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**TESTIMONY OF SCOTT J. SANDLER, ESQ.
REGARDING RAISED BILL NO. 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 LIEN ON A UNIT**

I. SUMMARY OF TESTIMONY:

Raised Bill No. 325 would require that pre-foreclosure notices sent by a community association to the holders of first and second mortgages on a unit, must comply with the federal Fair Debt Collection Practices Act.

For the reasons set forth below, the Connecticut General Assembly should not adopt Raised Bill No. 325.

II. BIOGRAPHY OF SCOTT J. SANDLER:

Mr. Sandler is a partner in the law firm of Perlstein, Sandler & McCracken, LLC, in Farmington, Connecticut, which currently provides legal services to approximately 450 condominium and homeowner associations throughout the State.

Since 2001, Mr. Sandler has focused on representing condominium, community and homeowner associations.

Mr. Sandler is a member of the College of Community Association Lawyers ("CCAL"). CCAL is a prestigious group of attorneys who have distinguished themselves through contributions to community association law and who have committed themselves to high standards of ethical conduct. Of the thousands of attorneys practicing community

PERLSTEIN, SANDLER & McCracken, LLC

Page 2

association law in the United States, fewer than 150 have been granted membership in CCAL. Mr. Sandler is one of only three attorneys in Connecticut who are members of CCAL.

Mr. Sandler is a past President of the Connecticut Chapter of the Community Associations Institute. He is presently the Chairman of the Chapter's Legislative Action Committee. He also serves as a member of the Institute's Government and Public Affairs Committee.

Mr. Sandler is a graduate of the State University of New York at Albany (B.A., Economics, 1997) and Quinnipiac College School of Law (J.D., 2000). He was an Associate Editor of the Quinnipiac Law Review.

Mr. Sandler is a member of the American Bar Association, the Connecticut Bar Association and the Hartford County Bar Association. He is also a member of the Executive Committee of the Real Property Section of the Connecticut Bar Association.

III. ANALYSIS:

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 CIOA, the association's lien enjoys limited priority over the first and second mortgage on the unit.

In order to give the holders of the first and second mortgages an opportunity to protect their interests at the earliest possible time, Subsection 47-258(m)(2) of CIOA requires the association to provide the mortgage holders with written notice of its intention foreclose its 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.

Raised Bill No. 325 would require that the written notice sent by the association to the mortgage holder comply with the requirements of the federal Fair Debt Collection Practices Act ("FDCPA"). This bill should not be adopted for the following reasons:

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Page 3

1. The intention of the bill is unclear.

The bill, as drafted, does not clearly state the purpose for which it was proposed.

The bill addresses the notice sent by the association to the mortgage holders. As discussed in more detail below, this notice is not a communication that is covered by the FDCPA.

The bill may have been intended to regulate communications with unit owners. Depending on a number of factors, those communications may or may not be regulated by the FDCPA. For example:

- a. Associations are not debt collectors under the FDCPA. Therefore, communications directly between the association and the unit owner is not regulated by the FDCPA.
- b. Unit owners that do not live in their units, i.e.: investor-owners that lease their units to tenants, are not consumers as defined by the FDCPA. As discussed in greater detail below, only communications between a debt collector and a consumer are regulated by the FDCPA.

A blanket statement that the communications must comply with the FDCPA ignores those situations where the FDCPA does not apply.

Without a clear statement of intent, the General Assembly should not adopt the bill.

2. The notice sent to the mortgage holders is not regulated by the FDCPA.

The FDCPA regulates that conduct of debt collectors who are collecting debts from people who fall within its definition of "consumers." The purpose of the FDCPA is to protect consumers from harassing and abusive behavior by debt collectors.

A unit owner that lives in his or her unit, and owes common charges to the association, is a consumer. If the association hires a debt collector to collect the unpaid common charges on its behalf, then communications between the debt collector and the unit owner are regulated by the FDCPA.

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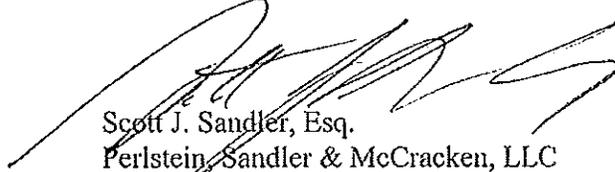
Page 4

Mortgage holders are not consumers under the FDCPA. Therefore, communications with mortgage holders are not regulated by the FDCPA.

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.

If I can furnish the Committee with any further information or assistance, please do not hesitate to contact me.

Respectfully Submitted,



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