

# End of Session Legislative Update

By Skip Daum

The first half of the biennial legislative session has ended, and a few important bills were passed that community association boards and managers should plan to implement.

Perhaps the most important are two bills that directly affect HOA operations:

- **AB 771 – Disclosing Transfer Doc Fees**  
Assembly Bill 771 (carried by Betsy Butler, Dem., Manhattan Beach), which *takes effect, on January 1, 2012*, was sponsored by the California Association of Realtors and initially capped fees that may be charged by parties providing documents upon the sale or transfer of a separate interest. This bill was lobbied heavily and it was ultimately revised to remove the cap. In addition, the bill enumerates the items which are to be provided, as well as an estimated fee for each. It prohibits added fees for electronic delivery of disclosures. This bill improves existing law because it provides for better disclosures to sellers in a transaction. As finally amended, there was no opposition and the Governor quickly signed it.
- **SB 563 – Board Action Without a Meeting**  
Senate Bill 563 (carried by Mark DeSaulnier, Dem., SF Bay Area, Chairman of the Senate Transportation and Housing Committee), which *takes effect January 1, 2012*, essentially prevents boards from meeting without notice to members. It was asserted in the hearings that some boards met without notifying the members of the time, place and agenda items and were, therefore, deemed to be less than transparent. Initially, the bill prevented directors from even speaking to one another about association matters outside of a noticed meeting. However, CAI-CLAC lobbied the bill for months, and it was finally changed to not only delete that provision but to allow for electronic consent on matters brought up in emergency meetings. While this measure is of concern to some, the larger issue of “secret meetings vs. transparent operations” prevailed. All boards should take notice!

Two bills have limited application, but you need to know about them.

- **SB 209 – Electric Vehicle Charging Stations**  
Senate Bill 209 (carried by Ellen Corbett, Dem., Alameda), which *takes effect on January 1, 2012*, limits an association’s ability to prevent installations of electric vehicle charging stations upon a member’s request. There are numerous conditions which must be adhered to by the member, including insurance covering the association’s common areas and damage to other property, electric bills to be paid by the member, and the requirement for members to disclose these conditions to buyers who shall also be responsible for the stations. As

such, I expect few applications for such installations. The bill, although signed, has serious flaws because it violates the Constitution's provision which prohibits a "taking" of real property, as well as a conflict with existing law which requires a  $\frac{2}{3}$  vote of the members to grant an exclusive use common area for such installations. We made these flaws known to the Governor who agreed with us, and while signing SB 209 also penned a "signing message" indicating that the author shall "fix" these flaws. SB 880 will be amended and acted upon in January as an urgency measure.

- **SB 561 – Payment Sequence of Delinquent Assessments**

Senate Bill 561 (carried by Ellen Corbett, Dem., Alameda) requires delinquent owners' payments to be credited to the HOA prior to the debt collector. This would essentially curtail the ability of the HOA to ever get the money it is owed because associations are not debt collectors and licensed collectors will not seek payment knowing the debtor will probably never pay them. We opposed the bill and it has been made a "two year" bill meaning that it will be held in committee until January 2012.

**Senate Bill 150 (Lou Correa, Dem., Orange County)** deals with associations that attempt to limit the number of rental units. As signed into law, it is imperfect and associations may wish to carefully review their governing documents if they wish to quickly amend them to lawfully avoid some portions of SB 150; this should be done before January 1, 2012. This bill may seriously conflict with FHA regulations currently being finalized regarding a cap on rentals in order to qualify buyers for a loan.

CAI's California Legislative Action Committee (CAI-CLAC) is continually on guard for you: helping to save you money, keeping your association's liability minimal, and in general, helping your community's market value remain as high as it can be while fostering harmonious communities.

We look forward to keeping you updated in 2012 on all legislative issues that affect common interest developments in California.

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