department of Banking clarify what must, and must not, be said and done when attempting to collect any amount owed by a resident for common charges and similar amounts in every bill, late notice and conversation.

Just a few examples of prohibited conduct include:

- Revealing the debt’s existence to any third person, such as by posting it, announcing it or suggesting it on a bill’s outer envelope
- Depositing a post-dated check early, adding a “late fee” not authorized by the condo documents or falsely suggesting a lawyer is involved
- Setting an unclear payment deadline to avoid further action, such as “within 30 days” without explaining from when
- Using harsh or demeaning language, or contacting the resident after being asked to stop or before 8:00 AM or after 9:00 PM
- Threatening to sue, seize assets, report to a credit agency or do anything else unless it is both legally possible and actually intended

The law also requires creditors to verify the validity of the debt upon request and to clearly indicate that the purpose of each communication is to attempt to collect a debt. The full text of the regulations can be found on the Department of Banking’s website at [www.ct.gov/dob/lib/dob/legal\\_nonhtml/regulations/ec\\_36a-647\\_regs.doc](http://www.ct.gov/dob/lib/dob/legal_nonhtml/regulations/ec_36a-647_regs.doc).

Even a minor violation can carry liability amounting to thousands of dollars in penalties and litigation fees, regardless of any actual harm to the resident. The stringency of this new law and the potential cost of violating it makes it crucial that all condominium associations in this state carefully review their collection procedures and make sure their officers and management companies know how to comply.

## What the Subprime Mortgage Collapse Means to Your Condo Association

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 condominium community are likely to find themselves facing foreclosure.

This can have major implications for your condominium as a whole. If a mortgage bank starts a foreclosure on one of your units, it is likely to name the association 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. The association’s rights to collect past-due common charges on the foreclosed unit might be eliminated under complicated priority rules, which say that only recent charges trump the mortgage and older ones might get “foreclosed out” depending on the property’s value. For the duration of the foreclosure, the community’s resale certificates issued to buyers of units must identify it as litigation in which the association has been named as a defendant.

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

## New Law Requires Special Notice of Proposed Budget and Loans

Effective October 1, 2007, a new Connecticut law creates special notice and hearing requirements for all condominiums before borrowing money or approving annual budgets. At least 14 days before signing any loan agreement, the board must send every unit owner a written summary of its terms and estimated effect on the common expenses, and invite them to send the board written comments. Also, the board must invite all unit owners to comment on each proposed budget before or during the approval meeting and have at least one full copy of the budget available for inspection at the meeting. These new legal requirements override any contrary provision in the condominium’s declaration or bylaws.



**For more information** about consumer protection laws, budget and loan notice requirements, mortgage foreclosures, or any other condominium issue, please contact Adam J. Cohen in our Bridgeport office at 203-330-2230 or by email at [ajcohen@pullcom.com](mailto:ajcohen@pullcom.com).

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