

Government Affairs Committee First Quarter 2021 Update

STATE OF CALIFORNIA

Policy/Issue	Description	Status / Timing
Federal funds for residential landlords for delinquent rent owed by qualifying tenants impacted by COVID-19	<p>California has passed legislation (SB 91) that establishes a program for distributing \$2.6 billion in federal rent relief funds to qualifying residential landlords and tenants to pay unpaid rent that the tenants accrued between April 1, 2020 and March 31, 2021. Note that these funds are only available for residential landlords – there is currently no rental assistance program for commercial landlords.</p> <ul style="list-style-type: none"> To qualify for the federal funds, the unpaid rent must be owed by a tenant who earned less than 80% of the area median income in 2020 or at the time of application, with the State prioritizing funds for lower-income tenants (those earning up to 50% of AMI). In order for a residential landlord to receive the full 80% of rent owed, the tenant must qualify, and the landlord must agree to waive and forgive the remaining 20% of rent owed. Landlords who decline to participate will not receive the 80%, however, the tenant can apply for assistance independently and receive funds to pay up to 25% of the rent owed. <p>The bill does not address tenants who earn more than 80% of AMI but cannot or will not pay rent.</p>	<p>Legislation passed in January 2021.</p> <p>Residential landlords can apply for funds beginning in March 2021.</p>
Commercial Tenant Rent Relief and Eviction Protections	<p>In 2020, NAIOP worked to defeat proposed state legislation (SB 939) that would have allowed commercial tenants to forgo rent payments for an indeterminate period of time, and also would have allowed some commercial tenants to renegotiate existing leases or ultimately terminate leases if they found the terms unacceptable.</p> <p>In January 2021, a “placeholder” commercial tenant rent relief and eviction moratorium bill (AB 255) was introduced in the Legislature in order to meet the bill introduction deadline. At this point, it does not appear that a commercial tenant rent relief bill has the political support to advance in this legislative cycle, but the GAC is monitoring and will keep you updated.</p>	<p>Nothing specific currently proposed.</p> <p>NAIOP GAC is monitoring.</p>

LOCAL AND REGIONAL

Policy/Issue	Description	Status / Timing
Prop C Update (Commercial Rents Gross Receipts Tax)	<p>A California appeals court has upheld San Francisco’s “Prop C”, which was approved by the voters in June 2018, and which imposes a gross receipts tax on commercial rents of 3.5% for commercial spaces and 1.0% for warehouse spaces, subject to certain exceptions.</p> <ul style="list-style-type: none"> The appeals court rejected the argument that Prop C violates the California Constitution because the ballot measure was approved by a simple majority of voters instead of the two-thirds majority required for approval of special taxes proposed by a local government (on the grounds that ballot initiative petitions are actions by the “voters”, not “local governments”, and therefore are not subject to the two-thirds majority vote requirement for special taxes proposed by local governments). The Howard Jarvis Taxpayers Association has indicated that it will appeal the decision to the California Supreme Court. 	<p>The tax is currently in effect.</p>
Warehouse Indirect Source Rule	<p>The South Coast Air Quality Management District (“SCAQMD”) is proposing a new “indirect source rule” (PR 2305) that would apply to owners and operators of warehouses located in SCAQMD jurisdiction with 100,000 square feet or more of indoor floor space in a single building and the mobile sources associated with the warehouses. Under PR 2305, operators of applicable existing and new warehouses would be required to implement measures to reduce regional and local emissions from warehouse indirect sources (e.g., by using zero emissions trucks) and/or they would be required to pay a mitigation fee that SCAQMD would use to fund a mitigation program to achieve the emissions reductions. While PR2305, if approved, would only apply in Southern California, it could establish precedent for a similar rule in the Bay Area.</p>	<p>Rulemaking in process.</p>
Plan Bay Area—Work From Home Mandate	<p>The Metropolitan Transportation Commission has withdrawn its previously proposed “Work From Home Mandate”, which would have required office-based employers with 25 or more employees to have at least 60% of their employees telecommute on any given day. Instead, the MTC is now proposing that its “Plan Bay Area 2050” include a requirement that companies with 50 or more employees cap car commute to 40% of their workforce by 2035.</p>	<p>Plan Bay Area 2050 expected to be adopted Summer 2021</p>