

BOMA CALIFORNIA

JULY 2018 – MAJOR ISSUES UPDATE



SPONSORED BILL SIGNED INTO LAW: AB 2173 (Santiago; D-Los Angeles)

Sponsored by BOMA California and signed into law by Governor Brown in July, this bill updates the state's commercial abandoned property laws by increasing the threshold amount needed to trigger an official disposition (auction) process. The new threshold is now \$2,500 *or* an amount equal to one month's rent for the premises the tenant occupied, whichever is greater.

Under current law, a commercial property owner/manager is obligated to go through an expensive public notification and auction when a business moves out and leaves behind unwanted items, believed to be \$750 or more in value or the equivalent of \$1 per square foot of the rental for the property, whichever is less.

If a company moves out of a leased space and purposefully abandons property (i.e. old shelving, a few desks and chairs, or obsolete computer equipment) that low threshold is very easily met and triggers an expensive auction process for a relatively small amount of money on items that were unwanted to begin with.

Due to AB 2173, state law now better reflects the practical realities in the commercial real estate industry by setting a new commercial threshold. This proposed new threshold amount more appropriately aligns with the actual costs of storage and disposal of abandoned property in commercial real estate.

SPONSORED BILL SIGNED INTO LAW: AB 2847 (Rubio; D-Baldwin Park)

Sponsored by BOMA California and signed into law by Governor Brown in July, this bill continues the effort to separate commercial from residential sections in statute where it does not make sense to have them intermingled.

AB 2847 clarifies that current Civil Code §1951.3 pertains to residential real estate only and creates a new section mirroring it to deal with commercial. This fix was needed as the statute provided certain obligations/protections for residential owners/tenants without parallel in commercial context.

DUAL AGENCY BILL DEFEATED

The well-funded bill that attempted to ban dual agency in the State of California, AB 1059 (Gonzalez-Fletcher; D-San Diego), by prohibiting an agent or brokerage firm from acting as a dual agent in a commercial real estate transaction was killed in committee after a six-month battle led by BOMA California.

After hours of working with the author and the Assembly Judiciary Committee, new language had been written that moved away from the outright ban and sought to create an additional disclosure. The author stated that she decided not to move forward with a ban but did want to see if there are ways to assure that consumers who are involved in a dual agency transaction can be more clearly notified. But we even stopped that.

A large group of our members with knowledge and experience of all sides of a transaction worked with us in Sacramento to try to come to consensus on language but ultimately nothing was going to work and we stopped the measure. The author and sponsor have noted they are going to try again, so we remain vigilant.

OTHER BILLS BOMA CAL HAD A MAJOR IMPACT ON

AB 1857 (Nazarian; D-North Hollywood) Building codes: earthquake safety: immediate occupancy standard. Originally this bill would have required all building in the state increase their seismic "safety" by a factor of 150%. Very expensive and impossible to implement. BOMA California worked to amend the bill in a manner that no longer threatens our industry.

AB 2618 (Bonta; D-Alameda) Hiring of real property: Department of Consumer Affairs: landlords and property managers: training. This bill originally would have required all properties - including commercial - to certify owners and onsite managers about fair housing practices, obligations of landlords, and tenant rights. BOMA California worked to fix the measure and ultimately kill it in committee.

AB 2648 (Friedman; D-Glendale) Civil actions: limitations: real property. Would have expanded the statute of limitations for actions brought to recover damages from any company who develops real property or performs or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or construction of an improvement to real property more than 10 years after completion. We worked to kill the bill.

AB 2681(Nazarian; D-North Hollywood) Seismic safety: potentially vulnerable buildings. Originally this bill mandated all local building departments inspect buildings and compile a list of "red tagged" buildings that potentially did not meet current seismic standards and publish the information. It was meant to shame building owners into seismic upgrades above and beyond "life safety." Would have been extremely expensive and provided incentives for tenants to re-negotiate long term loans. BOMA California worked to fix the bill in a manner that addressed the major concerns.

AB 2731(Gipson; D-Carson) Carried Interest Tax Increase. This bill would impose a tax of 17% on that portion of an individual's taxable income derived from an investment management services interest ("carried interest"). This measure would be devastating to anyone that develops property. BOMA California worked hard to kill this bill.

AB 3001 (Bonta; D-Alameda) Zero-emissions building mandate. This bill sought to force certain commercial buildings to become "zero-net energy" and would have put all commercial projects at a disadvantage by changing the state's "cost effectiveness" calculation to include "societal benefits." I.E. the state would be able to mandate even more expensive code changes by claiming it helped reduced greenhouse gas impacts. BOMA California worked hard to kill this bill early in the process.

AB 3232 (Friedman; D-Glendale) Zero-emissions buildings and natural gas ban. Among other things related to "zero-net" energy, this bill would have effectively banned natural gas from use in commercial buildings. New buildings and retroactively. BOMA California has worked to amend the bill in a manner that removes our industry concerns.

SB 100 (De León; D-Los Angeles) California Renewables Portfolio Standard Program: emissions of greenhouse gases. This bill would revise the state's "renewable energy/green energy" mandate and move up the goal of achieving 50% renewable/green energy resources by December 31, 2026, and achieve a 60% target by December 31, 2030. We are currently fighting this bill as it will send energy costs for commercial companies "through the roof!".

SB 937 (Wiener; D-San Francisco) Lactation accommodation. This bill mandates that all tenant improvements for companies with more than 200 people include a mandatory "lactation room." It is unclear who would pay for the room - tenant or building owner - and would require dedicated room be built at a cost of \$20K-\$130K. BOMA California is currently leading a coalition to oppose this bill and attempting to get the author to work with Assemblymember Limon on a bill that expands lactation room through current employment law and not building code.

SB 1397 (Hill; D-San Mateo) Automated external defibrillators Mandate. BOMA California has negotiated with the legislature on this bill that will require AEDs in certain existing buildings upon the completion of a Tenant Improvement. BOMA California's negotiations has kept the numbers of AED's that will be required down to 1 per building and only on TI's of \$100K or more, saving thousands of dollars for every building in the state.

CA MANDATORY BENCHMARKING LAW - AB 802

California's mandatory commercial building benchmarking law is one of the topics BOMA California is contacted about the most and since the law finally went into place on June 1, of this year, the amount of questions we have received have spiked dramatically.

BOMA California has been directly working on the issue since 2007 when AB 1103 passed the Legislature and was signed into law by then Governor Schwarzenegger, over our industry's strenuous objections. We weren't opposed to benchmarking, per se, but believed the way the bill was going to be difficult to implement in that it required every non-residential building in the State of California to be benchmarked. Period. No flexibility.

Our warnings that such a sweeping mandate would be an overwhelming regulation to implement came to fruition and after several years the complicated process was abandoned, and stakeholders were brought together to start over and write a statute – that retained the “mandate” but did so in a manner that could work in the Real World.

The result was that in 2015 the original statute placed on the books by AB 1103 was repealed and new, more flexible statutory language was signed into law by Governor Brown in the form of AB 802. That bill re-calibrated the regulatory process and addressed complaints our industry has had with the original law.

As of now, with some exceptions, buildings that are 50K sf or larger must use Energy Star to benchmark and report the data to the Energy Commission.

BOMA California has organized webinars, FAQs, and have provided more than 30 notifications to members about the program.

SPLIT ROLL TAX BALLOT – NOVEMBER 2020

The campaign that began to place the ballot on the 2018 November Election ran into some difficulties and instead announced that they would be on the 2020 November ballot. This also was proving difficult to raise the money to obtain the needed signatures until Face Book announced that they were giving the campaign \$500,000.

This means it will be on the 2020 November election ballot. CBPA remains at the forefront of the NO effort and serves on the Executive Committee of Californians to Stop Higher Property Taxes.

We will begin raising money for the “No” campaign in early 2019. Be prepared to contribute!

RENT CONTROL BALLOT – NOVEMBER 2018

The campaign to end the Costa Hawkins Rental Housing Act that has restricted rent control measures in the state and allow the expansion of rent control oversight to single family residences is on the ballot for this November and we vigorously oppose the measure.

CBPA serves as a Co-Chair of the “No on Prop. 10” campaign and is actively participating in the management and direction of the effort. Fundraising is the key component now as polling indicates if we can deliver our message with the right messengers the effort can be defeated. Again, be prepared to give!

This proposition is bigger than just residential rent control and presents an existential threat to your businesses. If Prop. 10 passes in November it only takes 41 votes in the Assembly and 21 votes in the Senate with the signature of the Governor to overturn the current prohibition of commercial rent control in California that we helped codify in the late 80's.

If Prop 10 passes there will be commercial rent control almost immediately in most major cities in California.

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Please feel free to contact BOMA California if you have any questions, 916-443-4676. Thank you for Supporting our industry!