

# SSA Sets Sights on Preparation, Defense of Sector

By Tim Dietz, SSA Sr. VP – Government Relations

The SSA helped establish 14 new laws around the country in 2014, making it one of the Association's most successful years to date. The national trade group for self storage operators has been working for several years to reassess and make improvements to outdated laws in various states.

Targets for the year are decided through the Association's Legislative & Regulatory Advisory Committee, which met in the fall of 2013 to prepare for the 2014 sessions. Made up of self storage professionals from around the country, the committee includes members of the SSA board of directors, attorneys from self storage companies and representatives of the SSA's Large Operators Council. The planning for 2015 took place when these 12 volunteers met in Chicago last June.

Working with active state associations that want to take advantage SSA resources, changes were made in 12 states: California, Indiana, Illinois, Kentucky (2 new laws), Maryland, Massachusetts, Michigan, Minnesota, Missouri, Ohio, Pennsylvania and South Carolina (2 new laws). Additionally, a bill providing an exemption from general insurance laws was still active in Michigan. For the still-developing 2015 legislative sessions, the committee has committed to support efforts in 16 states.

## Defense of Industry

The advocacy area of the SSA is entering a new era, working to defend the industry against increasingly threatening attention from revenue-thirsty governments and other industries seeking to take advantage of the sector. This year already in the outskirts of Chicago, the Village of Northlake took a cue from a handful of its neighbors and instituted a self storage usage tax. The District of Columbia did the same last year without providing affected tenants or businesses with the opportunity to comment.

In addition to tax threats, the self storage industry has also recently been the focus of laws that would adversely affect the industry, such as a Massachusetts legislator's effort last year to require self storage operators to maintain a registry of tenants. Another Massachusetts law applied penalties for perceived price gouging during natural disasters.

Because of a variety of threats, the SSA Government Relations Department is migrating toward a strategy of preparation and defense of the industry, compared to recent years which have been marked by aggressive efforts to

improve statutes with respect to lien processes around the country.

## New Jersey Concerns

In New Jersey, the SSA is helping its membership base by joining larger-focused organizations, such as the New Jersey Chamber of Commerce, in order to establish a clearer picture and legal safe harbor in light of a consumer law that has made the industry vulnerable to class action lawsuits. The self storage industry has been targeted with three such lawsuits based on the New Jersey Truth in Consumer Contract, Warranty and Notice Act (TCCWNA) and the Consumer Fraud Act. This spate of class actions is unprecedented within our sector, but the dangers presented by the TCCWNA are not in any way limited to our industry.

These statutes affect every consumer business that utilizes a consumer contract; therefore, a broad response beyond the self storage industry is required. The self storage industry is just one of dozens of New Jersey businesses that use form contracts, and all such businesses are potential class action defendants under these consumer protection laws. The self storage industry is likely just the first industry to be targeted by class action lawyers abusing the problematic TCCWNA.

As currently interpreted by the New Jersey courts, the TCCWNA authorizes class action lawsuits against a business for alleged violations of the statute found in a single contract that a company has been using for years. Under the TCCWNA a contract provision may violate the law if it is found to be contrary to a "clearly established legal right."

This standard provides no effective guidance whatsoever to businesses engaged in the complex process of drafting consumer contracts. As such, lawsuits have recently been filed alleging violations of the TCCWNA based upon very common contract provisions that have been upheld by multiple court decisions, including, but not limited to, common contract provisions such as those that limit liability, waive jury trials and shorten statutes of limitations.

The national SSA and NJ-SSA have begun working with a Trenton-based lobbyist, as well as with the New Jersey Chamber of Commerce and the New Jersey Civil Justice Institute, which helps private industries fight abuse of certain laws. ❖