

**MINUTES OF COMMISSION MEETING**  
**May 18, 2006**

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

**Minutes**

The Minutes of the April 20, 2006, meeting were accepted as submitted.

**Common Interest Ownership Act**

The Commission delayed its determination of whether to proceed with a project until after consultations with the Governor's office and interested legislators. Staff will begin a preliminary examination of possible courses for a project. A fairly comprehensive bill is pending in the Legislature, but it may lack appropriate protections such as provisions prohibiting eviction of a unit owner and restrictions on alienation.

Several years ago, the Commission reviewed the original uniform act in this area, found problems with it and prepared a report that was only loosely based on it. One of the difficulties was that when the uniform act was drafted, it was in the early days of common interest ownership properties, and, as a result, dealt with issues between owners and the developer of the property. Now, however, the problems that most frequently need addressing are those between unit owners and the board. The old Commission report has some provisions that may still be appropriate, but since that time, other developments in the law appropriate for inclusion have arisen, in areas like alternative dispute resolution.

The bill pending in the Legislature is substantial because it includes provisions from the old uniform law, with some language tailored to address New Jersey issues, as well as new provisions. The bill has gone through the Assembly during this session and now is in the Senate. In order not to interfere with a pending bill, the Commission might draft narrow provisions to provide protections not found in the current bill. Language mirroring applicable provisions of the Anti-eviction Act and addressing restraints on alienation, for example, might enhance the current bill without distracting.

Staff will look to the sponsor of the bill and to the Governor's office for guidance as to the realistic chances of the current bill's making it through the whole legislative process. The current bill could be enhanced by some modification, but the Commission does not wish to waste time if there is no desire for any modification or a contribution by the Commission.

## **Uniform Acts**

The Commission, in compliance with its enabling language, considered five acts debated and approved by NCCUSL at its 2005 annual conference. The acts are: the Uniform Assignment of Rents Act (UARA), the Uniform Foreign-Country Money Judgment Recognition Act (UF-CMJRA), Uniform Debt-Management Services Act (UDMSA), Uniform Certificate of Title Act (UCOTA) and Model Entity Transactions Act (META).

Staff has already begun preliminary work on UF-CMJRA. In addition, the Commission determined that META was worth preliminary consideration. With regard to UCOTA, the Commission was informed at an earlier meeting that there is no consensus of interested parties. It is not clear if consensus is necessary given the current state of New Jersey law. Staff will briefly review UARA and UDMSA to see how they relate to current New Jersey law and determine the extent to which they may be useful to solve existing problems. After the preliminary review, the Commission will make a determination about the need for, or the benefit of, uniformity in these areas. The Commission will determine its final response to the Acts after additional information from Staff. Staff also will provide information to the Commission about the Uniform Athletes Agents Act, which has been adopted by approximately one half of the states.

## **Title 39**

Laura Tharney presented a revised chart that breaks the offenses down into categories. She prepared the chart to help determine whether or not a rational relationship exists between penalties of the same or similar magnitude. While some offenses carrying similar penalties seem to be of comparable severity, others simply reflect historical decision-making or a failure to modify the penalty to address what has developed into a clear disparity between the severity of the fine or imprisonment term and the nature of the offense. The next step is to create levels of offenses: Level I offenses, Level II offenses, etc. and to group the offenses logically into these levels so that when a fine is increased, it is increased for all offenses in the category and parity is retained. Staff will begin by grouping the offenses as the Legislature currently has, but then move any that seem to be inappropriately grouped while flagging the change for review by the Commission. Discretion will be retained by structuring the majority of the fines as "up to \$x" and unusual cases will be highlighted for further consideration.

The Commission suggested that the point system appeared to be rational and consistent, but that the fines and penalties could be rationalized where they are capricious. Staff also will see if it is possible to reduce the number of offenses by generalizing them.

For the next meeting, Ms. Tharney hopes to have a revised draft of the sections of Volume II that the Commission has reviewed reflecting the changes sought by the Commission, an updated penalty chart showing the changes to be used as a quick reference, and input from the traffic officers.

### **Poor Law**

Since Commissioner Pressler and Professor Garland both had a number of comments on this project, consideration of the project was postponed until they could be present. Addition of other necessary provisions will be included in the draft prepared for the next meeting.

Brief discussion of terminology, specifically the terms “eligible person” and “eligible family,” took place. The suggestion was made to substitute “household” for “eligible family.” The next draft will be divided into four sections and reordered to include the findings of the legislature first, with clarification that the statute does not remove the common law duty to provide for the needy.

### **Miscellaneous**

The next meeting of the Commission is scheduled for June 15, 2006.