

MINUTES OF COMMISSION MEETING
October 21, 2004

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 Grace Bertone, who attended on behalf of Commissioner Rayman Solomon.

Minutes

The minutes of the September meeting will be considered at the November Commission meeting when more Commissioners are in attendance.

Meeting Dates

The next meeting of the Commission will be held on Wednesday, November 17, 2004. The proposed dates for 2005, previously circulated to the Commission members, are tentatively approved.

U.C.C. Article 7

John Cannel advised the Commission that when John Burke attempted to do a line-by-line comparison of the old language and the new draft language using the compare feature of the computer program, it was not effective. There were so many small changes made that each line is different and so each was flagged as different by the computer. Mr. Cannel explained that there is really only one substantive difference: the rewording of the language to permit electronic documents of title. Non-substantive changes include revisions to improve the language of the article. Commissioner Burstein asked if the uniform electronic documents code covered the approval of electronic documents of title, and Mr. Cannel said that yes, but that there have been changes in various statutes to make it clear that electronic documents are valid. Mr. Cannel explained that a little over 100 years ago, with the invention of the telegraph, problems arose because documents were not in printed form, and questions arose about things like errors made in transcription. Mr. Cannel noted that those problems were addressed, and that it is not clear why there is a sense that problems remain in this area of the law.

Chairman Burstein asked about the reaction of other states to the proposed revisions to U.C.C. Article 7. Mr. Cannel said it has been passed in four other states, and that it appears to have momentum in other states as no one has any objection. He said that it is hard to see any substantive differences, that no articles have been written raising problems, and that it seems to be a modest improvement. In response to a question posed by the Chairman, Mr. Cannel advised that the Commission had already checked with Donald Rapson who is on the Permanent Editorial Board of the UCC; Rapson said that the revision is fine.

The Commission will carry the matter until the November meeting.

Title 39

Laura Tharney briefly summarized her meeting with representatives of the Motor Vehicle Commission and advised the Commission of the comments and suggestions that had been provided. Comments she received ranged from "Don't change a word" to "Re-order it, change some of the language." Useful feedback included advice about being cautious when making changes regarding hiring and roadways, and making the statute more user-friendly. She said that Staff was now reviewing the Federal statutes and regulations in detail to determine the extent of any duplication on the part of the existing State statutes and regulations. Volume 2 has been distributed. At the next Commission meeting Equipment will be presented. Ms. Tharney will highlight the overlap of federal and state laws. She noted that municipal authorities have asked that our Commission rationalize penalties.

Enforcement of Judgments

Mr. Cannel advised the Commission that he had received requests from Professor Garland and Professor Bell to hold this matter over to the next meeting so they can comment. Professor Garland wants the statute to go back to its form in the original Commission Report where realty and personalty were equally accessible to a judgment creditor. Mr. Cannel noted that, in practical terms, in New Jersey, houses are not protected and vulnerable elderly debtors could be thrown out of their houses over credit card bills or doctor's bills. He said that ninety percent of the proposed report is simply an effort to make the law reflect the actual practice in this area. For that reason, Mr. Cannel expressed a hope that the report as a whole be enacted rather than held back by disagreement on a single substantive point.

Chairman Burstein indicated that the report would be held for detailed discussion at the next meeting, and that the necessary substantive decisions would be made at that time.

Commissioner Bertone asked if the Commission has discussed a "floor" amount, or a monetary limit that the judgment must exceed before a creditor could proceed against real property and was advised that this had been briefly discussed in the past. Mr. Cannel noted that the statute could also be structured to say that a creditor can proceed against real property once it has been determined that there is insufficient personal property to satisfy the judgment. Chairman Burstein favored finding a mid-position that the Commission could agree on.

Recompilation

Mr. Cannel has not heard from the Legislative Counsel's office regarding a modification of the statute to specifically address the ability of that office to recompile the statute. The Legislative Counsel's office had been faxed a narrowly drawn provision regarding the ability to recompile. Mr. Cannel noted that there are other parts of Title 1 that time has caught up with, including a provision that states that the best evidence of a bill is a scroll stored on the floor of the Secretary of State's office. Mr. Cannel asked the Commission if a broader draft of Title 1 revisions should be prepared to address some of the other issues that came to light during the review of that Title. The Commission directed him to do so. Because of the impact of any changes on the Legislative Counsel's office, all work on this section of the statute will be provided to that office for review.

Miscellaneous

In regard to possible future projects, John Cannel reported that the summer intern, Jon Goldberg, accomplished a great deal of work on Title 44 – Poor Law, reducing the number of chapters from 15 to three. He also noted that work could be done on Title 46 – Property Law, to make it a comprehensive code.

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