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Complying with the Predatory Towing Prevention Act

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Many New Jersey condominiums, cooperatives and homeowners associations lack sufficient parking to accommodate the needs of all residents and guests. Parking is often at a premium, and some associations strictly enforce their parking rules and regulations by towing or immobilizing (booting) improperly parked vehicles. These associations may need to modify their practices in order to comply with New Jersey's Predatory Towing Prevention Act, which goes into effect on October 18, 2008.

The Act is intended to protect consumers against unwarranted or excessive fees and other predatory conduct by towing companies hired to remove motor vehicles from private property, by restricting the conduct of those companies and the "private property owners" that use their services. Although the Act does not specifically mention condominium associations or cooperatives, it appears to apply to them. Residents therefore should be aware of these new protections.

Registration of towing companies. The Act requires towing companies to be registered with the New Jersey Department of Community Affairs and to file a tariff listing all of their services and accompanying fees, which are limited by the Act. The fees charged by each company are to be posted on the Internet by the DCA so that the public can look them up and avoid being overcharged. A first violation of the Act is subject to a \$500.00 fine, with subsequent offenses punishable by a fine of up to \$1,000.00.

Required signage. Under the Act, a community association may not tow or boot a motor vehicle that is parked for an unauthorized purpose unless there is a sign at least 36 inches high by 36 inches wide, posted in a conspicuous place at all vehicular entrances to the property which can easily be seen by the public, that states the purpose(s) for which parking is authorized and the times during which parking is permitted; that unauthorized parking is prohibited and unauthorized motor vehicles will be towed at the owner's expense; the name, address and telephone number of the towing company that will perform the towing; the charges for the towing and storage of towed motor vehicles; and the street address of the storage facility where the towed vehicles can be redeemed after the payment of the posted charges and the times during which the vehicle may be redeemed. (These signage requirements do not apply to an owner-occupied multi-unit structure of six units or less, or to a vehicle blocking access to a driveway.)

Removal of vehicles. A towing company must obtain prior written authorization from the "property owner" or its employee or agent (ostensibly a community association's property manager) before removing a specific vehicle. If your vehicle is towed during "normal business hours," the association's employee/agent must verify the

alleged parking violation and be present at the time of the removal, except in a few specified situations such as if your vehicle is parked in a fire lane.

The Act addresses another major source of irritation to the driving public, by requiring a towing company to release your vehicle if you return when it has been hooked or lifted, but it has not yet been moved or removed from the property. In these situations, the towing company may not charge you more than the “decoupling fee” specified in the company’s tariff filed with the State.

Storage and release of towed vehicles. An association may cause a vehicle to be taken to a storage facility within a reasonable distance of the property, but only if the required signs are posted and the towing company fully complies with the Act. The storage facility must have a business office open to the public between 8:00 a.m. and 6:00 p.m. at least five days a week, be secure, and, if outdoors, be lighted from dusk to dawn. The towing company must provide “reasonable accommodations” to release stored vehicles to their owners/operators after hours; may not charge an additional fee for releasing vehicles after normal business hours or on weekends; and must provide the person whose vehicle has been towed, immediately upon being contacted, with a written schedule of all fees for towing and storage services.

Association boards may wish to seek legal counsel regarding the applicability of the Act to their association.
