

Real Estate and Green Building Alert

AB 1103 Update: Postponement of Certain Nonresidential Building Energy Use Disclosure Requirements

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BY [DAWN SAUNDERS](#), [GABRIEL SCHNITZLER](#), AND [BRANDON BARKER](#)

Under California Assembly Bill 1103 ("AB 1103", codified as California Public Resources Code Section 25402.10), owners and operators of nonresidential buildings must disclose certain building energy performance data to a prospective buyer, a tenant of the entire building, or a lender who would finance or refinance the entire building before the sale, lease, financing, or refinancing of the building occurs.

AB 1103 is in effect and enforceable by the California Energy Commission ("CEC") for all nonresidential buildings exceeding a total gross floor area of 10,000 square feet.

Effective September 2, 2014, the Office of Administrative Law approved the CEC's proposal to postpone implementation of the next phase of AB 1103 regulations. The regulations had provided that nonresidential buildings with a total gross floor area measuring at least 5,000 square feet and up to 10,000 square feet would be required to comply with the statute as of July 1, 2014. Such buildings will now be required to comply with the statute on and after July 1, 2016.

Notwithstanding the postponement, practitioners should begin or otherwise continue the collection of the required data from utility companies, tenants and other occupants, as the case may be. Taking a proactive approach now will greatly improve the chances that the relevant property is in compliance with AB 1103 at the time of enforcement. Additionally, it will make it easier for owners and operators to provide the required documentation in the event of a future real estate transaction, thereby helping the deal to proceed more efficiently and seamlessly.

For more extensive discussions of the background of AB 1103, and the nature, scope, and timing of the required disclosures, please access the March 2013 and February 2014 issues of Mintz Levin's *Green Building Newsletter* [here](#) and [here](#).



[Dawn Saunders](#), *Member*



[Gabriel Schnitzler](#), *Member*



[Brandon Barker](#), *Associate*

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