

MINUTES OF COMMISSION MEETING
March 15, 2001

Present at the meeting of the New Jersey Law Revision Commission held at 153 Halsey Street, 7th Floor, Newark, New Jersey were Commissioners Albert Burstein, Vito Gagliardi, Jr. and Peter Buchsbaum. Professor William Garland attended on behalf of Commissioner Patrick Hobbs and Grace Bertone, Esq., attended on behalf of Commissioner Rayman Solomon.

Also attending were Charles Centinaro and Robert Garringer, Assistant Counsel, from the Office of Governor's Counsel, and Ed Eastman from the New Jersey Land Title Association.

Minutes

The Commission asked staff to correct the Minutes of the February 15, 2001 meeting: on page 2 regarding "TR-1" explain meaning of change requested by Commission; on page 3, 1st full paragraph, delete lines 3 and 4 following "by the county;" on page 3, 2nd full paragraph, line 7 replace "or" and "and."

Recordation

John Cannel explained changes made in the new draft. The Commission asked staff to correct a technical error in TR-1 - delete hanging "a."

Edward Eastman addressed the Commission. He stated that his group, The New Jersey Land Title Association, was following the progress of the report.

His immediate concern was that the draft report removed a provision that requires a county to index documents within one day after filing. Subsequent to litigation, his association and the counties had entered into a settlement, supervised by the court, stating that the target date for recording would be 2 days after filing plus an additional two day grace period. Counties, in practice, cannot comply with the law, given current resources.

Mr. Eastman stated that his association would like to see a new provision in the draft report providing for the recording of memoranda of leases, particularly a list of required items for filing. Commission asked Mr. Cannel to draft such a provision in TR-1. In addition, as to powers of attorney, use the word "encumbrance" and extend to easements.

Mr. Eastman requested that the Commission carry forward requirements for paper document recording since, even if counties convert to an electronic

filing system, some parties may wish to continue using the old paper based system. In this regard, he was concerned with the draft report's lack of reference to the bleed-free paper.

He noted that the Division of Archives and Records, charged with passing regulations on the form of documents under the draft report, lacks the resources to fulfill that charge. He suggested earmarking part of the realty transfer fee to finance this additional responsibility placed on the Division. He also mentioned that his association would be willing to undertake the task and to require public approval of the work product.

With respect to electronic recording, his main concern was uniformity of standards and software. He observed that if uniform standards were not required, each of the 21 New Jersey counties might end up using different and incompatible systems.

To simplify the recording process and reduce indexing errors, he asked the Commission to explore the idea of requiring cover sheets specifying how the clerk should index the document. Alternatively, he asked the Commission to consider using parcel identification numbers, rather than names of grantors for purpose of indexing records.

As to notices of settlement, Mr. Eastman suggested that any authorized representative be allowed to sign them to conform with practice differences between South and North Jersey.

The Commission asked Mr. Cannel (1) to check the remainder of statutes to make certain that the draft contained all matters on recording and (2) to delete periods in dollar amounts regarding fees.

Disabilities

The Commission discussed the scope of the project and decided to retain its narrow focus on the use of specific words rather than looking at the substance of statutes. The Commission asked staff to improve the definition of "incapacitated person" particularly the confusing phrase "or other cause except minority," and to look at the appointment of guardian statutes for guidance as to language.

Cybernotary

John Burke asked the Commission to defer consideration of the project pending developments in practice and in the law. Experts have reported that digital signatures are not used in commercial or consumer transactions to any significant degree, if they are used at all. Given that digital signatures are more basic than digital notarization, it is unlikely that there is a present need to codify rules governing that area. This is particularly so given that the prevailing digital signature technology, public key infrastructure, may not end up being the technology adopted in commerce. It is thus very difficult to anticipate required legal rules.

Election Law

Mr. Cannel noted that current attempts to reform election law, given the recent experience in Florida, have not resulted in substantive proposals. Rather there are several federal and state bills creating commission to study the subject matter and to report recommendations to Congress and state legislatures. The Commission asked Mr. Cannel to examine the issue.

Legislative Update

Mr. Cannel reported that Article 9 of the UCC had passed both houses of the Legislature and was pending action by the Governor. Unfortunately, a conditional veto seems likely because of last-minute objections by the Attorney General's Office. Other bills based on the Commission's reports, including those on the Anatomical Gift Act and Judgments and their enforcement are moving through the Legislature.

Miscellaneous

The next meeting is scheduled for April 19, 2001.