

California's Governor Sides with Publishers on Storage Lien Law

By Tim Dietz, Sr. VP – Government Relations & Communications

Despite protests from the SSA and California SSA, officials in Sacramento have handed the state's powerful publishing lobby a victory that will return newspaper lien notification requirements to the standard that was in place before the lien law bill was revised last year. Bowing to pressure from the California Newspaper Publishers Association (CNPA), Governor Jerry Brown signed the revision into law in mid-July.

Legislators in California enacted the self storage industry-promoted lien law reform bill in 2010 after a three-year effort by the California SSA with significant funding from the national SSA. Originally the California effort sought to eliminate the newspaper advertisements completely, which has been accomplished in other states including Arizona and Colorado. However the CNPA came out against this effort and similar efforts from other industries that are statutorily required to publish legal notices at a significant cost. But the law signed by then-Governor Arnold Schwarzenegger in October did change the newspaper provision slightly. Although operators were still required to advertise the lien once a week for two consecutive weeks in a newspaper of general circulation, the size of the circulation of the newspaper had been expanded to allow for inclusion within any newspaper in the county as opposed to the smaller "judicial district."

This small change in the law made the lien sale advertising market more competitive and storage operators reported significant cost savings. Reeling from years of eroding revenues, the same newspaper representatives who had opposed the elimination of the advertisements took action.



State Senator Bill Emmerson, originally the sponsor of the self storage lien reform bill, sided with the newspapers this time around

They convinced state Senator Bill Emmerson, the sponsor of the original self storage lien reform bill, to introduce SB 279, which again limits advertising to newspapers that circulate in the judicial district where the facility is located. California self storage operators are not happy about the bill, the sole purpose of which is to tighten the newspapers' grip on state-mandated advertising.

"This makes no sense in any context other than special interest legislation benefiting the newspapers," according to CA-SSA executive director Erin King. "These bills were established to assist small businesses with a bad-debt solution, not to require one business sector to provide support to another industry."

Both the CA-SSA and the SSA feel that it is hard to justify requiring advertisements be placed in small circulation newspapers in the Internet age.

"We have found that often times the government can't even tell the businesses exactly what judicial district they are in," according to D. Carlos Kaslow, SSA general counsel. "So compliance may be difficult."

Other industries that deal with legal advertisements are pursuing similar changes to laws governing their sectors. For example, in some states the associations that represent municipal governments are attempting the same changes. Senate Bill 97 in Colorado would have enabled governmental entities to post any required public notices on their websites instead of in newspapers. The bill was killed by the Senate State Veterans & Military Affairs committee on February 10 with a vote along party lines.

Additional improvements to the 2010 California lien law that *did* remain included the elimination of the certified mail provision with the less-expensive verified mail provided as an option. Adjustments also included a change in the pesky "declaration in opposition to lien" provision. Previously the declaration, once signed by the tenant, required operators to pursue the lien process by filing suit in general district court. The new law enabled adjudication in small claims court, a much less costly process. ❖

