

SACRAMENTO REPORT
Governor Keeps His Promise
by Greg McConnell

As I indicated last month, the rental housing industry escaped the first half of the two year 2005-06 legislative session relatively unscathed. Many factors played into this successful outcome including well coordinated and aggressive lobbying by the rental housing industry. However, I would be remiss if I did not acknowledge the Governor's impact on the legislative process.

In recent years, it was but a forgone conclusion that if pro-tenant regulatory bills made it through the legislature they would be signed by the Governor. Moreover, Gray Davis exerted little influence while bills were being considered and did not impact their outcome in a business friendly way. Governor Schwarzenegger promised that anti-business regulatory provisions would meet with a skeptical eye by his administration. He also promised that he would not expand government unnecessarily.

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Now that the results are in, it is apparent that the Governor kept his promises. During the session, he frequently sent his administrative team to policy committee hearings to express his positions on legislation. Many bills failed passage in those committees because they were clearly going to be vetoed, if not amended. One such bill was AB 1574 (Jones) that would have added confusing changes to statewide anti-discrimination laws by allowing local governments to pass their own laws.

The Governor also vetoed bills that he felt were duplicative of existing laws and therefore would unnecessarily increase government operations. Two examples of this are AB 399 which would have added recycling duties on property owners that would have been inconsistent with existing law and SB 735 which sought to clarify that tenant's rights advocates who visit a rental property are not trespassers. The Governor vetoed both bills with explanations that existing laws already take care of the problems they were intended to address and there is no need to create more laws.

Next year, the Governor promises to get serious about a proactive housing policy that will address the continuing housing crisis in California. Despite all the talk about housing bubbles, it remains the fact that California does not produce sufficient housing to meet its population growth. Some 220,000 units are needed each year, and that goal has consistently not been met from the 1990's through the current time. This short fall of housing production for people at every economic level is part of the reason for astronomical single family home prices and it gives regulators ammunition to control rents because rental rates invariably increase when home selling prices outpace the ability of average Californians to own their own homes. Based upon the way he has kept his promises so far, we are cautiously optimistic that he will continue to help owners stave off bad legislation and he will move forward on a pro-housing agenda.

Year End Report- Part Two

This is part two of the year end status of some of the major legislation that we followed this year. In this report we also provide updates on SB 735 and AB 1400 which were awaiting final action by the Governor at the time the last report was written.

The deadline for action by the Governor was October 8, 2005. The Governor received 961 bills in the 2005 legislative session. He signed 729 and vetoed 232.

Bills that failed passage in their policy committees were converted to two-year bills; they may be reconsidered and must be approved by their policy committees by January 13, 2006 or they will be dead for the remainder of the 2005-06 legislative session.

SB 735 (Torlakson) - Trespass

This bill would have clarified that a tenant advocate is not guilty of misdemeanor criminal trespass if he or she is invited onto the premises and comes during reasonable business hours and does not violate any laws while on the property. Governor Schwarzenegger vetoed the bill with the following veto message: *"This bill is unnecessary. The Civil Code already specifically provides when tenants' rights organizers are not subject to civil or criminal liability for trespassing. Current law appropriately balances tenant's rights with owners' rights."* **Year End Status – Vetoed**

AB 1078 (Keene) - Methamphetamine Contaminated Property Cleanup Act of 2005

This bill adopts temporary standards for the cleanup of meth-contaminated properties while giving authority to local officials for the oversight of the remediation by the property owner. The bill was joined to **SB 536 (Bowen)**, which requires the Department of Toxic Substances Control to develop permanent remediation standards using guidance developed by the Office of Health Assessment. Both bills passed both floors with overwhelming bipartisan support. **Year End Status – Signed by Governor**

AB 1400 (Laird) – Amendments to Unruh Civil Rights Act

As introduced, the measure added familial status, marital status, and sexual orientation as bases of discrimination in the Unruh Civil Rights Act—no problem so far. However, it also stated that the named bases of discrimination were "illustrative" and not exhaustive. This raised the very real possibility that the courts could expand the application of the law to litigation challenging occupancy standards, the 3-1 rent to income ratio, owner non-participation in the Section 8 program and a variety of other issues not specifically prohibited by the Act. The author agreed to remove the term "illustrative" when these issues were brought to his attention and the industry removed its opposition. **Year End Status – Signed by Governor**

AB 399 (Montanez) – Recycling

This bill would have imposed recycling requirements on owners including the duty to inform tenants of recycling options available in local jurisdictions. The industry negotiated amendments to the measure. While we were not in support, we removed our opposition because the author accepted the most meaningful of our suggestions. The Governor vetoed the bill with the following veto message: *"While the goals of this bill are laudable, the mandates in this measure are overly prescriptive and create significant state, local and private compliance costs. Additionally, this bill is inconsistent with the Integrated Waste Management Act, which expressly grants local governments discretion over what types of programs are used to achieve the States diversion goals. While I cannot sign this bill, I encourage the Integrated Waste Management Board to provide adequate tools and resources to local jurisdictions to implement multifamily recycling programs."* **Year End Status – Vetoed**

SB 540 (Kehoe) - Tenant Displays

This bill would prohibit a landlord from prohibiting a tenant from posting or displaying noncommercial signs, posters, flags, or banners on or within any portion of premises leased by the tenant, unless the posting or display would violate a local, state, or federal law. The rental housing industry opposed the bill with the result that it was dropped from further consideration this year. **Year End Status -** This bill is still in its original policy committee and must be approved by January 13, 2006 or it will be dead for the remainder of session.

All of the bills mentioned above can be viewed in their entirety along with committee analyses at www.leginfo.ca.gov.

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