

**MINUTES OF COMMISSION MEETING**  
**October 14, 1999**

Present at the meeting of the New Jersey Law Revision Commission held at 153 Halsey Street, 7<sup>th</sup> Floor, Newark, New Jersey were Commissioners Peter Buchsbaum and Vito Gagliardi, Jr. Grace Bertone and Professors Robert Carter and William Garland attended on behalf of Commissioners Rayman Solomon, Stuart Deutsch, and Patrick Hobbs, respectively.

Also attending were: Michael L. Ticktin, Esq., Chief, Legislative Analysis, New Jersey Department of Community Affairs; Joseph Roth, Executive Director, and Christina W. Strong, Esq., General Counsel, New Jersey Organ and Tissue Sharing Network.

Minutes

The Commission accepted the Minutes of September 23, 1999 subject to two minor corrections: deletion of the word "with" in the fifth line from the bottom of page two; and addition of a comma after the word "built" in the seventh line of section three ("Encroachment") on page three.

Uniform Anatomical Gift Act

Judith Ungar reported that Sharon Balsamo on behalf of the Health and Hospital Committee of the New Jersey State Bar Association asked what the word "available" in the draft meant. The word "available" appears in two places in the proposed revision of N.J.S. 26:6-58.1: one referring to a document and the other referring to a person. It is not known which usage, or both, Sharon Balsamo found unclear.

Regarding a document, the Commissioners suggested new language to replace "is available": "If the organ procurement organization representative or the designated requestor has not received, nor by reasonable inquiry can obtain, a document of gift..." Regarding a person, Christina Strong explained that a person was "available" if the person could be consulted during the limited time period during which an anatomical gift was possible. She suggested adding the phrase "to consult with and in an allowable time" after the word "available."

Mr. Roth noted that crucial statutory language had been deleted regarding "actual notice of opposition by a member of the same or a prior class" and urged its reinstatement. There was extensive discussion as to whether the draft language was clear. Professor Carter suggested that explicit repetition should be

used to emphasize that each class of persons to be approached must be approached in the proper order. Staff will redraft the provision.

### Common Interest Ownership

Michael L. Ticktin reported that he had urged the Legislative Committee to wait until the Law Revision Commission finishes its drafting before enacting a bill based on the Uniform Common Interest Ownership Act.

Professor Garland, citing the first sentence in Section 102(a), urged that the title be changed back to "The New Jersey Common Interest Ownership Act" from "The New Jersey Common Interest Association Act." Mr. Cannel said both phrases were defined and used in the draft. The Commission agreed to rename the draft.

The Commission directed staff to make the following changes:

#### Section 102. Applicability.

(d) Remove words "it is" immediately preceding colon.

#### Section 217. Easement rights.

(b) Add a cross-reference in the comment to the provision that gives the association rights of entry into units.

#### Section 218. Amendment of master deed and bylaws.

(b) Rewrite the ending by reversing the order to read: "an amendment may create additional reserved rights or extend the time limits specified in the master deed for the sponsor to exercise reserved rights."

(e) The Commission did not decide whether to change the provision. There was discussion as to whether the one-year period was too short, and whether a copy of an amendment should be served on all unit owners.

(f) Because subsection (b) is an exception to subsection (f), the provision should begin: "Except as provided in subsection (b)."

Section 219. Termination of common interest association.

(b) After discussion, the Commission decided to reword the sentence as follows: "Any conveyance of the entire property of a cooperative that would serve to terminate the cooperative and that is not made as provided in this section is void."

Section 220. Merger of common interest associations.

(c) Delete "either (1)."

Comment. Correct Section number which begins the last sentence to Section 220.

Section 302. Powers.

This section needs complete redraft. It is now a mixture of general and specific powers with no evident pattern or logic. Staff will redraft for the next meeting.

Uniform Commercial Code, Article 9

The Commission approved the Final Report.

Progress Reports

Disabilities: Maureen Garde has done several searches to identify problematic terms in the statutes and distributed lists of the terms for comment to interested agencies and organizations. A number of responses have been received; all respondents are supportive of the project. Work will begin this month on actual recommendations for revision.

Criminal Procedure: Mr. Cannel has begun to redraft the chapters of Title 2A that deal with criminal procedure.

Property: Mr. Cannel said that John Burke has begun to collect materials for this project. It will be a big job.

Electronic Records and Signatures - Federal Preemptive Legislation: Maureen Garde reviewed the background of the federal preemptive legislation that is working its way through Congress. An analysis of the most recent version of the legislation was distributed at the meeting. The Commission is continuing its opposition to the legislation and it attempting to lobby members of the New Jersey Congressional delegation to oppose it.

Uniform Computer Information Transactions Act: Maureen Garde reviewed the background of the NCCUSL-ALI project to add a new UCC Article 2B to cover "information transactions." The proposed new UCC article was revamped as a free-standing Uniform Act by the leadership of NCCUSL when it became apparent that the draft proposed for adoption would not get the approval of the American Law Institute. NCCUSL is now pushing very hard for adoption of UCITA as are many powerful lobbying interests. The Commission's November meeting will be devoted to a presentation concerning UCITA by Barry Evenchick and Carlyle Ring. The Commission has already been contacted by lobbyists opposed to UCITA in the insurance and motion picture industries.

Gaming: Judith Ungar reported that staff will accompany Mr. Yorke, Executive Officer, Legalized Games of Chance Control Commission, on a tour of the Point Pleasant boardwalk on October 22 to learn how the games operate. Mr. Cannel and Ms. Ungar will meet with Mr. Yorke and with Ms. Hursthouse, Deputy Executive Officer, Department of Law and Public Safety, Division of Consumer Affairs on October 26 to learn more about the current law and areas needing revision. Staff has begun a first draft revision of the Amusement Games Licensing Law.

#### Miscellaneous

The next meeting of the Commission is scheduled for November 18, 1999. Uniform Law Commissioners and other guests will be present at that meeting to discuss the Uniform Computer Information Transactions Act.