



Dear Stewart Partners,

In this week's update, we are highlighting new Connecticut legislation which was the subject of a state bulletin sent out last week. In case you missed it, we've also linked the bulletin that was distributed for your review. In addition, although we've had a rainy start to summer, solar panels are becoming more and more common as fixtures on residential dwellings. Our Vermont Underwriting Counsel provides guidance for our Vermont agents when dealing with a transfer of property involving solar panels.

For our Massachusetts issuing agents, if you have wanted to know more about Horticultural and Recreational liens (commonly referred to as Chapter 61, 61A and 61B liens) Christine Provost and Rhonda Duddy of our Massachusetts Underwriting team will be presenting a webinar program hosted by the Real Estate Bar Association. The program is open to all REBA members. For more details, see below.

Lastly, on the tech security front, we've been alerted of a recent patch that is available to Android OS users which provides critical updates for your device. The patch addresses multiple vulnerabilities that were recently discovered. Read below for more details. We are also including the July edition of the SANS OUCH! Newsletter. This monthly newsletter provides great security awareness tips on timely topics. Please feel free to share with colleagues, friends, and family.



Connecticut Real Estate Related Legislation From 2023 Session - Stewart Bulletin CT2023001

In case you missed Stewart's bulletin issued on July 6, 2023 relative to the passage of real estate related legislation, we are providing this summary. To read and/or download the bulletin, follow this link: <https://www.virtualunderwriter.com/en/bulletins/2023-7/ct2023001.html>

1. **Senate Bill 1040, P.A. 23-38 – Remote Notarial Acts** - This bill allows a notary public to notarize a document for a person who is not in the notary's physical presence under certain circumstances but most importantly prohibits the use of remote notarization in real estate closings, including the acknowledgement of any instrument pertaining to (a) Connecticut real property or a power of attorney made outside the state before an attorney licensed to practice in Connecticut and (b) the execution of any Connecticut real estate conveyance, mortgage, release of mortgage or lien. The bill also prohibits, as part of a real estate closing, the use of remote notarization to acknowledge any instrument located outside of Connecticut

in any other state, the District of Columbia or U.S. territory which is verified in compliance with that other jurisdiction's law and authenticated in compliance with Connecticut law. The effective date is October 1, 2023.

2. House Bill 6580, P.A. 22-3 – Smoke and Carbon Monoxide Detector Requirements -

This bill makes several changes in a smoke and carbon monoxide detector disclosure law for residential building. Under current law, a seller of a 1-2 family residence must give a buyer an affidavit certifying certain conditions about the detectors or credit the buy with \$250 at closing. The bill eliminates the credit option, extends the affidavit requirement to units in residential common interest communities, changes the content required in the affidavit and when it must be given. The State Fire Marshal's Office is required to create a model form to be used for the affidavit and a guide outlined smoke detector requirements. The bill also adds to exemptions from the law transfers acquired by foreclosure. The effective date is October 1, 2023.

3. House Bill 6892 – P.A. 23-23 – Municipal Blight Ordinances - This bill expands state and local authority to regulate blight to include commercial properties and increases the maximum daily penalties from \$100 to \$1000 for repeat offenders in a 12-month period.

4. Senate Bill 1072 – P.A. 23-18 – Revisions to Common Interest Ownership Act - This bill requires common interest community associations to keep confidential any unredacted records that identify how a unit owner voted. It also increases the fee that unit owners must pay their association for the required resale certificate when seller their unit to \$185. The effective date is October 1, 2023.

5. House Bill 6631 – P.A. 22-26 – Act Concerning the Common Interest Ownership Act - Existing law allows common interest community owner associations to bring an action to foreclose a lien on a unit for unpaid assessments. The association must give written notice to holders of previously recorded first or second security interests at least 60 days before bringing the foreclosure action. This bill specifies that this 60-day notice is not an unauthorized communication with a third party under state laws or regulations governing creditors' collection practices. The effective date is October 1, 2023.

6. House Bill 6691 – P.A. 23-78 – Credit Card Access to Home Equity Lines of Credit - This bill changes current law by allowing borrowers to access proceeds from home equity loans by certain credit cards or other similar payments by their lenders. Current law allows priority for mortgages securing home equity lines of credit so long as loan proceeds are not accessed by credit card. This bill limits prohibition on such payment methods to ones that allow access to loan proceeds by single advancements under \$1000. The effective date is October 1, 2023.



Transferring Residential Property with Solar Panels in Vermont

Summer is the most productive time of year for homeowners to generate their own electricity, resulting in cost savings and positive environmental impacts. However, transferring property with solar panels involves special considerations for buyers, sellers, and real estate attorneys. In this summary, we are focusing specifically on the State of

Vermont. Vermont has a unique state licensing program that varies from some of the other New England states. Let's take a look:

Vermont's Statute regulating solar panels (also referred to herein as "net-metering systems") is 30 VSA § 8010. This statute authorized the Vermont Public Utility Commission to adopt rules for the construction and operation of net-metering systems. These rules can be found at: https://puc.vermont.gov/sites/psbnew/files/doc_library/5100-PUC-nm-effective-07-01-2017_0.pdf.

Every home with existing solar panels is granted a Certificate of Public Good (CPG) by the Vermont Public Utility Commission. A CPG is the homeowner's license to own and operate the net-metering system.

HOW TO SEARCH FOR AND OBTAIN A COPY OF THE CPG:

The Vermont Public Utility Commission has an online case management system used for filing, finding and accessing commission case documents known as ePUC.

ePUC can be accessed using the following link: <https://epuc.vermont.gov/>

WHAT CAN THE CPG TELL YOU?

1. Pertinent details about the net-metering system:

- How many panels and the location of the panels;
- Manufacturer;
- Contractor who installed the system;
- System capacity - If the capacity exceeds 15KW, additional notice MUST be filed in the Land Records, both at the time of the issuance of the CPG and when the CPG is transferred.
- Whether the homeowner has retained or sold renewable energy credits (REC's).

A REC is produced when a renewable energy source generates one megawatt-hour (MWh) of electricity and delivers it to the grid. For example, if a net-metering system produces 5KW of electricity, they have 5 RECs to either keep or sell. If they elect to keep the REC's, those are stored.

2. Date of Approval & Approximate Age of the Net-Metering System.

This information is important for the buyer because rates are only fixed for 10 years. If the system is nearing the end of the 10-year term, historic rates and returns on the system may not be realized by the buyer. Also, warranties may no longer be available for maintenance or repairs.

3. Whether conditions apply.

TRANSFERRING THE NET-METERING SYSTEM TO A NEW BUYER

Rule 5.110 provides:

(A) Transfer With Change in Ownership of Host Property: A CPG for a net-metering system is deemed to be automatically transferred when the property hosting a net-metering

system is sold or legal title is otherwise conveyed to a new owner. The new owner may continue operating the net-metering system provided that:

1. The new owner agrees to operate and maintain the net metering according to all the terms and conditions of the CPG and complies with this Rule 5.100; and
2. Within 30 days after acquiring ownership of the system, the new owner of a ground-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, the Agency of Natural Resources and the electric company, or within 30 days after acquiring ownership of the system, the new owner of a roof-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, and the electric company. A paper form of the transfer form can be found here:

https://puc.vermont.gov/sites/psbnew/files/doc_library/net-metering-cpg-transfer-with-land_0.pdf or you can e-file the form on the ePUC website.

GENERAL CONSIDERATIONS FOR REAL ESTATE ATTORNEYS

Purchase and Sale Contract Considerations:

1. If the net-metering system is leased, is sale contingent on Buyer absorbing lease?
2. If the net-metering system is owned, is sale contingent on a payoff of the net-metering system?
3. Will Seller reimburse Buyer for any tax credits?
4. Sale of net-metering system shall be referenced in the P&S as being included in the sale. Details of the net-metering system shall be included in the P&S and the system shall be sold "as-is".

Financing Considerations:

1. Who is the Lender for the net-metering system?
2. Is the financing secured or unsecured?
 - If secured, there will be a mortgage that **MUST BE DISCHARGED UPON THE SALE OF THE HOME.**
 - If unsecured, it is essentially a personal loan that will run with the Seller. The Seller will not want to continue to pay on a loan once the value of the electric savings is no longer being realized.
 - UCCs – Regardless of whether the solar system is secured or unsecured, often a UCC is filed in the SOS office. You must evaluate whether that UCC must be terminated or transferred to the new buyer.
 - Is there limited language in the UCC?
3. What is the amount left to be paid and how is the BUYER and/or SELLER going to pay the balance? Adjustments must be made to the P&S to address this payoff.

Homeowner/Property Insurance Considerations:

The Attorney representing a buyer should consider discussing with their Buyer-client that their homeowner's insurance policy should cover the solar system so that there is coverage in the event of system damage. A separate rider to the policy may be necessary.

Zoning Considerations:

The installation of solar panels may require zoning approval and a review of local regulations may be beneficial to confirm compliance. If panels are installed, consideration should be given to determine if:

1. The installation of the solar panels triggered zoning in the City/Town in which the property is located? If so, has a permit been obtained? Is the system in compliance with the permit? Is a CO required and obtained?
2. The installation of the solar panels triggered City/Town's Design Review Standards?
3. If the solar project is stand-alone, meaning it is not a roof-mounted system, confirm whether there are municipal screening requirements.

Land Record Considerations:

1. There is no requirement that the CPG be recorded in the Land Records. Attorneys and law firms should consider amending their intake forms to determine whether the property being transferred has an existing solar system and whether the system is a roof-mounted system or a stand-alone system.
2. If the net-metering system is above 15KW, a notice of issuance of the CPG must be recorded in the LR's in which the property is located. Said Notice must be recorded within 45 days of issuance of the CPG.

Underwriting Considerations:

1. Terms and conditions of the CPG should be taken as a Schedule B, Part II exception to the Loan Policy (and a Schedule B exception to the Owner's Policy);
2. Terms and conditions of any municipal permit must be taken as a Schedule B, Part II exception to the Loan Policy (and a Schedule B exception to the Owner's Policy);
3. There are currently no ALTA Endorsements available for Residential Solar;
4. Confirm that the Notice of Transfer has been filed with the Commission, the Department of Public Service, and the electric company;
5. All mortgages for the solar system must be discharged of record or assumed by the Buyer. Any assumed mortgages must be taken as a Schedule B exception;
6. All UCC's must be terminated or subordinated. When relying on a Subordination Agreement to insure a new loan in a prior and senior position, you can show the UCC Financing statement and the subordination agreement in Schedule B, Part II;
7. Post Foreclosure: Examiners and Title Officers should NOT eliminate the UCC Financing Statement by reason of foreclosure. This item MUST appear on all preliminary reports or commitments for title insurance post foreclosure.

For additional resources, please see A Vermonter's Guide to Residential Solar prepared for the VT Public Service Department. <https://www.cesa.org/wp-content/uploads/VT-Solar-Guide.pdf>



REBA to Host a Webinar featuring Christine Provost and Rhonda Duddy of the Massachusetts Underwriting Team

Topic: Massachusetts Horticultural and Recreational Liens under GL. 61, 61A & 61B. Christine and Rhonda will be discussing Forest, Recreational, and Agricultural and Horticultural lands, otherwise known as Chapter Lands. Join the discussion for a review of M.G.L. chapters 61, 61A and 61B with a focus on how to clear title for a purchase or sale, or for a withdrawal from Chapter. The discussion will include how to deal with rights of first refusal and particular notice requirements.

Date/Time: August 16, 2023 (Wednesday) from 12:00 – 1:00PM

Registration: Open to all REBA members.

To Register please email Matt Zarrella at REBA – zarrella@reba.net



PATCH NOW: Android OS

Multiple vulnerabilities have been discovered in Google Android OS, the most severe of which could allow for remote code execution. Android is an operating system developed by Google for mobile devices, including, but not limited to, smartphones, tablets, and watches. Successfully exploiting the most severe of these vulnerabilities could allow for privilege escalation. Depending on the privileges associated with the exploited component, an attacker could then install programs; view, change, or delete data; or create new accounts with full rights.

All systems before the **2023-07-05** patch level are affected.



July's SANS OUCH! Newsletter

This month's newsletter is dedicated to stopping scam calls where the fraudster claims to be from the Internal Revenue Service or the police department and insists that immediate payment is necessary to avoid a loved one from going to jail or to avoid serious fines. The newsletter highlights the tricks used and red flags to help identify the scam and avoid becoming a victim.

To read the full newsletter, follow this link: <https://www.sans.org/newsletters/ouch/stop-phone-call-scams/>

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