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New Law Strictly Regulates Debt-Related Communications with Residents

By Adam J. Cohen, Esq.

Effective on July 1, 2007, Connecticut Public Act 07-176 prohibits "any abusive, harassing, fraudulent, deceptive or misleading representation, device or practice to collect or attempt to collect a debt." This law imposes very significant restrictions on every effort by any creditor to enforce or even discuss a payment obligation with a Connecticut consumer. Although designed to target for-profit businesses, the Act is written broadly enough to almost certainly cover virtually all condominiums and other communities which collect money from residents.

Regulations written by the state Department of Banking clarify what must, and must not, be said and done by the association attempting to collect any amount owed by a resident. Violations carry serious consequences – civil liability for actual damages, up to $1,000 in statutory damages, and the consumer's own attorney's fees for suing the association – so every condominium association in this state would be well-advised to become very familiar with these new requirements.

Examples of prohibited conduct include:

- Revealing the debt's existence to any third person, posting or circulating a public notice that the resident is delinquent, or including anything on an outer envelope that suggests it is a demand letter or late notice.
- Contacting the resident at undesired locations or at inconvenient times, which are presumed to be before 8:00 AM and after 9:00 PM.
- Setting a payment deadline to avoid further action as a time period (for example, "within thirty days" without explaining from when) as opposed to a specified date, or depositing a post-dated check early.
- Imposing a charge not legally due or making any misleading statement about the debt, who is making the statement, or the collection efforts available or underway. For example, the Act would prohibit adding a "late fee" not allowed by law or the condominium documents, or falsely suggesting a lawyer is involved.
- Raising your voice, using harsh or demeaning language, or calling repeatedly or after being asked to stop. If the conversation becomes heated for any reason, it should be ended immediately.
- Threatening to sue, seize assets, report to a credit agency, or take any other action when doing so is not both actually intended and legally possible. For example, never threaten to record a lien against a unit, especially if the debt is more than two years old.

The Act also affirmatively requires creditors to clearly indicate that the purpose of the communication is to attempt to collect a debt, to disclose their actual identities, and to verify the validity of the debt upon request. This applies to every bill, late notice, and verbal conversation with the resident about unpaid dues, fines, and any other monies. 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/sec_36a-647_regs.doc.

The stringency of this new law and the potential cost of even a slight violation makes it important for all community organizations in this state to carefully review their collection procedures and properly train their officers in how to comply. ■

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New FCC Decision Regarding Video Services for Community Associations

The Federal Communications Commission (FCC) has reversed an earlier decision on the use of exclusivity clauses in contracts for video services in residential properties. The commissioners voted unanimously on October 31 to ban such clauses – even though a 2003 FCC ruling said exclusive contracts benefit consumers because they allow homeowner and condominium associations and property owners to negotiate for lower rates and service improvements. What we know about this decision is based on an FCC press release and the comments of commissions following the decision. The full text of the ruling will be released in 2-4 weeks. We will provide additional information and perspective as it becomes available.

Visit the Heads Up page on the National CAI website:
www.caionline.org/govt/news/index.cfm
for a more detailed report on this FCC decision.

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