

# LITIGATION ALERT

## Conveyance Tax Exemption Repealed for Connecticut Foreclosure Deeds

Effective on January 1, 2010, Section 114 of Connecticut House Bill 6802 will repeal the exemption provided in the state's real estate conveyance tax statutes for recording deeds which indicate that property has been foreclosed by sale. Governor Jodi Rell has decided to neither sign nor veto this bill, so it has become law automatically.

This will mean that after a financial institution or other business or individual forecloses a mortgage or lien, the town clerk will not record the court's foreclosure deed unless the tax is paid. The tax typically ranges from 0.75 percent to 1.5 percent of the property's acquisition price depending on factors including the price and location. For example, a creditor which "bids its debt" of \$350,000 will cause a conveyance tax of at least \$2,625 to become due upon recording.

The legislature repealed the exemption but did not enact procedures explaining how the tax will be collected during an involuntary conveyance like a foreclosure. For example, the existing statute requires the "seller" to pay the conveyance tax, but since obviously neither the court nor the debtor will be doing so in a foreclosure situation, the creditor apparently will have no choice but to pay this tax itself. Presumably this would also apply to any person who purchases a property at a foreclosure auction. Such purchasers would therefore be well-advised to factor in this hidden cost when determining how much to bid.

Banks and other creditors might react to this change by asking judges to award them the anticipated conveyance taxes as part of the judgment debt itself. Lenders might also consider revising their standard loan documents to hold borrowers more specifically liable for such taxes after default. Whether courts will go along with these efforts remains to be seen.

This alert is written by Adam J. Cohen, attorney in the Litigation Department at Pullman & Comley, LLC. Please feel free to contact Adam or any of the attorneys listed below for more information.

Adam J. Cohen	203-330-2230	<a href="mailto:ajcohen@pullcom.com">ajcohen@pullcom.com</a>
Edward P. McCreery III	203-330-2216	<a href="mailto:emccreery@pullcom.com">emccreery@pullcom.com</a>
Brion J. Kirsch	203-330-2249	<a href="mailto:bkirsch@pullcom.com">bkirsch@pullcom.com</a>