

MINUTES OF COMMISSION MEETING
March 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 Hobbs.

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

Minutes

The Minutes of the February 16, 2006, meeting were accepted as submitted.

Annual Report

On page 4, in the second paragraph, the report says that 33 projects have been enacted into law. On page 6, in the Legislative Summary section, it says 35 bills have been enacted. The language in that section should be revised to indicate that the Legislature has, in fact, enacted 36 bills based upon 33 of the Commission's reports.

The Commission determined that the introductory language requires editing, as does the language in Section 4, which is repetitive in sections.

In the last section of the report, the language pertaining to health care agreements is left hanging. A conclusion should be added to indicate what the Commission is doing about this project.

The Commission requested that a polished version of the report be circulated prior to the next filing date by either fax or email, as the various Commissioners prefer.

Residential Mortgage Satisfaction Act

In the introduction, in the last full line of the second paragraph, eliminate the "as" after "it" and before "record". Throughout the document, the word "that" needs to be changed to "who" when used to modify "person".

Chairman Burstein said that Section 3 does not reflect what the Commission decided last time. Mr. Cannel explained why he did not implement the decision. In section 3, a subsection (c) is to be inserted which says "No receipt is required unless specifically mandated by this Act" to identify the limited situations in which a receipt is required in order for notice to be effective.

In section 4(c)(1), there are references on the third line to (a)(3) and (a)(4), the number 3 should appear before each of those references. In section 4(c)(2), the word "assignment" on the third line should be replaced with "transfer" and the last word of the

section should be replaced with “transferee”.

On page 5, Section 4, subsection (f) and (l) are duplicative; delete subsection (l).

In section 4(i), on the third line, the reference to “land owner” should be replaced with “entitled person”. On the fifth line, the words “a penalty of” should be inserted before “\$500.” In section 4(k), the words “a penalty of” should be inserted before “\$500.” Add the word “punitive” to subsection (k).

In the comment to Section 9, the reader is referred to the Legislative note appended to section 301 of the uniform law; an explanation is needed in the comment regarding the content of the note referred to.

In Section 10(b)(1), the language should be changed to read “authorized by section 3”. In the comment to that section, the reference to subsection (b)(2) should be changed to (b)(1).

In Section 12, paragraph 2 should make reference to real property “encumbered”, rather than “covered”.

Section 18 should be renumbered so that the second section 18 is number 19. Also, there is a party identification problem. The word “party” in the first sentence should be changed to “landowner” to clarify the intention that the landowner is the one for whom a recovery of fees is permissible. Beginning on the second line of the section, the remainder of the section is to be stricken after the words “as part of the cost.”

In section 19, the language needs to be reworked. The section should begin with “As permitted by the” followed by “the federal Electronic Signatures...” reference, including citation, followed by “this Act modifies, limits and supercedes...but does not...”

After the changes requested, the report should be issued as a Tentative Report. Senator Rice may be an appropriate sponsor for the report once it is distributed.

Title 39

With reference to the Minutes of the last meeting, Staff is still completing items 1, 2, 10 and 11. The other items on the list have been completed.

Laura Tharney provided information to the Commission about her attendance at the State Police Traffic Safety Officers Association meeting as well as the joint meeting of the Monmouth County and Ocean County Traffic Officers Associations. Ms. Tharney suggested that attendance at both the State and County meetings is useful, adding that the

State organization had put together a subcommittee to review the project that she feels will be most helpful once the offenses are being considered, and that the County meeting was a very good opportunity to ask a group of about 50 police officers her list of questions and obtain immediate feedback.

With regard to the language in the current statute dealing with the operation of a vehicle by a permit holder or provisional driver between the hours of 12:01 and 5:00 am, the officers objected to any expansion of the exception language to include charitable and education-related activities in addition to the religion and employment-related activities currently contemplated by the statute. Officers indicated that their preference would be to have language leaving the determination about whether after-hours driving was permissible to the discretion of the officer, rather than carving out exceptions in the statute. Cited as problems were accidents caused by under-age drivers playing "beat the clock" to try to get home when out late, the fact that most fire or ambulance groups have language in their bylaws prohibiting younger volunteers from responding to calls after a certain hour, and issues caused by the relatively new John's law which required someone to come in to the local police station to pick up and sign for a person taken in for DUI. The more exceptions you have, the more difficult the law is to meaningfully enforce. Ms. Tharney was asked to look at the exceptions other states have in this area.

A problem arises with agricultural license plates that appears to be abuse of the agricultural plates. Police find them on Camaros and other vehicles with no obvious farm uses.

Contrary to her earlier understanding of the interrelationship between a CDL and a basic license, Ms. Tharney explained that CDL holders have only one physical license, they actually hold two distinct licenses, and that it is possible to lose one without losing the other.

With regard to the frequency with which officers enforce equipment violations, it was explained that equipment violations are one of the biggest, if not the biggest, source of probable cause utilized to pull a vehicle over. Officers are presently aware of some of the equipment standards, but it is not clear if they are relying on the New Jersey standards, many of which have been superseded by the federal standards, or the current federal standards. Officers expressed concern about removing any standards from the state law, leaving them with nothing to rely on. Ms. Tharney showed the Commission a single section of the federal regulations pertaining to lights, reflective devices and associated equipment which is approximately 71 pages long to illustrate the difficulty of dealing with the incorporation of the federal regulations in a "cut and paste" manner.

Officers explained that snowmobile and ATV violations were very common as well, both equipment and moving violations. They also explained that the provisions in the statute dealing with reports of theft might no longer be an exact match for the

practice. Ms. Tharney will obtain further information in that regard. No officer that Ms. Tharney has spoken with has any experience with the program to combat theft in which a decal is affixed to the vehicle authorizing the police to stop it if it is being driven between 1:00am and 5:00 am.

Officers indicated that they have written tickets pursuant to the section of the statute implemented in 1951 which prohibits the operation of a vehicle on a public highway in which a television is placed so that the viewing screen is visible to the driver. The Commission requested that the language be modified to permit the use of a device designed to assist in the navigation or operation of the vehicle, but not entertainment, to reflect the prevalence of GPS and DVD devices in vehicles at this point.

Officers Ms. Tharney spoke with also directed her attention to other issues, including: dissatisfaction with the Legislature's practice of dramatically increasing the fine for a commonly written ticket (ex: inspection stickers, cell phone use, etc.); the fact that insurance companies refuse to verify whether or not the driver of a vehicle has a valid policy of insurance (there exists no usable database, and the insurance companies, citing privacy concerns, will not release that information to the police over the telephone); tinted windows (there is no real reason for them in the vast majority of the cases, and even when done for a medical reason, there are abuses); and the abuse of dealer license plates.

The Commission authorized Staff to distribute Volume I as a Preliminary Draft Transportation Report seeking comments in order to get some reaction to the project thus far. The entities to which it will be distributed include: the AOC, county municipal court practice committees of the State Bar Association, AAA and USAC, police officers, and the MVC.

For the next meeting, the Commission will begin looking at Volume II.

Miscellaneous

John Burke provided some information on the Uniform Foreign Country Money Judgment Recognition Act and the Commission requested that he go forward with the project and compare the two existing acts at this point (one promulgated in 1962 adopted in 1997) and the new version of the Act, and then prepare a memorandum for the Commission.

The next meeting of the Commission is scheduled for April 20, 2006.