

MINUTES OF COMMISSION MEETING
July 17, 2003

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 and Peter A. Buchsbaum. Professor Bernard Bell of Rutgers Law School, Newark, attended on behalf of Commissioner Stuart Deutsch.

Karen Ellis also attended.

Minutes

The minutes of the July 2003 meeting of the Commission were accepted as submitted.

Liens for Motor Vehicle Service

Professor Bell expressed concern that if lessors have complete freedom to agree or not to repairs, their response would be to not agree to any repair so that they would not be subject to any security interest greater than the \$2,000 set forth in the statute. Repair facilities would need to get their money up front, which would disadvantage the customer. The added value to the vehicle would be an advantage to the lessor. Professor Bell proposed language designed to encourage dialogue between the lessee and the lessor, and to remove the lessor's absolute discretion. Only certain reasons would allow a holder of a security interest or a lessor to refuse repairs.

Chairman Burstein asked where parties would be left if a dispute arises. Professor Bell said that a party could go to court to enforce a lien. Mr. Cannel asked if the solution was too complicated for the problem. According to the people who spoke at the last meeting, repairs over \$2,000 are relatively rare. Professor Bell observed that the Commission had not yet heard from any consumers.

Commissioner Buchsbaum said that a problem in the current draft is the language referring to repairs in excess of \$2,000 and "reasonable." Mr. Cannel said that if an individual did not think he was properly charged, he could pay the amount in question into court. Mr. Cannel clarified that as between the repair shop and a customer, the challenge as to whether the agreed charge was reasonable would normally not be permitted, but as between the repair shop and a lessor - a stranger to the underlying repair transaction - a dispute could be brought before a judge. Mr. Cannel suggested modifying the language by adding that a lessor's approval should not be unreasonably withheld. Chairman Burstein expressed his concern that to include such language would detrimentally impact the chances of the proposal being accepted. He noted that the industry would never accept such language and, as a result, the bill would not be moved forward. In its present form, it

is at least a good faith attempt to address a relatively limited problem raised by the industry. Mr. Cannel agreed that the process might become unnecessarily cumbersome if the necessity of the repair could be questioned in each case. Professor Bell raised the question of claims as to whether services, in fact, had been performed. Commissioner Buchsbaum asked that the "reasonableness" language be removed. Professor Bell said that if the language allowed for differential scrutiny of property, it would address his concerns.

The Commissioners directed Staff to rework the following sections:

Section 1.

(a) Redraft line one.

(b) Remove word "owner" from second line.

(c) change the word "necessary" to "done" in last line.

Commissioner Buchsbaum suggested collapsing (c) into (b). Chairman Burstein asked Mr. Cannel to take a refreshed view of Section 1.

Section 2.

(b)(2) Remove all words after "\$2000."

Section 3.

Add language to the end of the first paragraph allowing any cost established by ordinance or contract.

Move (a) and (b) from Section 4 to Section 3.

Section 4.

Move (a) and (c) into Section 3 and delete subsection (b).

Section 6.

Correct two typos: in (b), the last word in line one, "Give" should be in lower case ("give") and in (d), the word "repair" should be deleted.

Commissioner Buchsbaum asked if there were other statutes pertaining to liens that deal with owners of vehicles, rather than with lessors or secured creditors. Mr. Cannel said that there is one, which the proposed draft would replace. Another statute has been found unconstitutional and invalidated.

Chairman Burstein asked Mr. Cannel to add a definition for "junk title certificate."

Transportation

Chairman Burstein asked staff to find out who the members of the Transportation Committee are from both houses.

Title 39

Professor Bell said that the definition of “press” needs to be broadened. Mr. Cannel advised the Commissioners of the upcoming meeting with individuals from the DMV to be held on August 11th in Trenton, which he and Laura Tharney will attend.

Title Recordation

Mr. Cannel said that we should be receiving information from the County Clerks on the Title Recordation project in time for the September meeting.

Weights and Measures

Mr. Burke asked if the Commission wanted to go forward with the project and was instructed to move forward and to clean up the anachronistic sections.

Miscellaneous

The next meeting is s led for September 11, 2003.