

**TESTIMONY IN OPPOSITION OF RAISED BILL 325  
AN ACT CONCERNING COMPLIANCE WITH THE REQUIREMENTS OF THE FEDERAL  
FAIR DEBT PRACTICES ACT BY THE UNIT OWNERS' ASSOCIATION OF A COMMON  
INTEREST COMMUNITY WHEN FORECLOSING A LEIN ON A UNIT.**

**Judiciary Committee**

**March 7, 2016**

**Summary**

The purpose of Raised Bill No. 325 is to require that pre-foreclosure notices be sent by a community association to the holders of first and second mortgages on a unit and that the association must comply with the federal Fair Debt Collection Practices Act (FDCPA).

**CAI-CT**

My name is Kim McClain. I serve as the Executive Director of the Connecticut Chapter of the Community Associations Institute. We are part of a National Organization with over 32,000 members and growing stronger. Our mission is to support best practices in association operations throughout our state. We do this by providing robust education programs and valuable resources to enable our members to have the necessary skills to effectively operate their associations.

There are currently over 5,000 common interest communities in Connecticut with well over 150,000 residents. I wish to present testimony regarding the impact this bill will have on these communities and the owners who have invested in them.

**Opposition of SB 325**

Section 47-258 of the Connecticut Common Interest Ownership Act (CIOA) provides that the association of a common interest community has a lien on the units in the community for any unpaid assessment levied by the association. The lien may be foreclosed like a mortgage. Under the Common Interest Ownership Act (CIOA), the association's lien currently has limited priority over the first and second mortgage on the unit.

The interests of the first and second mortgage holders have the opportunity to protect those interests at the earliest possible moment in the foreclosure process. Subsection 47-258(m)(2) of CIOA requires the association to provide the mortgage holders with written notice of its intention to foreclose a lien. This notice must be sent at least 60 days before the association institutes its foreclosure action. The mortgage holder may, at its option, decide to pay the charges owed to the association on behalf of the unit owner, in which case the association need not proceed with a foreclosure action.

The Connecticut General Assembly **should not** adopt Raised Bill No. 325 because the intentions of the bill are unclear. The bill, as drafted, does not clearly state the purpose for which it is being proposed. Further, the Connecticut General Assembly should not enact a bill that purports to expand the scope and application of a federal law to afford unnecessary protections to persons that the law was not designed to protect.

Associations are not debt collectors under the FDCPA and therefore communications directly between the association and the unit owner is not regulated by the FDCPA. Further, unit owners who do not live in

their units are investor-owners that lease their units to tenants and are not consumers as defined by the FDCPA. Only communications between a debt collector and a consumer are regulated by the FDCPA.

The notice sent to the mortgage holders is not regulated by the FDCPA because *the mortgage holders are not consumers*. The purpose of the FDCPA is to protect consumers from harassing and abusive behavior by debt collectors. An association is a quasi-governmental organization of the unit owners that are not consumers. However, if the association hires a debt collector to collect unpaid common charges on its behalf, then the communications between the debt collector and the unit owner are regulated by the FDCPA.

In the event you may require additional information, please do not hesitate to contact me. Thank you.

Respectfully submitted,

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