

Gilchrist & Rutter Launches Sustainability Practice Group



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Attorneys in Gilchrist & Rutter's Sustainability Practice Group help clients navigate the local, state and federal laws dealing with a project's environmental impact. We clarify what is required to comply with applicable laws, and how to maximize investments in "green" technology, such as making building improvements to attract tenants willing to pay a premium for environmentally friendly/healthy locations.

Building on our expertise in construction, leasing and asset management-related legal issues, we assist with areas such as:

- Incorporating green techniques in design and construction.
- Enhancing a project's sustainability by minimizing its resource footprint.
- Adopting energy efficient practices in the management and operation of assets.
- Drafting leases to address landlords' and tenants' concerns about increasing a project's energy efficiency and reducing its environmental footprint.

Below, we have summarized a few recent statutes most pertinent to commercial real estate owners concerned with sustainability issues:

Glossary of commonly used terms-

CARB - California Air Resources Board

CEQA - California Environmental Quality Act

GHG - greenhouse gas, e.g., carbon dioxide, methane, nitrous oxide, certain fluorinated gases, and others (focusing on man-made sources)

AB32 is the California Global Warming Solutions Act of 2006. AB 32 establishes major initiatives for reducing GHG emissions to 1990 levels by the year 2020 - a reduction of approximately 30 percent, followed by an even larger target goal of reducing GHG emissions by 80 percent below 1990 levels by the year 2050. AB32 directs the CARB to design and implement strategies for making these reductions to be outlined in a Scoping Plan, and the goal of which is to establish measures to achieve the maximum technologically feasible and cost effective reductions in GHG emissions from all sectors in the economy and society currently producing GHG emissions. Regulations to implement the Scoping Plan are anticipated to be adopted by 2011, to become effective in 2012. The two largest sectors for reducing GHG emissions are, not surprisingly, transportation and commercial and residential electricity consumption. The AB32 Scoping Plan will include such programs as a Cap and Trade program, allowing for higher emitting business to purchase rights to emit carbon in amounts that would otherwise be above its cap, from other business and industries whose carbon emissions are below the cap assigned for that business within a particular sector and industry.

AB 1103 will require commercial landlords in California to provide certain energy consumption benchmarking data to prospective buyers, lenders and some tenants. It went into effect on January 1, 2009. Utilizing data provided by their utility companies, landlords must interface with the federal government's Energy Star benchmarking system, which will also provide landlords with the opportunity to receive Energy Star recognition for properties that meet certain EPA certification standards.

SB 375 is commonly known as the "anti-sprawl law." SB 375 will profoundly affect the development plans and CEQA review process for new developments. Among other things, it establishes more regional and sustainable community planning for land use decisions and encourages transit-oriented, higher-density development projects. The legislative objective of SB 375 is to reduce vehicle miles traveled and thereby reduce GHG emissions from transportation, the largest single sector contributing to GHG emissions. SB 375 represents one of the major ways California will endeavor to meet the GHG reduction goals under AB 32, The Global Warming Solutions Act of 2006, which requires reduction of GHG emissions to 1990 levels by 2020.