

MINUTES OF COMMISSION MEETING

January 19, 2006

Present at the New Jersey Law Revision Commission meeting held at 153 Halsey Street, 7th Floor, Newark, New Jersey, were Commissioners Albert Burstein, Vito Gagliardi, Jr., Sylvia Pressler and James Woller. Professor William Garland attended on behalf of Commissioner Patrick Hobbs.

Also attending were Kelly Mooij, Esq. and Steven Robertson, Esq. of the New Jersey Motor Vehicle Commission, and David Ewan, Esq. of the New Jersey Land Title Association.

Minutes

The Minutes of the December 15, 2005, meeting were accepted as submitted.

Title 39

Laura Tharney introduced the two guests from the Motor Vehicle Commission (“MVC”), Kelly Mooij, and Steven Robertson. Steven Robertson, Director of Legal and Regulatory Affairs, agreed that Title 39 needs restructuring. He briefly described the MVC and the manner in which it would consider the Title 39 project. He explained that he will continue to be the contact person for the project, and that he would prefer to provide his Commission with the entire project at once for ease of their consideration.

Chairman Burstein asked if the DMV has its own revision project. Mr. Robertson said that there were areas in which the MVC was considering substantive revisions, including modifications to the enabling legislation dealing with the frequency of meetings for the MVC, addressing outdated sections of Title 39, and modifications to the Title to comply with the federal “Real ID Act” that sets new standards for licenses.

The MVC representatives noted that to the extent that the NJLRC’s Title 39 project aims to restructure and clarify the title, it will most likely be met with less resistance than a revision that includes significant substantive changes to the law. Mr. Robertson suggested that care be taken with any modifications to the fines and penalties sections. He also pointed out that the MVC’s Affordability and Fairness Task Force is due to present its recommendations concerning DUI to the Legislature next month.

John Cannel said that the NJLRC’s approach is largely non-substantive and asked the MVC representatives to advise of any provisions requiring substantive revision that would not be problematic to address. Mr. Cannel raised the issue of titles to cars and boats, indicating that a Bergen County lawyer had asked about revising the statutory sections regarding those titles. Mr. Robertson said that the issue of titling was complicated and should be separate from the general revision to Title 39. He noted that automobile dealers would like the law modified so that a car on a lot does not have to

wait until title is obtained before it can be sold. Commissioner Pressler asked why a used car dealer has cars without titles on the lot. Mr. Robertson said that the lienholder and the DMV have different answers to that question, and that for large dealerships, maintaining the title documents for its entire inventory has been described as unmanageable, so that it is more cost-effective to order a duplicate title than to try to maintain the original. There have been requests for an electronic system of title maintenance, rather than the current paper-record system.

Ms. Tharney asked when it would be a good time for the NJLRC to present its completed project to the DMV. Mr. Robertson said that the sooner the project could be ready, the better. This would give him the opportunity to provide ample information about the project to the MVC.

Chairman Burstein asked the guests if they know of legislators who have an affinity for this project, and might be candidates for sponsoring the legislation. Ms. Mooij said that many legislators are well-versed on the subject and that she is confident that appropriate sponsorship can be found.

Ms. Tharney inquired about the stylistic direction of the drafting. Mr. Robertson said that structurally it appears to be going in the right direction. There was a brief discussion of modifications to the draft that need additional revision and, in some instances, correction, and Ms. Tharney will follow up with MVC regarding those areas.

Mortgage Satisfaction Act

The Commission made the following changes to the draft report:

Introduction

Page 1, paragraph 1, line 4: Remove “a” preceding “payoff.”

Page 1, paragraph 2: Replace “Michigan and Wisconsin” with “Minnesota and Illinois.”

Page 1, last full paragraph, penultimate line: Add “s” to “request.”

First paragraph: Add a sentence stating that the statute is based on the Uniform Mortgage Satisfaction Act.

Section 102.

Subsection (2): Change the definition of day so that it mirrors the Court Rule on calculation of time.”

Subsection (5): Remove “lien on.”

Subsection (11): Professor Garland suggested saying “one or more.”

Comment, last line: Change “one parcel” to “less than all parcels.”

Section 104.

The section will be moved to appear after the sections on affidavits of satisfaction.

Comment, 2nd paragraph, line 2: Change “primarily” to “just” and in penultimate line, insert “itself” between “satisfaction” and “that.”

Section 201.

Subsection (c): “Two different thoughts are in this; divide subsection (c) into two subsections. Begin new subsection (c)(2) with line 5: “If the person” and add “within in 10 days” to the sentence

Subsection (c): In 2nd line, change “pursuant” to “by.” In line 3, after “(a)(3)” add “ and (a)(4).”

Subsection (h): in line 2, “Change ‘creditor’ to ‘mortgage holder.’”

Subsection (k): Add element of knowledge and change wording to the plural: “Persons who know they are not entitled ...”

Section 202.

Subsection (c)(2): Delete “that a person liable for payment of a mortgage may have.”
Delete “other than this act.”

Section 203.

Subsection (a): in the second sentence, change “received” to “given.” The last sentence is to become a new subsection (b) to read: “A mortgage holder is not required to submit a satisfaction of a mortgage when the person making payment has given notice as provided by section 4(j) that an affidavit of satisfaction of mortgage will be filed

Section 205.

In the 1st sentence delete “it” and replace with “the mortgage holder.”

Section 301.

Subsection (b)(2): delete “in good standing” here and wherever else it occurs.

Section 302.

Subsection (a)(3)(B): Change “which” to “whom.”

Subsection (a)(3)(C): Change “of the” to “secured by the.”

Subsection (a)(5): Change “(5)” to “(4).”

Subsection (a)(5)(A): Change “secured creditor” to “mortgage holder.”

Subsection (b): in line 1, change “must” to “shall.” Clarify that the method of notice must both be one of the approved methods and must provide for proof of receipt at the address to which it was sent. The receipt need not prove receipt by the named addressee.

Chairman Burstein asked Mr. Cannel to delete superfluous references to other sections.

Section 303.

Subsections (b) and (c): “302(a)(5)(B)” should read “302(1)(4)(B).”

Subsection (b), 2nd line: Delete “it” and replace with “the agent.”

Section 304.

1st sentence: Change to read “I state as follows:”

1st box: Change to read "... an insurance producer licensed in the line of title insurance
...."

2nd box: Delete "and in good standing."

Subsection (4), 3rd box: in 4th line, insert "unless" after "notice," and add an "s" to "give." In 5th line, put a period after "unsatisfied" and begin a last sentence by deleting "a" and substituting "The."

Subsection (5): Change "The" to "This" following the box.

Section 305.

Subsection (b): last line should read "for payment or performance of, or any obligation secured by, the mortgage."

Section 306.

Subsection (b). In 1st line, change "that" to "who." In 2nd line, put a period after "act" and delete the remaining words.

Section 307.

In caption: Correct spelling of satisfaction.

Change 3rd line to read "parcels by paying in compliance with the payoff statement, the provisions of this act may be applied to those parcels." Delete remaining words.

Next Meeting

The next meeting is scheduled for February 16, 2006.