

**MINUTES OF COMMISSION MEETING**  
**December 18, 2003**

Present at the meeting of the New Jersey Law Revision Commission held at 153 Halsey Street, 7<sup>th</sup> Floor, Newark, New Jersey, were Commissioners Vito A. Gagliardi, Jr., Peter Buchsbaum and Daniel Becht. Professor Bernard Bell of Rutgers Law School, Newark, attended on behalf of Commissioner Stuart Deutsch and Grace Bertone, of McElroy, Deutsch & Mulvaney, attended on behalf of Commissioner Rayman Solomon.

Also present was Paul S. Natanson.

Minutes

The minutes of the November 13, 2003 meeting of the Commission were accepted as submitted.

Old Projects

The following projects previously addressed by the Commission were discussed:

**Environmental Protection:** Vice-Chairman Gagliardi asked that the phrasing in paragraph two of John Cannel's December 8, 2003 memorandum be changed to avoid any confusion. Mr. Cannel described the three completed and reported pieces (Land Use Regulation, Natural and Historic Resources, and Tidelands) as a recompilation project. Commissioner Buchsbaum proposed that the pieces be re-released. Mr. Cannel suggested that the projects be reviewed to make sure that no changes were required, and Vice-Chairman Gagliardi requested that Staff do so.

**Transportation:** Mr. Cannel advised that this item had been sent to the Commissioner of Transportation about 60 days ago, and that Staff had heard nothing in the interim. He explained that Staff had not done follow-up since the matter was on the agenda for this meeting. He indicated that it would be helpful if a sponsor for a bill could be identified. Commissioner Buchsbaum asked that copies be sent to the Governor's Counsel, and to the Staff of the relevant legislative committees. Commissioner Buchsbaum requested that Mr. Cannel provide the Commissioners with the names of the individuals on the Committees and contact would be made by the Commissioners. Commissioner Buchsbaum expressed his frustration with the backlog of Commission projects that have not yet been considered, and asked that steps be taken to address this.

**Judgments:** Mr. Cannel said that the Judgments piece is particularly frustrating since it went through the Senate Committee but did not go any further. He explained that an issue causing a problem was the limit of a debtor's exemption, and that the creditor's bar took one position and the debtor's bar took the other. Mr. Cannel suggested that the Commission review this piece and address the issues raised by the Bar and the Land Title Association. The difficult issue of the level of exemptions would still remain, however. Commissioner Becht observed that it is a whole new session of the Legislature and that

this might be an appropriate time to resubmit some of the projects under discussion. Commissioner Buchsbaum suggested that Staff make corrections to address the issues presented by the Bar Association, flag appropriate issues for Commission consideration, and then get the report out.

**Foreclosure:** The Commission requested that the foreclosure project be included with the piece on Judgments and sent out.

**Condominiums:** Commissioner Buchsbaum asked about the condominiums piece. This was not placed on the list by Mr. Cannel because there is still such anger on both sides of the issue, but it is a critically important piece.

**Elections:** Mr. Cannel explained that this is not an old project yet, but it is also an important piece. Mr. Cannel noted that the Governor's office appears to want a minimalist bill to address the need for statewide registration. Mr. Cannel mentioned that he had suggested that they at least make use of the relevant chapters that were already prepared by the Commission.

**Title Recordation:** Mr. Cannel proposed that this project needed to be on the list of projects to be addressed because it is very important.

**UCC-1:** Commissioner Buchsbaum moved that this report be sent out as a Tentative Report. Commissioner Becht seconded the motion which the Commission then approved.

**Games of Chance:** It was determined that this project would be on the "A" list of projects presented.

**Cemeteries:** This project will be on the "B" list of projects presented.

**Conclusion:** The Commission requested that Staff prepare a complete list of *all* projects that have not been addressed by the Legislature. Commissioner Buchsbaum suggested that to the extent that there are smaller projects that do not require revision at this time, they should be able to be presented and, hopefully, approved. Vice-Chairman Gagliardi noted that to the extent that there is something on the list that requires considerable work, it may be removed from the list of projects to be immediately addressed, but that the Commission wanted to see a full and complete list of outstanding projects. Mr. Cannel said that there were a number of smaller pieces that were inherently narrow and that clean up existing problems in the law. Commissioner Buchsbaum proposed that several of the Commission members meet with Senator Adler and ask which projects are likely to be able to be moved through the Legislature since he is Chairman of the Judiciary Committee. Vice-Chairman Gagliardi suggested that at the next Commission meeting, the Commission would review the list of outstanding projects and then arrange a meeting at which a short list of projects could be presented to Senator Adler for consideration.

### Background Checks for School Employees

Vice-Chairman Gagliardi asked Mr. Natanson if he had comments on the proposed changes.

Mr. Natanson replied that he did, but that his travel schedule precluded him from submitting the kind of comments that I wanted to submit. He noted that he did submit some comments to Mr. Cannel and that there are five laws that have very similar language on issue of who pays for background checks, stating that his concern is for consistency, maybe the Commission shouldn't revise only one, and maybe all of them should be revised at the same time.

Mr. Cannel indicated that he was not sure that the other statutes have the same language, but that he would check. He also added that since he will be looking at other language, there was no reason not to carry this matter for another meeting to allow Mr. Natanson the time to prepare additional comments.

### Motor Vehicle Liens

Professor Bell raised that point that in the comment to section 1(b), it says that the approach the Commission adopted differs from existing law and asked if it was necessary to explain why. Staff will modify the comment to state that a more definite standard was adopted to avoid the need for litigation.

In 3(a), Professor Bell said that he changed the first sentence to read "tows and stores a motor vehicle at the direction of a law enforcement officer or a person on whose property..."

Commissioner Buchsbaum moved to release the report with the amendments suggested by Professor Bell the motion was seconded, and the report will be released.

### Title 39

**Chapter 7:** In 39:7-TP1(a) Laura Tharney and Mr. Cannel noted that the added phrase "and equipment" is now federal law. Mr. Cannel said that Staff needs to speak with people in the DMV and that the Commission is not yet ready to issue a proposal. Professor Bell suggested that any wording that complies with federal statutes is acceptable in New Jersey unless it does not comply with New Jersey statutes.

In 39:7-TP3(a) Ms. Tharney said that subsection (a) presents a problem in relation to Section 39:7-TP1(c). Commissioner Becht asked whether other jurisdictions have similar laws. Staff did not know.

In 39:7-TP4 the Commission discussed removing the concluding italicized phrase “unless a longer period is otherwise provided by law”. Staff will review the language of the original statute and determine what other law may control here before modifying the language.

Duplicate italics will be removed from 39A:10-GP12(c).

**Chapter 8:** The Commission determined that in 39A:8-D1(a) the last sentence will be removed as a court should determine the evidentiary issue. In 39:8-D2(b) the italicized “may” will stay as it is.

**Chapter 12.** In 39A:12-SL2 Ms. Tharney will ask the DMV whether the details in this section make sense.

**Chapter 15.** Staff will review further to see if this entire chapter concerning compressed liquefied or gaseous fuel may be deleted.

**Chapter 19.** In 39A:19-RT1(a) Professor Bell asked how a person could find the officer who took the original report, suggesting a language change may be warranted. In 39A:19-RT2 Ms. Tharney will find out if any regulations exist pertaining to decals.

**Chapter 21.** In 39A:21-SM10 the intent may be clear, but the language is not. Mr. Cannel asked, for example, if the statute prohibits driving on a shoulder and parallel to a roadway. Also, in subsection (g), the numerous statutory references do not help one understand the provision. Staff will revise the language.

Vice-Chairman Gagliardi suggested that Mr. Cannel mention this project to Senator Adler and indicated that he is willing to speak with Dan Sullivan of the Department of Transportation regarding this project.

#### Miscellaneous

The entire proposed meeting schedule for 2004 was adopted, with a change in the January meeting from January 15<sup>th</sup> to January 22<sup>nd</sup>.