

MINUTES OF COMMISSION MEETING
February 16, 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 Andrew Bunn. Professor William Garland attended on behalf of Commissioner Patrick Hobb. Grace Bertone attended on behalf of Commissioner Rayman Solomon.

Also attending was David Ewan, Esq., of the New Jersey Land Title Association.

Vice-Chairman Vito Gagliardi welcomed new Commissioner, Andrew Bunn. Commissioner Bunn introduced himself: He is employed at McCarter and English and practices in the areas of general litigation, employment law, business disputes and health law. Previously he worked for Governor Tom Kean

Minutes

Commissioner Pressler moved that the Minutes of the January 19, 2006, meeting be approved as submitted. Professor Garland seconded the motion, which passed unanimously.

Mortgage Satisfaction Act

The Commission approved the following corrections to the draft tentative report:

Introduction

Page 1, 4th paragraph, last sentence: Change Sections "102(5)" to "2(5)", "201(a)(1)" to "4(a)(1)" and "201(k)" to "4(k)".

Section 2, Comment

In the 2nd sentence, after "Law" state in parentheses what deleted Definition (17) was. In the 3rd sentence, replace "the holder of a lien on" with "an interest in."

Section 3.

Subsection (a): Begin the phrase with "Except as otherwise provided by 10(b),".
Subsection (b)(3): Insert as the 3rd word: "after."

Section 4.

Subsection c(2): In the 2nd line change “assigned” to “transferred.”

Subsection (h): In the 2nd sentence, replace “creditor” with “mortgage holder.” Add a new Subsection (l), which will read: “No fee may be charged for a statement of the updated amount requested in accordance with Subsection (f).”

Subsection (i): In line 1, change “which” to “whom.” In line 4, change “not” to “no.” In line 5, after “damage” add “shall be allowed.” In the last sentence, add as conclusion “if the land owner is forced to bring an action to enforce under this act and prevails.” Change the “may” to “shall in the 2nd to last line. – Commissioner Pressler thought so. John Cannel will redraft; Commissioner Pressler suggested that he follow LAD and have a separate section on counsel fees.

Section 5.

Subsection (c): Change the capital “T” in “This” to a lower case “t”.

Subsection (c)(2): Should read “limit any claim or defense under law.”

Section 6.

Subsection (a): In line 5, change “mortgage holder” to “land owner.”

Section 10.

Subsection (b)(1): Should read “authorized by Section 3, and”.

Section 11.

Subsection (a)(1): Change “satisfied” to “paid.”

Section 12.

Subsection 2: Delete “Title of mortgage:”.

Subsection 4: After 3rd box, add as the 4th word “authorized”.

Section 15.

Caption: Correct 1st word to read “SATISFACTION” and change “PIECE” to “PARCEL”.

Section 16.

Subsection (d): Delete “or wrongfully.”

The Commission will look at finished product at the next meeting.

Health Care Agreements

Chairman Burstein said that this project involves a pure policy issue of whether a financial burden should be on one category of health providers or on hospitals. Commissioner Bunn noted that he represents Blue Cross Blue Shield and said that the statute at issue [N.J.S. 17:48E-10(a)(2)] applies only to one company; it is not industry-wide. Chairman Burstein said that the Commission needs more information regarding current burdens; the Commission now has too thin a base to make decisions. Commissioner Gagliardi suggested referring the issue to the Health Committees in the Assembly and Senate. Chairman Burstein directed staff to inquire of the relevant committees and the Governor's health and insurance committees, and the DAG. Mr. Cannel is to copy Judge Lefelt on the letters.

Title 39 – Motor Vehicles

Laura Tharney said that the MVC is sensitive to substantive (employing a broad take on "substantive") changes to the statutes. She asked whether the Commission wants to fight that battle.

She raised the following issues and the Commission took the following actions on them:

1. The terms "road," "roadway," "street," and "highway" are misleading. She chose "roadway" which choice the MVC dislikes [Laura, the word you used was "screams"] because of distinctions between the entire portion and that almost traveled [LT: make better, pls.] The Commission decided that "highway" should be used as the broader [term? road?] and "roadway" for the narrower [term? road?]

2. Should the draft consolidate sections which "promulgate regulations" for non-mandatory provisions, and have separate sections for mandatory provisions? Professor Garland questioned the rationale for "may" versus "shall." Ms. Tharney said there is not much of a rationale. Professor Garland asked that the usage be consistent. Ms. Tharney will comb through them. Commissioner Pressler suggested that in addition to regulations mandated by specific sections, the statute should state, "The Commissioners shall have authorization to adopt regulations consistent with this act." She recommended looking at Title 52 regarding authorization.

3. Does the Commission want the new language in Sections 39A:3-L3 and 39A:3-L5? The Commissioners said yes, and noted Subsections (a) and (e) in 39A:3-L5 – Provisional driver's license. Chairman Burstein said to put in the insertions. [??]

4. Section 39A:3-L6., Subsection (b)(2): Commissioner Pressler raised the idea of a qualified exception: “actual engagement in ...” [a named type of activity]. Ms. Tharney will inquire if the listed authorities do in fact provide written verifications. Commissioner Pressler suggested that “charitable” be added to, and “educational” be dropped from, the provision.

5. Section 39A:3-L8. The Commission approved the changes made in Subsection (g).

6. Section 39A:3-L11., Subsection (a): Ms. Tharney will get input from the MVC regarding the inclusion of the applicant’s business address in an application for a driver’s license or renewal.

7. Section 39A:3-L12., Subsection (a): Add the word “person” before “licensed to practice ...”

8. Section 39A:3-L17. Delete Subsection (f) as too vague.

9. Section 39A:3-L20., Subsection (e): Keep as is.

10. Section 39A:3-L21., Subsection (c): Ms. Tharney will find out why [.....? LT, what are you going to find out?]

11. Section 39A:3-L28: Leave as is; Ms. Tharney will run it by the MVC.

12. Section 39A:2-R4., Subsection (a)(1): [Laura, pls. check your and JC’s memories as to whether “separate” and “business” are both to be deleted.]

13. How does the Commission want information for the next meeting? Chairman Burstein asked for “flashpoints” that the Commission could look at and vote on.

Miscellaneous

Chairman Burstein welcomed new Commissioner Bunn. The next meeting will be held March 16, 2006