



**GOVERNMENT AFFAIRS SUMMARY OF
2011**

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“You may have the greatest bunch of individual players in the world, but if they don’t play together, the club won’t be worth a dime.” Babe Ruth

Realistically, the Babe probably didn’t say “dime”, but we get the gist. If individuals don’t work together, it’s just not worth it. That’s true for every enterprise imaginable.

Babe could easily have been describing the work of trade associations, and the tremendous value of industry experts working together, especially when it comes to legislative affairs. Nobody knows that better than our members, whose commitment to our Government Affairs program keeps us in the big leagues.

Business people who are not using their collective trade association voice are actually sending a very negative message to legislators: *“We don’t care to be taken seriously.”* Associations engage in lobbying because if they don’t their industry will always come out on the short end of things in any law that affects it.

Members may have a strong solitary voice as constituents with their own representatives. But their Association represents the best and brightest of an entire profession, and can present the important “big picture” perspective to elected officials.

So when a Harrisburg lawmaker wants to know how his or her bill will affect ‘landlords’, they don’t go to their constituents. They go to the industry’s envoy. They go to our Apartment Association.

The strength of our collective voice comes from so many of our members who regularly go to bat for our team. Together they keep the apartment industry in post season play. We routinely step up to hold many harmful bills in abeyance and secure amendments for others. We are always present to represent the apartment industry point of view. 2011 was yet another winning season, and lawmakers throughout the Commonwealth know when it comes to the issues affecting the hundreds of thousands of quality multifamily rental homes in Pennsylvania, we are at the top of the game.

Many, many thanks to our invaluable players.

The following is a summary of the matters we pursued and confronted in 2011.

STATE

24- Hour Monitored Security: HB 400 was introduced in February of 2011 and remains in the House Urban Affairs Committee. It would require 24 hour monitored security in and about most apartment buildings. We will continue to monitor the bill and work to defeat it. Conservative estimates suggest installing 24 hour monitored security would cost several thousand dollars at the very least. The costs for monitoring would be prohibitive. Moreover, owners' exposure to litigation would be intensified as residents develop a false sense of security and rely solely on property cameras for security.

Abandoned Personal Property: SB 887 was reintroduced from last term. It would establish the rights and responsibilities of residents and owners when residents leave personal property behind after relinquishing the rental premises. The bill provides for the length of time owners would have to hold the property and assure residents that the property will be properly maintained until retrieved. We worked with the bill's sponsors last term to craft language allowing for the rights of owners. As with any negotiation, no one is totally satisfied with the end result, yet both sides were able to achieve some success in securing provisions favorable to their position. The Senate passed the bill and it is now in the House Urban Affairs Committee, where it is being studied along with other issues such as evictions.

Bed Bugs: Ugh! They've made a comeback and so is legislation that tries to deal with the problem. **SB 908** would require rental owners to eradicate the critters but it would do little to address the very serious issues owners face. The bill was introduced and referred to the Senate Urban Affairs Committee in April of 2011. We are lobbying for language that would require residents to immediately notify owners of a problem, hold them financially responsible if they do not report or do not fully cooperate in eradication procedures, and relieve owners from liability relating to an infestation.

With such an emotional, creepy crawly issue, the need for clear, reliable information about what it takes to control a problem is paramount, including the costs owners face, which can be enormous.

The National Apartment Association's efforts on the national front to protect apartment owners include funding a study to gauge the economic impact on owners, which will be a great help to affiliates in presenting dependable data to local legislatures. NAA is also heavily lobbying HUD to recognize the responsibilities of residents and owners rights in their Guidance publication on preventing and controlling bed bugs in HUD properties, including housing voucher properties.

Blight: The state legislature has tried any number of approaches to help communities deal with blight. Most include efforts to cut red tape for municipalities to acquire blighted properties and create effective methods to hold owners accountable. The Apartment Association has supported the theory behind most efforts, since blighted properties have a severe negative impact on their communities- the very communities where our members' properties are located.

But as with any public endeavor, the devil is in the details. No measures to eliminate blight should encroach on the rights of responsible property owners. We have offered our expertise as a stakeholder and closely watch any legislative effort dealing with blight. For example last term we were instrumental in changing some of the language in the Neighborhood Blight Reclamation Act.

This term, **HB 1682** is being considered. It would enable municipalities to create land banks for the conversion of vacant or tax-delinquent properties into productive use.

A land bank is a governmental or nonprofit entity that could acquire, hold and manage tax foreclosed and abandoned properties. **HB 1682** would establish the parameters of land banks and define their powers. It also contains provisions for procedures relating to existing delinquent property tax sales laws. Several states including Maryland and New York have adopted land banks enabling legislation.

The bill was heavily amended in December of 2011. It was voted out of committee and was placed on the House Calendar on January 25th. If it passes a full House vote it would move to the Senate.

Carbon Monoxide Detectors: As might be expected, there is general agreement among most lawmakers of the need for these life saving devices in residential settings. The Apartment Association remains active in assuring any bills on the subject preserve rental owners' rights and place responsibility for the maintenance of alarms on residents.

In June of 2011 we submitted testimony for committee hearings studying **SB 920**. We urged the Senate Urban Affairs Committee to include language making it clear that owners would not be liable for any damages resulting from the operation, maintenance or effectiveness of a carbon monoxide alarm if the owner installed it properly, in accordance with the manufacturer's published instructions and the provisions of the act.

We also urged passage of language that would prohibit local governments from adopting any requirements for the installation and maintenance of carbon monoxide alarms that are more stringent than the requirements in SB 920. This would prevent an overly burdensome entanglement of regulations being unnecessarily imposed on rental owners trying to maintain properties throughout the Commonwealth.

Recently a bill identical to **SB 920, HB 2031** was introduced in the Pennsylvania House. Both bills would require carbon monoxide alarms in multifamily dwellings and most residential buildings where there are fossil fuel devices or attached garages. They require the owner to provide alarms in the vicinity of the bedrooms and fossil fuel-

burning heaters or fireplaces. Occupants would have to keep and maintain them, test them and replace the batteries. Owners would be responsible to replace them if previous occupants fail to do so. We will continue to lobby for our suggested additional language in both bills.

Castle Doctrine: One of the first Acts signed by Governor Corbett deals with self defense and the actions citizens can take when they feel physically threatened. The new law could have an impact on rental owners. **Act 10 of 2011** expands the Pennsylvania law that allows the use of deadly force in self-protection. Generally, a person can now use deadly force if he or she reasonably believes it is necessary to protect him or herself, “*against death, serious bodily injury, kidnapping or sexual intercourse compelled by force or threat*”, as long as certain specified conditions exist. Citizens no longer have such a high duty to retreat (that is, to first try to flee) as before. Decks, patios and porches are now considered part of the “dwelling” where residents can stand their ground and use deadly force if they reasonably believe it is necessary. Citizens can also protect themselves with deadly force if necessary if, when sitting in their vehicles, someone tries to forcefully enter. The Act also addresses when public officers can use deadly force in the performance of their duties.

Collection of rent upon the death of a tenant: This is truly the most impressive success story of the year. Association members made a dramatic difference in this legislation. It’s a classic case of Association teamwork, and it’s worth much more than the Babe’s proverbial dime!

Around the close of the previous Pennsylvania legislative session, a State Representative introduced a bill in response to the complaints from one or two of his constituents. The bill’s language was short, but not sweet. It would have decreed that no rent would be due upon the death of a rental resident, beginning on the day the resident dies, even if the owner did not know about the death, and no matter what was left on the lease term.

Initial attempts to convince the bill’s sponsor of the difficult burden it would place on rental owners were unsuccessful. The sponsor offered only criticism for any rental owner who would even partially oppose the measure.

That all changed after Association members visited the sponsor during our annual Harrisburg Capitol Visit. A small group of owner members shared details with the Representative about several situations they had recently personally experienced, situations which were all too typical of circumstances created when a resident dies.

All the factors were laid out. Even though no responsible rental owner would want to add to the stress a family endures when a loved one dies, our members explained, if the deceased was the sole resident, rental owners will routinely face extraordinary expenses. The unit is tied up an inordinate amount of time while a representative of the estate is appointed. More time goes by as the estate’s representative tries to organize

and remove the belongings. Often a large amount of personal property is abandoned. There are usually extraordinary cleaning issues. Law enforcement personnel often need sole access to the premises in order to conduct investigations. All these problems and expenses must be taken seriously if the owner is to have any chance of maintaining the quality of the rental housing.

The contingency of owners visiting the Representative on our Capitol day were able to present the big picture because of the credibility they carried as professional property managers and Association members. Their efforts turned the tide. The Representative listened, acknowledged their issues, and thanked them for bringing those issues to his attention. Then he went even further.

A few months later, at the beginning of the new legislative session, that Representative contacted the Association and asked us to submit the language we would like to see in a bill that would deal with rent collection upon the death of a tenant. The new bill he subsequently introduced addressed most of our concerns.

HB 1526 would allow the estate of a deceased resident, who was the sole resident, to continue the lease or terminate it with 14 days written notice on the later of the last day of the calendar month that immediately follows the calendar month in which the tenant died, or on surrender of the unit and removal of all the personal property. The estate would still have to pay rent or other debts owed prior to the date of the termination of the lease, including the owner's expenses resulting from the death. **HB 1526** was approved by the PA House and is now in the Senate. Baseball or apartments- the team that plays together makes it all worthwhile.

District Reassessment (Re-Districting Legislative Districts): All states are required to adjust their legislative districts, both federal and state, every 10 years to reflect the changes in population as measured by the latest US census. Pennsylvania's federal districts for the US House of Representatives and US Senate have been decided. But the districts for state government, the Pennsylvania House and Senate, were challenged in court.

On January 26, 2012 the Pennsylvania Supreme Court rejected those newly drawn state House and Senate maps, and told the reapportionment panel charged with creating them to try again. It's the first time the court has done so in at least 40 years. In a 4 – 3 decision the Court found state districts must be reapportioned to address the specific problems the Court found with the plan. The whole thing is supposed to fairly divvy up Pennsylvania in equal districts so that each district has the same number of constituents. Each House district should have 62,500 constituents. Each Senate district should have 254,000 constituents.

The process of apportioning new districts has always been political, with the party in power attempting to maximize their opportunities to be re-elected. It is important to the

Apartment Association because it will affect our lobbying and PAC donation strategies, not to mention our legislative agenda.

Domestic Violence: As the number of cases of domestic violence continues to rise, lawmakers in every level of government are introducing legislation to help victims cope with losing their housing as a result of the violence.

On the state level, two bills were introduced in 2011 to protect victims of domestic violence.

Senate Bill 1105 would add a section to the Landlord and Tenant Act to assure the Act could not be construed to authorize the removal of tenants or their assigns or legal representatives based on that person's status as a victim of domestic violence, sexual assault or stalking.

SB 1106 would prohibit landlords from terminating a tenancy or failing to renew a tenancy based on an act of domestic violence, sexual assault or stalking against the tenant or a member of the tenant's household, if the perpetrator is not a tenant. The acts of violence must be documented by a protection from abuse order or a copy of a written report by a peace officer stating that the tenant or household member has filed a report alleging the abuse. Landlords would have to change the locks at the victim's request. Landlords would also be required to change the locks at the request of the victim if the alleged perpetrator is a tenant.

Landlords could terminate the tenancy if the victim once again allows the perpetrator to visit (after giving the victim a three day notice to correct).

Advocates for domestic violence victims have been successful in several jurisdictions throughout the country in promoting legislation that protects victims. Association members are sensitive to the problems of victims and more often than not work with their residents to solve any problems to everyone's satisfaction.

Both **SB 1105** and **SB 1106** are currently in the Senate Urban Affairs and Housing Committee.

Philadelphia also passed a victims of violence bill. Bill No. 110498 prohibits landlords from terminating leases based on an incident of domestic violence and allows a victim to bifurcate or terminate a Philadelphia lease.

On the federal level, the Violence against Women Act (VAWA) provides protections for victims in public or subsidized housing. Proponents are looking to enhance its protections in the coming year.

Electronic Court Case Records Redact Street Addresses: The Electronic Case Record Public Access Policy of the Pennsylvania Supreme Court directs Pennsylvania Courts, including Magisterial District Judges, to redact the street addresses of parties in civil cases from electronic court records. This includes residential landlord and tenant actions for recovery of possession. The specific street address of a defendant in an

evictions case is crucial to properly identify the particular defendant in a case. The current court policy prevents rental owners from making informed decisions about prospective renters, and impedes prospective renters from finding suitable rental housing in our Commonwealth. We submitted our arguments to the Administrative Office of the Pennsylvania Courts (AOPC) and are working with other real estate stakeholders to secure changes in the Court's policy. Specifically, the entire street addresses of defendants in actions for recovery of possession must be included in all electronic records of the case. Our lobbying efforts regarding this issue will continue in 2012.

Evictions: The evictions issue is a good example of a rule about lobbying: "*Facts don't vote.*" That is, lawmakers' votes are based on their personal political formulas, not facts, and expediency is not necessarily a part of the equation.

The Pennsylvania Landlord and Tenant Act should be amended to allow a rental owner to request a writ of possession immediately after the rendition of a judgment for possession, and require a magisterial district judge (MDJ) to issue the order for a writ of possession immediately following a rental owner's request. Additionally, Pennsylvania law should allow the time periods for the issuance of a writ of possession and a resident's appeal of the judgment to run concurrently. We have been trying to affect these changes to our Landlord and Tenant Act for several legislative terms, and we will continue our efforts in the coming year. **HB 177**, introduced in January, 2011, would accomplish those goals.

An additional bill, **HB 1390**, would address the issues of summons, service, and appeals by residents to common pleas court. It would change the number of days an MDJ would have to schedule a hearing following the issuance of a summons from 10 to 7. It would also reduce the number of days a resident would be able to appeal a judgment from a lower court to the court of Common Pleas from 10 to 5.

Both bills are in the House Judiciary Committee. They had been re-introduced from earlier terms and we are once again pushing for passage.

Fees: Members have been hit with numerous fee increases for many things - court fees among them. In 2011 **Act 30** was passed to correct an item from **HB 2172**, which passed in 2010 and raised the jurisdictional amount for civil cases in district courts and Philadelphia Municipal Court. After **HB 2172** passed, legislators discovered they had failed to make some conforming changes to certain categories of civil filings to reflect the changed amounts. **Act 30** corrected that by amending sections **1725**, **1725.1**, and **3571** of **Title 42**, the **Judicial Code**.

Flood history disclosure: SB 148 would require the disclosure of a property's flood history to the lessees of residential real property. Although the current version of the bill applies only to single family residences, it would amend the Landlord and Tenant Act

and we will therefore continue to follow its progress. The bill was introduced in January of 2011 and remains in the Senate Urban Affairs Committee.

Immigration and Rental Housing: In 2010 Pennsylvania's Federal Third Circuit Court of Appeals upheld an order of the lower District Court and struck down Hazleton PA's illegal immigrant ordinances. The ordinances attempted to regulate rental housing and employment of illegal immigrants. Hazleton tried, among other things, to penalize landlords for knowingly renting to illegal aliens.

The Circuit Court said it is highly unlikely an owner's renting an apartment to an immigrant lacking lawful status could ever, by itself, satisfy the definition of harboring an illegal alien. They also ruled the housing provisions of Hazleton's ordinances unlawfully pre-empted federal immigration law (based on the "supremacy clause" of US Constitution, which says the laws of the United States are the supreme law of the land). The Apartment Association continued to follow the case because of its impact on members' employment practices and the possible liability it presented to those who rent to immigrants, legal or not.

The case went to the United States Supreme Court. The "Supremes" ordered the Third Circuit to think the case through again in light of the higher court's ruling in an Arizona case about employing immigrants.

After the case was sent back to the Circuit Court to be reconsidered, we became proactive, and worked with the National Apartment Association in filing an amicus ("friend of the court") brief. In the brief we argued that the ruling in the Arizona case does not affect how the Hazleton case should be viewed. The supremacy clause of the US Constitution still applies to immigration as it relates to housing issues and only the federal government has the authority to regulate it. Therefore, the earlier Circuit court ruling about landlords that struck down Hazleton's misplaced attempt to regulate renting to immigrants should still stand. Rental owners must not be required to be accountable for considering immigration status of residents.

The question of renting to immigrants could affect many members, as the issue cuts across socio-economic lines. Immigration law pertains to immigrants from all walks of life and could affect a broad sample of renters.

Several state measures dealing with immigration were also introduced in 2011, among them: Pennsylvania **SB 947** which would prohibit employment of illegal aliens; **HB 1024**, imposing sanctions and penalties on employers who engage in the unlawful employment of aliens; **HB 858**, prohibiting employment of illegal aliens and requiring participation in the federal E-verify Program as a condition for Commonwealth contracts or grants and prohibiting business tax deductions for certain compensation; & authorizing private cause of action.

We are monitoring all immigration issues as they could pertain to employment or housing in the apartment industry. Other bills target illegal immigration as it relates to

the Commonwealth's discretionary spending on public education, public welfare and corrections.

Medical Access to Rental Units: HB 979 would require rental owners to grant access to rental units of residents with certified illnesses by authorized persons designated as an agent under a durable power of attorney, an attorney-in-fact, or someone authorized by the tenant or tenant's guardian. Additionally a resident with a certified illness may terminate a residential lease upon 30 days written notice. This bill has been introduced during several past terms. This time around it was introduced in March of 2011 and remains in the House Consumer Affairs Committee.

Marcellus Shale: The apartment industry cannot afford to ignore the tremendous impact the mining of Marcellus Shale for natural gas will have on Pennsylvania's economy and the need for multifamily housing. Mining activities continue to rise and the industry is poised for astronomical growth. The Commonwealth is trying to attract the major industries that use and adapt the extracted gas. We will keep members posted on the development of this very significant issue.

Meth Labs: Identical bills have been introduced in the State House and Senate dealing with disclosure of the presence meth labs at properties. **HB 106 and SB 878** would require lessors (and sellers of real property) to disclose to lessees if a property is contaminated because of the presence of methamphetamines-including whether the property has been used as a meth lab. The bills also call for the PA Department of Environmental Protection (DEP) to develop decontamination standards. Lessors may report the contaminated property to the Department and request certification that the property has been decontaminated. The proposals have come a long way from original bills of several terms ago, in which a lessor would have been required to disclose, forever, that a property had been used as a meth lab, even if the problem had been remediated. We succeeded in swaying legislators to reconsider the serious consequences such a requirement could present to rental owners. **HB 106 and SB 878** are not perfect but they at least allow for a process by which a property could be certified decontaminated. SB 878 was reported from the Senate Consumer Protection Committee in October of 2011 and re-referred to the Appropriations Committee. **HB 106** was introduced in January of 2011 and remains in the House Environmental resources Committee.

Mortgages and foreclosures: The mortgage foreclosure crisis in single family housing has had an impact on rental properties. Several lawmakers are concerned about rental residents losing their homes if the property is foreclosed. The fact is foreclosure rates in multifamily rental communities are very few, below one percent, which is a tenth of the delinquency/default rates plaguing single-family. Moreover, a foreclosure is similar to a

sale. The lender typically takes over the property, as would a buyer. The new owner may bring in new management but they will continue all current leases until their termination date. Requiring foreclosure notices could unduly panic residents, when in actuality leases will be honored. We are working with the sponsor of related bills to assure rental owners are not unduly harmed. Currently, three bills are in committee:

HB 1846 would require landlords to immediately notify all tenants in writing if a judgment of foreclosure or pursuant to a tax sale is entered against a landlord. **HB 1845** would require a single point of contact (case manager) for a residential mortgage debtor. The bill also sets qualification requirements for the managers.

Negligence (tort) law reform-Fair Share Act: Pennsylvania's law relating to comparative negligence and specifying when joint and several liability applies to the recovery of damages in civil lawsuits was changed in 2011. Act 17, the "Fair Share Act" is intended to reform the way money damages are recovered. With certain exceptions, if liability is attributed to more than one defendant, each defendant will pay his or her share of the money damages, as determined by a judge or jury. When signing the bill in to law Governor Corbett noted past instances where there have been multiple defendants but one or more could not pay. At times parties that were only marginally responsible were forced to pay the entire amount of the damages. Corbett noted tort reform legislation ensures that a party's level of financial responsibility is assessed in a fair and equitable manner instead of being based on the extent of their financial assets. Proponents hope Pennsylvania will have a more attractive legal climate as a result and will be more attractive to businesses.

Rent Rebates: The long established state program for property tax and rent rebates offers assistance to low income seniors and adults with disabilities. **HB 415** would prohibit rental owners and residents from entering into a lease agreement to assign or pay any part of any rent rebate to the owner or the owner's assignees or representatives. The bill was introduced in response to a finding that some landlords who provide housing to seniors and the disabled require that those who receive rent rebate checks share a portion (50 to 100%) of the rebate with the landlord per the signed rental agreement/lease. However it is not clear how widespread the practice had become. The bill was set on the Tabled Calendar in late January, 2012. It will perhaps be picked up from the table at a later date for a vote in the House. Its journey through the Senate would follow.

Small Business Real Property Tax payments in Installments: Act 25 (SB 330) calls for Pennsylvania school districts of the second, third or fourth class to allow small businesses to pay their real property taxes in installments. A small business is defined as a business that is located in Pennsylvania and has no more than 50 employees. Prior to a final vote in the Senate staff of Senator Scarnati (R. Cameron, Clearfield),

President pro Tempore checked on our behalf with Pennsylvania's Department of Revenue to clarify whether rental owners would fall in to the definition of small business. The Department of Revenue staff noted landlords commonly file a Schedule C and/or Schedule E to report rents as a sole proprietor. If the business is set up as an LLC, the rental income would flow through to the individual owner and his respective share. Thus the bill's definition is not so strict as to exclude sole proprietorships or pass-through entities, if they meet the 50 employees' requirement. The Governor signed the bill in to law in June of 2011. It took effect in late August.

Spot Appeals of Real Estate Assessments: SB 1309 would ban spot appeals of property assessments by taxing districts. It was introduced last October and is currently in the Senate Finance Committee. Governor Rendell refused to sign a similar bill in 2008.

Spot reassessments are already prohibited by Pennsylvania law. But some taxing districts, such as school districts, are using their ability to appeal the assessments of residential properties so much that the practice, as the sponsors of **SB 1309** have noted, seems indistinguishable from spot reassessments. Some Association members are finding their school districts are using the practice heavily.

SB 1309 would remove a taxing district's (such as a school district's) ability in general to appeal the assessment of a property based solely on the sale of the property. The bill sets out certain situations where spot reassessments would be allowed. It would also provide a retroactive remedy to homeowners whose property tax assessments have been increased because of an appeal by school districts or other political subdivisions. Owners could have those assessments reduced to prior levels. Our talks are just beginning with the bill's sponsors to see if they will fine tune its provisions to reflect the issues faced by apartment communities.

Summit in Harrisburg: As described earlier in this summary, our 2011 Harrisburg visit was a grand success. Over 30 Association members joined forces in March and kept dozens of appointments with legislators. Everyone stressed their commitment to responsible property management and the need to legislatively support quality rental housing in Pennsylvania. **Watch for the 2012 Harrisburg Capitol Visit date.** Your Association needs your voice among your fellow best and brightest apartment professionals!

LOCAL

Domestic Violence: Given the emotionally charged subject matter, it's little wonder **Bill No. 110498** passed Philadelphia's Council so easily, and was signed in to law so quickly. It requires rental owners to permit renters who are victims of domestic violence to terminate the lease regardless of the lease term and without penalty.

According to the new ordinance, victims must make the request to terminate the lease in writing, within ninety days of a reported incident of domestic violence or sexual assault, and at least 30 days before the requested termination date. They must have obtained a protection from abuse order or consent agreement, incident report from the police, or written certification from a health care professional or licensed guidance counselor. Additionally, if the abuser is a co-tenant the rental owner may, upon the victim's request, bifurcate the lease in order to evict the abuser and allow the victim to stay. We secured concessions from the bill's sponsors that assures all terms and conditions of the lease must remain in effect until the date of termination or bifurcation, and a requirement that other tenants wishing to remain after the termination or bifurcation must execute a new lease. The sponsor also agreed to our request to additional language clarifying that rental owners may still evict tenants for violations of a lease other than those premised on acts of violence or abuse.

Employment Screening: Mayor Nutter signed "Ban the Box": The Philadelphia bill that makes it a crime to ask job applicants questions about criminal records is now law. **Bill No. 110111** went in to effect 90 days from April 13, 2011, the day Mayor Nutter signed it. Employers cannot ask questions about any arrest or criminal accusation, *"which is not then pending against that person and which did not result in a conviction."*

Additionally, employers cannot ask about any criminal convictions during the application process. *"The application process shall begin when the applicant inquires about the employment being sought and shall end when an employer has accepted an employment application."*

Employers cannot ask any person about criminal convictions before and during the first interview. But at our insistence the final bill allows the applicant to bring the subject of his or her criminal convictions up for discussion, if he or she so chooses. If an employer does not conduct an interview, the employer cannot ask about or gather information regarding the applicant's criminal convictions.

The bill does not ban criminal records checks after the first interview. "Interview" means, *"any direct contact by the employer with the applicant, whether in person or by telephone, to discuss the employment being sought or the applicant's qualifications."*

There are exemptions. The prohibitions against inquiries and records checks do not apply if they are specifically authorized by any other applicable law. For example, records checks are required by law for school bus drivers.

A “Fair Criminal Record Screening Advisory Committee” must be established to review the implementation and effectiveness of this law.

The sponsors of this hazardous bill ignored our concerns about the dangerous situation this ordinance will pose to the apartment industry. The safety of Philadelphia’s apartment residents and their children depends on a thorough check of the criminal convictions of any prospective employee seeking a position at a multifamily residence.

The extreme sensitivity of every job in our industry warrants a full discussion and disclosure of past convictions.

Lobbying Law in Philadelphia Now In Effect: Anyone looking to advocate a position on City Council bills or legislative or administrative actions should familiarize themselves with the City’s new Lobbying Law. The new ordinance specifies what constitutes lobbying activity, how lobbyist is defined, and how lobbyists must register and report their expenditures. The rules exempt most work done by lawyers, accountants and those who deal with City agencies on routine matters. If a lobbying effort exceeds 20 hours per quarter, or \$2,500 in expenditures, the lobbyist must register and report the spending.

The New Lead Paint Disclosure Bill in Philadelphia: The long, bumpy ride we took in fighting this bill and winning the concessions we did is more than just a great war story, although Christine will revel in telling the tale for many picnics and dinner meetings to come. It’s also a great example of something every seasoned lobbyist knows is indispensable when fighting destructive legislation- strong coalitions among similarly situated interest groups.

Despite the incredible array of laws and regulations at every government level, and the dramatic reduction in the cases of elevated blood lead levels in children aged 1 to 5 (incidences have plummeted over 90% nationwide), Philadelphia City Council pushed through yet another superfluous lead paint notice requirement on rental owners in 2011.

Bill No. 100011 will require certification to rental residents with children under 6 that a pre-1978 property is either lead free or lead safe.

The bill’s onerous burdens on rental owners prompted us to mount one of our most concerted legislative campaigns in our Association’s history. We galvanized our own AAGP troops to attend meetings and do a lot of heavy lifting in the hallways of City Council. We also partnered with two well established Philadelphia landlord organizations, HAPCO and GPAR. We brought forth textual evidence in the form of documented circumstances of members and an economic impact study to prove the crushing financial costs the bill will inevitably impose on rental owners. The combination of personal pleading, public advocacy and a great many people cramming Council meetings turned the tide. The resulting alliance of responsible property managers and hard work by everyone involved accomplished something that didn’t appear possible just a couple of years ago---we made City Council listen.

The final bill reflects many of the changes we requested. As a result of our efforts it excludes housing developed by and for educational institutions for exclusive use of students, PHA housing including Housing Voucher (Section 8) housing, and “dwelling units in which children aged six and under do not and will not reside during the lease term.” We also got them to increase the time for which a lead safe certification would be valid from 12 to 24 months. Additionally, they agreed to drop the requirement that lead safe inspections must be performed by third parties. Owners can now use their own certified lead inspectors.

Our formidable alliance with area organizations will continue, and grow, to meet the challenges that surely lay ahead.

Paid Sick Leave:

We joined Philadelphia’s business community and strongly opposed **Bill No. 080474** that required employers to provide paid sick time for employees working in the City of Philadelphia. The bill was amended several times to tweak the size of companies affected and number of hours of work required in order to qualify for paid time off. The entire concept was yet another unfunded mandate with serious unintended consequences for Philadelphia businesses. Of particular concern were the grueling record keeping requirements and how to handle accrued time when an employee works both in and outside the City. The final version of the bill, **No. 080474AA** passed Council by a vote of 9 to 8. The mayor sensibly vetoed it. We will watch for future efforts.

Satellite Dish Requirements: After nearly two years and seemingly endless amendments, Philadelphia City Council finally passed **Bill No. 100200-AAAA** (each “A” represents an amended version of the bill). The final version restricts the use of satellite dishes. The Mayor signed the bill on November 2, but news reports at that time indicated a court challenge is expected. Briefly, satellite dishes may not be placed between the facade of a building and the street, unless it is wholly within a balcony or patio area that is under the exclusive use or control of the unit owner or tenant. This provision may pose confusion or conflict with federal law that allows owners to restrict renters from drilling holes through outside walls or glass.

Television access providers and installers are specifically bound by the bill's requirements. Additionally, if providers and installers ascertain that a dish or antenna cannot be placed in an alternative location they have to provide the user with a signed statement certifying that the dish or antenna can't be placed elsewhere without a material delay, reduction in reception or significant additional cost. Installers must also remove any dish not in service.

Stormwater Billing: Association members are still getting used to the effects of the Philadelphia Water Department’s (PWD) new billing methods for stormwater runoff, and ensuing rate hikes for many. PWD now charges for stormwater management as it

relates to a property's burden on the sewer system. They use the property's individual characteristics as the basis for the fee. Geographic Information Systems technology (high tech mapping software) is employed to measure a property's gross area and its impervious area. Impervious area is any surface that prevents water from soaking into the ground, such as parking lots. Once they know the gross and impervious areas, they calculate the stormwater charge: Stormwater Charge + (Gross Area Rate X Gross Area of Property) + (Impervious Area Rate X Impervious Area of Property). We'll continue monitoring members' experiences with this.

FEDERAL

Carried Interest: Taxes on investments are in the news again, thanks to the (now perennial) Presidential election season and the candidates' disclosures of their tax records. Congress may well entertain proposals to eliminate capital gains treatment of carried interest and instead treat it as regular income- at a much higher tax rate. But that would have a devastating effect on real estate partnerships, and thus cause great harm to the apartment industry. Many development projects would be financially unviable and would prevent the growth of much needed new affordable housing.

Energy Incentives: We will support NAA's continued efforts to support the expansion of voluntary energy efficiency rating programs, as opposed to mandatory ones. We need to gather sufficient reliable data about multifamily housing that is based on solid building valuation principles before supporting mandatory labeling requirements. But we will continue to support legislative initiatives to provide rebates, grants, low interest loans and incentives for multifamily buildings that retrofit buildings with energy efficient equipment and materials.

Fannie Mae and Freddie Mac: The financial problems caused by the country's mortgage foreclosure crisis spawned many attempts in Congress to either significantly restructure these Government Sponsored Entities or do away with them altogether. This is a problem for the apartment industry because Fannie and Freddie are still a primary source of permanent debt financing for apartment owners. Congress didn't get very far with their reform efforts in 2010. But recent events may revitalize efforts to radically change or kill the GSE's. Recent news reports have revealed that public documents show in 2010 and 2011 Freddie Mac made a concerted effort to gain financially by betting that America's homeowners would not be able to refinance mortgages at today's lower rates. The agency allegedly used complex mortgage securities that paid huge sums to Freddie's portfolio when homeowners do not qualify for refinancing. Perception is reality in Washington and this bad press is sure to spur some in Congress, in an election year, to step up efforts to eliminate the GSEs.

Green Building Mandates: Multifamily green is very different than single family green, and NAA/NMHC continued its work in 2011 to develop federal policy that recognizes those differences. Building codes, policies promoting density, smart growth, and resource conservation along with smart property and maintenance practices are all a part of the mix. For example more than half of the energy used in apartments is not affected by the scope of building codes, so a code based approach to energy

conservation would only force expensive upgrades, the costs of which would have to be passed on to residents, for little or no effect on the overall energy use in the community.

Immigration: As discussed in the State portion of this summary, we are taking a hand in NAA's efforts to monitor and influence the issue of immigration as it pertains to our industry. NAA filed a friend of the court brief in the latest round of the federal case that is dealing with the Hazelton immigration laws. Hazelton has attempted to prohibit employment and housing of illegal immigrants.

Lead Hazards: An accurate assessment of the consequences of the EPA's new, extensive Repair, Renovation and Painting Rules that went into effect in 2010 is not yet possible. But they are already proposing additional regulations. We will watch for further activity on this and support the NAA's efforts to convince Congress that there is no need to impose additional complex and costly modifications in the absence of any data showing the original regulations have fallen short.

Pool Drains: A nostalgic favorite among old movie buffs, Abbott and Costello's "Who's on First" comedy routine may gain some contemporary following, as its resemblance to the discourse in Washington over things such as pool drain cover regulations is impossible to ignore.

The Consumer Product Safety Commission (CPSC) has revoked its interpretation of an "unblockable drain" for purposes of compliance with the Virginia Graeme Baker Pool and Spa Safety Act (VGBA). They want to make sure the regulations clearly require swimming pool and spa drains that cannot be blocked by a bather or swimmer. Several injuries occur each year when bathers, mostly children, are harmed when suction from drains trap them under water. Victims drown or are severely injured. There have been a few deaths each year as well. The laws are intended to prohibit drains that can be blocked in ways that can cause suction and entrapment. So an "unblockable drain" should be defined as one that can't be blocked and create the suction entrapment hazard.

The new interpretation, which takes the place of the last final interpretation, will have an impact on some if not many apartment pool operators who dutifully went ahead and complied with the old final interpretation.

The VGBA requires pool operators to install new anti-entrapment drain covers on all public pools. As the NAA explains, when a pool has a single main drain, other than an "unblockable drain," the law requires additional layers of protection such as an automatic pump shut-off or a gravity drainage system. Prior to this change, the CPSC sometimes permitted the use of large drain covers installed on small single main drains to satisfy the requirements, eliminating the need for secondary anti-entrapment devices.

The CPSC has now reversed its position. Now CPSC guidance will be amended to state: “placing a removable unblockable drain cover over a blockable drain shall not constitute an unblockable drain.” Say that three times fast.

CPSC does not plan to enforce the change before May 28, 2012.

The NAA submitted comments to the CPSC on its plan to revoke their interpretation of unblockable drains. They highlighted our industry’s frustrations over the Act’s broader compliance issues regarding the initial drain cover requirements, a subsequent manufacturer recall of may 2011, and the absurd lack of guidance from CPSC.

Looking Ahead:

More Pennsylvanians are Living in Renter-Occupied Housing: The recent US census shows the number of our Commonwealth’s rental residents increased 13.6 percent between 2000 and 2010. That’s an increase of 394,082 people in renter-occupied units. Our industry is a vital part of our economy and no community can be strong without quality rental housing.

Lawmakers are starting to “get it.” Shifting demographics, the foreclosure crisis, and Marcellus Shale growth are stirring a slow but steady awakening among lawmakers that quality rental housing is vital to Pennsylvania. With your help we’ll continue to deliver that message to the powers that be.

All Pac’d and Ready to Go! Our PAC fund is critical to our lobbying efforts – and our lobbying efforts are critical to every member’s bottom line.

Harrisburg lawmakers have to deal with thousands of proposals for new laws each year. We have to separate our issues from the crowd, and we do it through our contact with those lawmakers. Our contributions are based on a candidate’s leadership role in the Pennsylvania General Assembly, committee assignments, and the degree to which they appreciate the issues facing our members. These PAC donations are indispensable to our mission.

The AAP PAC is a statewide fund dedicated to supporting candidates for Pennsylvania offices. Together, the Apartment Associations of, **Central Pennsylvania, Western Pennsylvania and Greater Philadelphia** comprise the partnership known as **the Apartment Association of Pennsylvania (AAP)**. Pooling our people and resources statewide has been the key to broadening our influence in Harrisburg. **Please help us grow this essential fund.** Watch your mail for our PAC contribution request, and support our fundraising activities.

**Respectfully Submitted,
Christine Young Gertz, Esq.**