

# **NJ LEGISLATIVE PROCESS & LAW REVISION COMMISSION**

## **PART 2**

**From: The Legislative Law Clerks  
Katherine Bianco & Victoria O'Connor**

**Date: August 8, 2013**

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This presentation is the continuation of a 3 part presentation, a summary of which is listed below. Please see the adjoining presentations for more information regarding the NJ Legislative Process & Law Revision Commission.

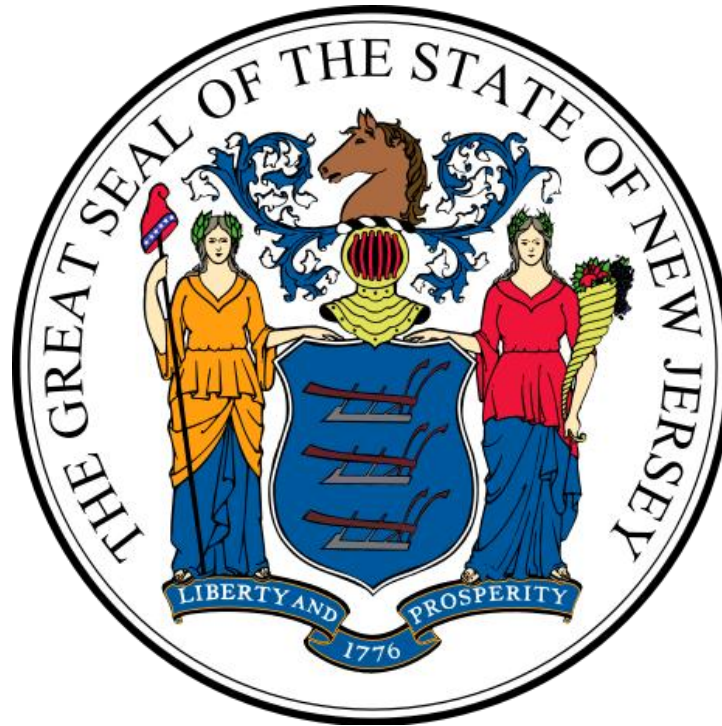
- Part 1: New Jersey Legislature
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# NJ LEGISLATURE – PART 2

## A.) Introduction to the NJLRC

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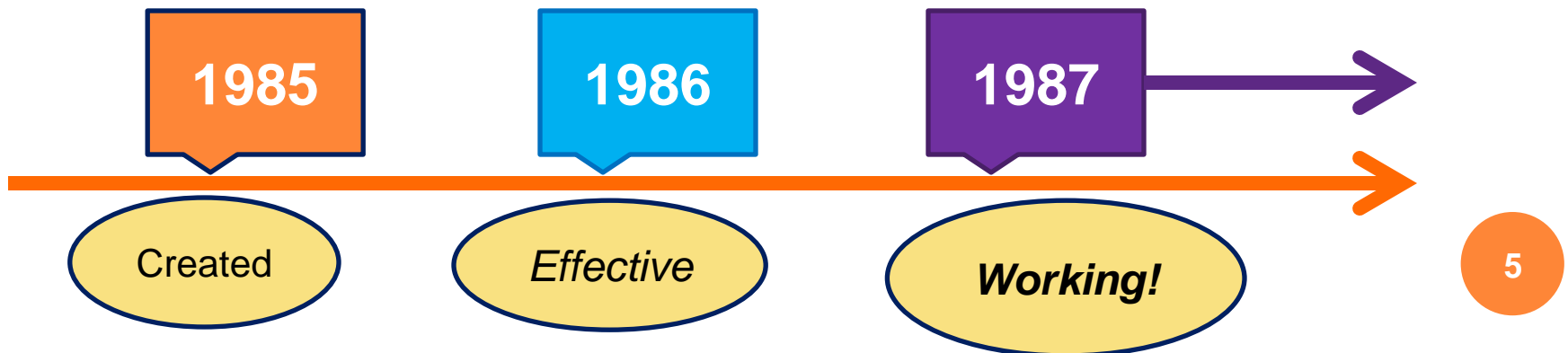
# NEW JERSEY LAW REVISION COMMISSION



**Mandate: “promote and encourage the clarification and simplification of the law...and its better adaptation to present social needs, secure the better administration of justice and carry on scholarly legal research and work.”**

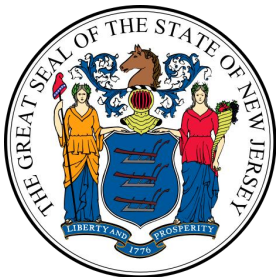
# NJ LAW REVISION – HISTORY:

- Current New Jersey Law Revision Commission created by statute in 1985 (**N.J.S. 1:12A-1**)
- Statute effective January 1986
- Commission began work in 1987



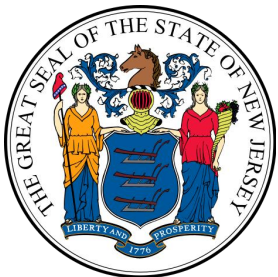
# NJ LAW REVISION – CURRENT STAFF:

- 2 Full-Time Staff:
  - **Executive Director** – Laura C. Tharney
  - **Counsel** – Jayne J. Johnson
- 6 Part-Time Staff:
  - **2 Counsel** - Vito J. Petitti & Jordan R. Goldberg
  - **Administrative Assistant** – Linda Woodards-French
  - **2 Legislative Law Clerks** – Katherine & Victoria
- Retired:
  - **Revisor of Statutes** – John M. Cannel



# NJ LAW REVISION – COMMISSION:

- 9 Commissioners
  - 3 Deans of NJ law schools
  - 4 Practicing attorneys
  - 2 Chairs of the Judiciary Committees
- Attorneys - deliberately non-partisan
  - Two appointed by the President of the Senate, not more than one from same political party, and
  - Two appointed by the Speaker of Assembly, not more than one from same political party (1:12A-2)





## The Current Commissioners

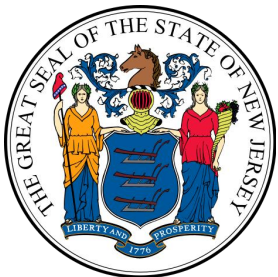
- **Vito A. Gagliardi, Jr.**, Chair, Attorney at Law, Morristown, N.J.
- **Andrew O. Bunn**, Attorney at Law, Florham Park, N.J.
- **Albert Burstein**, Attorney at Law, Hackensack, N.J.
- **Virginia Long**, Justice, Princeton, N.J.
- **John J. Farmer, Jr.**, Dean, Rutgers University School of Law, Newark
  - (Ex-officio Commission member)
- **Patrick Hobbs**, Dean, Seton Hall University School of Law
  - (Ex-officio Commission member)
- **Rayman Solomon**, Dean, Rutgers University School of Law, Camden
  - (Ex-officio Commission member)
- **Nicholas P. Scutari**, Chair, Senate Judiciary Committee
- **Peter J. Barnes III**, Chair, Assembly Judiciary Committee



# NJ LAW REVISION – MISSION:

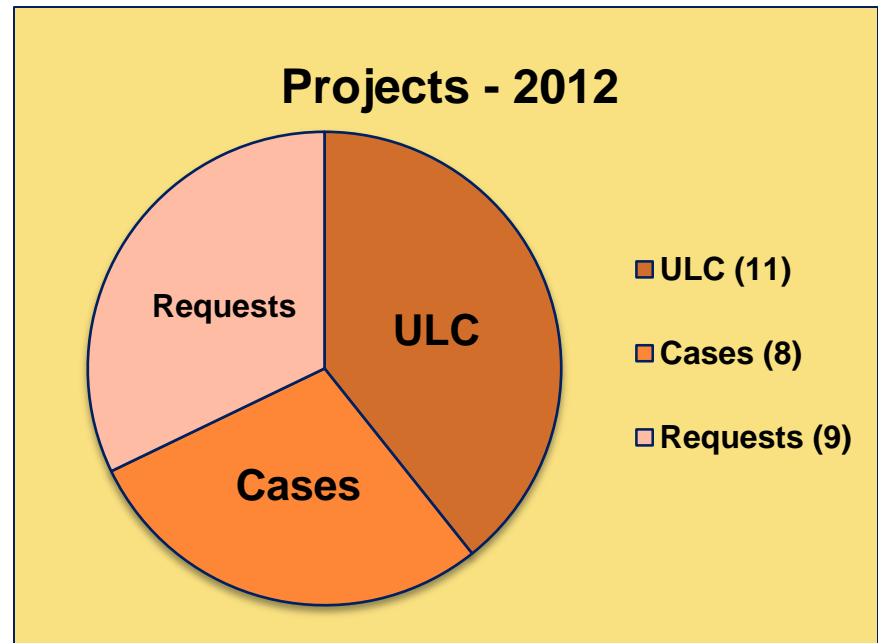
The Duty of the Commission, as per **N.J.S. 1:12A-8**, is to:

- 1) Conduct continuous examination of the law *and* the judicial decisions construing it
- 2) Discover defects and anachronisms
- 3) Prepare and submit to legislature bills to:
  - a) Remedy defects
  - b) Reconcile conflicting provisions
  - c) Clarify confusing language and excise redundancies



# NJ LAW REVISION – PROJECTS:

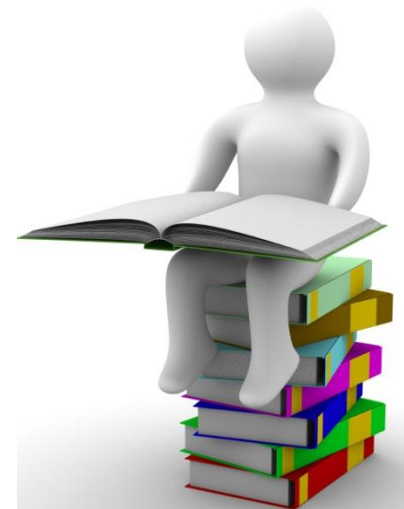
- Receive and consider suggestions and recommendations from:
  - American Law Institute
  - Uniform Law Commission
  - Other learned bodies
  - Judges
  - Public officials
  - Bar associations
  - Attorneys
  - Members of the public



# NJ LAW REVISION – PROJECTS:

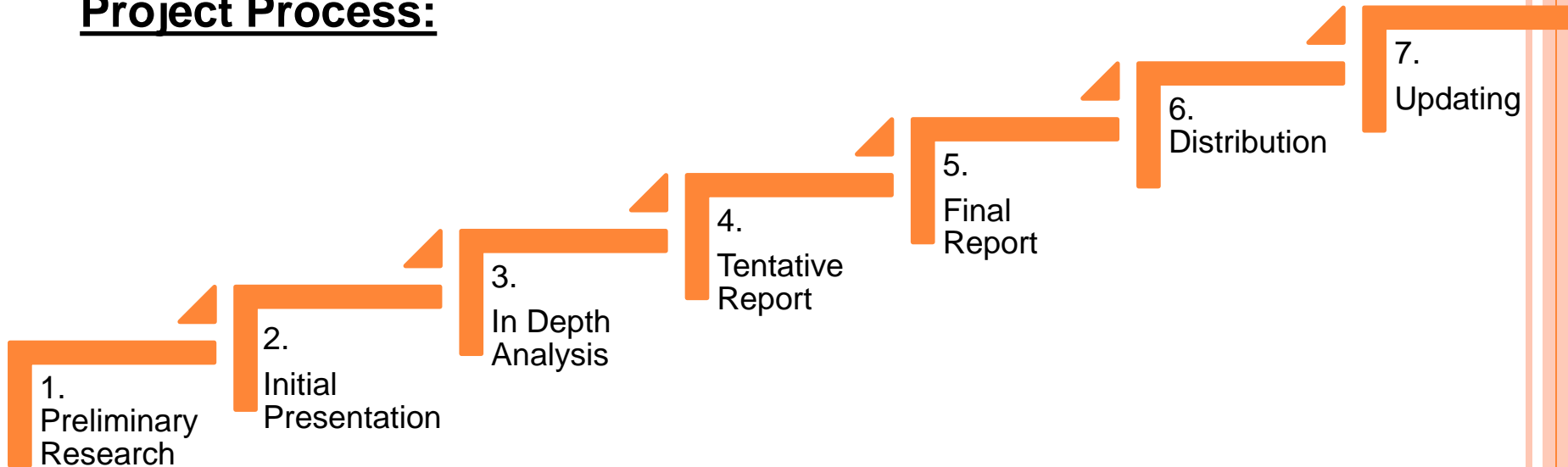
## Projects:

- **Context** of Projects: Generally civil, but some criminal law
- **Size** of projects can vary:
  - *Single word or phrase*
    - Ex: subpoena power of Commissioner of Department of Community Affairs, penalty for failure to comply: \$100,000 vs. \$100
  - *Entire title*
    - (Title 39, Landlord-Tenant)
- **Duration:** 1-2 months to 1-2 years or more



# NJ LAW REVISION – PROJECTS:

## Project Process:



**Through end of 2012,  
118 projects filed with the  
Legislature, 42 enacted**

# NJ LAW REVISION – PROJECTS:

## 1.) Preliminary Research:

- Identification of potential issues
- Research
- Preparation of introductory Memo – presenting issue to Commission, including (a) Problem to be solved, and (b) Potential solution

## 2.) Initial Presentation to the Commission:

- Commission determinations made at monthly public meetings
- Agenda for each meeting includes links to material to be considered
- Decisions made at Commission meetings recorded in Minutes

## 3.) In Depth Analysis:

- If authorized to proceed:
  - Research
  - Identify Constituencies
  - Draft
  - Seek Comments

## 4.) Tentative Report:

- Released for review on the website, to commenters, and to the Commission
- Comments collected to aid in revision
- Get consensus (Need for change? Language?)
- Prepare consensus draft and alert legislators

# NJ LAW REVISION – PROJECTS:

## 5.) Final Report & Recommendation:

- Concludes Commission work on the project
- Commission Reports to the Legislature:
  - Proposed language
  - Recommendation for action/no action
  - Comments following each statutory section with explanatory material

## 6.) Distribution:

- Chairs of Senate & Assembly Judiciary Comm.
- Majority & Minority Leadership of both Houses
- Office of Legislative Services
- Partisan Staff (4 offices)
- New Jersey State Bar Association
- Governor's Counsel
- Legal Services
- State Library
- Other recipients on request

## 7.) Updating:

- Review and update all reports with continuing viability
- Identify potential legislative Sponsor and any pending legislation relating to final reports
- (Not every report will be considered immediately after release)

# NJ LEGISLATURE – PART 2

## **B.) Law Revision Comparison: National & International**

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# LAW REVISION COMMISSIONS – NATIONAL:

	Revises	Number of Members	Meeting Schedule
<b>New Jersey</b>	All Law	9 Commissioners	1 meeting/month (except August)
		7 Staff	
<b>California</b>	All Law	10 Commissioners	Every other month
		6 Staff	
<b>Florida</b>	Constitution Only	37 Members	1 year session every 20 years (last meeting was in 1997-98)
<b>Michigan</b>	All Law	9 Commissioners	1 meeting/year
		2 Staff	
<b>New York</b>	All Law	5 Commissioners	No set schedule mandated (has not met since 2011)
		3 Staff	
<b>Oregon</b>	All Law	15 Commissioners	Periodic meetings throughout the year
		3 Staff	
<b>Indiana</b>	Technical Revisions Only	15 Commissioners	Periodic meetings throughout the year
		Office of Code Revision	



## LAW REVISION COMMISSIONS – INTERNATIONAL:

Australian Law  
Reform  
Commission

Law  
Commission for  
England and  
Wales

Scottish Law  
Commission

New Zealand  
Law  
Commission

South African  
Law Reform  
Commission

Fiji Law Reform  
Commission

Law Reform  
Commission of  
Hong Kong

Law  
Commission of  
India

Nepal Law  
Commission

## LAW REVISION COMMISSIONS – INTERNATIONAL:

**The Law Commission of Canada's funding was eliminated in 2006. However, various independent and province-created law reform entities that perform tasks very similar to the NJLRC.**

**These entities exist in:**

**Alberta**

**British Columbia**

**Manitoba**

**Nova Scotia**

**Ontario**

**Saskatchewan**

**These organizations are all members of an independent agency called the Federation of Law Reform Agencies of Canada**

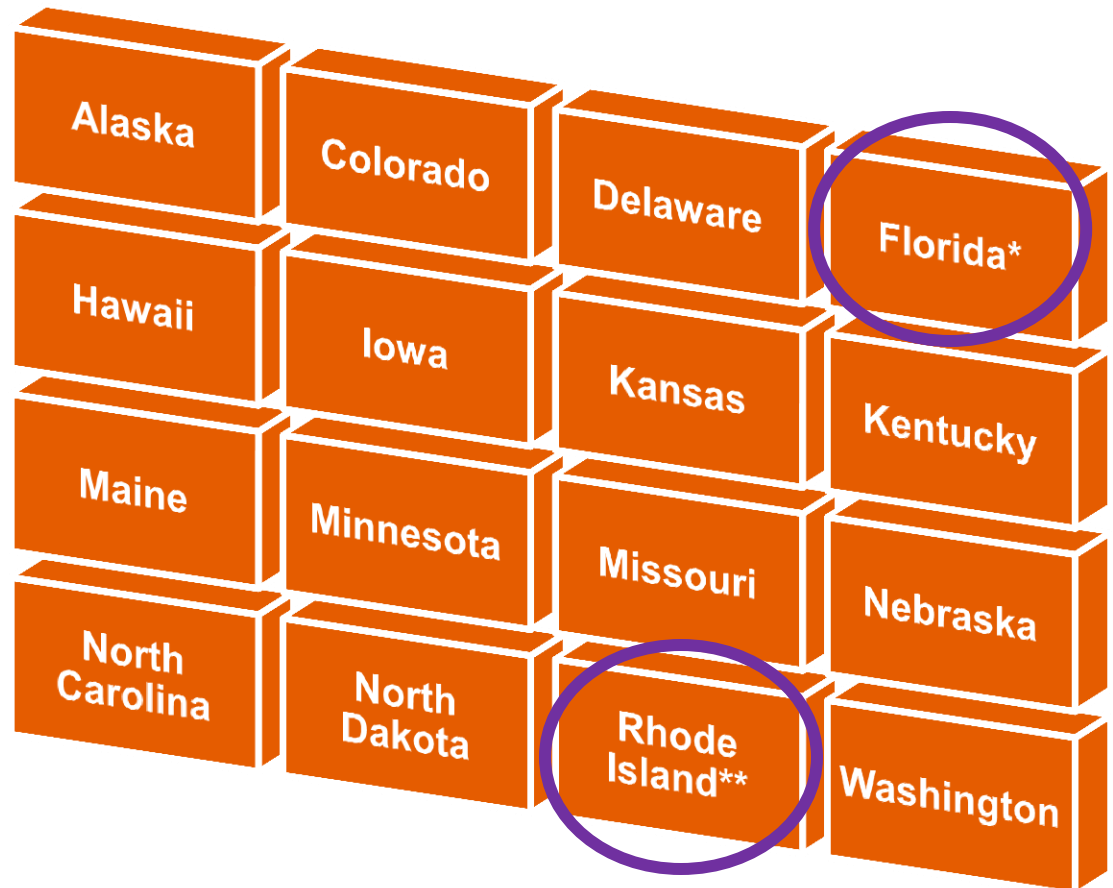
**Also in 2006, the “Japanese Civil Code (Law of Obligations) Reform Commission” was privately established independent of the Government.**

# NJ LEGISLATURE – PART 2

## C.) Other Law Revision Entities

# OTHER STATE LAW REVISION ENTITIES

16 other states have entities other than Commissions related to law revision.



\*Florida has a Constitutional Revision Commission *and* a Division of Law Revision and Information (which is not a Commission)

\*\*R.I. was moved from being a “commission” to a “revisor” as there is only one Director of Law Revision on staff

# OTHER STATE LAW REVISION ENTITIES

**“Keeper of the Code”:** These positions are focused solely on maintaining and updating the state’s statutory code. Some states allow minimal revisions, such as maintaining section and number continuity.

**Structural and Grammatical Revision:** These positions do not allow for the substance or meaning of a law to be altered.

**Substantive Revision:** These positions are structured similarly to the New Jersey Law Revision Commission in the sense that revisions are more in-depth and proposals for substantive changes in the law are permitted.

**Legislative Services:** These positions are most akin to New Jersey’s Office of Legislative Services, providing a multitude of services to both the public and legislatures (only one of which is law revision).

**OTHER:** Indiana’s Revisor of Statutes is a member of the state’s General Assembly, and a member of the Uniform Law Commission.

*\*\*These categories are amorphous, as no clear-cut continuity exists across the states*

# OTHER STATE LAW REVISION ENTITIES

## WAS THERE EVER A NEW JERSEY REVISOR OF STATUTES?

- 1717-1896:
  - various personnel were given the task of revising and recompiling NJ's statutes without being given the official title of Revisor of Statutes.
- From this point forward, mere traces of such a creature exist on the Internet.

# OTHER STATE LAW REVISION ENTITIES

## WAS THERE EVER A NEW JERSEY REVISOR OF STATUTES?

There is some evidence, including the following sources, however it is sparse.

Most of these Exempt Firefighters laws seem to have suffered from attrition or were either repealed outright or not reenacted when the new State Constitution was enacted in 1948. Possibly revision of old or obsolete statutes were redacted or removed by the Revisor of Statutes for the Legislative Services Commission. He may have recommended the removal as part of routine review by that office.

-- *New Jersey State Firemen's Association*

-- *Journal of the First Annual session of the 127<sup>th</sup> Senate, 1972*

Whereas, John W. Ockford, former Counsel and Revisor of Statutes of the Law Revision and Legislative Services Commission, died on December 27, 1972; and

reasons for the dissatisfaction with the 1947 act which led to its supercession by the 1948 act. According to a letter dated December 22, 1975 by George H. Bohlinger, Jr., New Jersey Revisor of Statutes, who was active in the drafting of the bill which became L. 1948, c. 96 on behalf of the New Jersey Institute of Municipal Attorneys, a sponsor of the legislation, leading title companies indicated they would not insure titles based upon foreclosures under the 1947 act. As there stated:

-- *Montville Tp. v. Block 69, 74 N.J. 1 (1977)*

One of our own, John Cannel, noted during the research of this project that Mary Jane Dickson was also the Revisor of Statutes near the creation of the Law Revision Commission.

# CONCLUSION:

This concludes Part 2 of this presentation on the NJ Legislative Process & Law Revision Commission. Please see the adjoining presentations (Part 1 and 3) for more information regarding this area. A summary of the topics covered is listed below.

- Part 1: New Jersey Legislature
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THANK YOU FOR VISITING NJLRC WEBSITE!



If you have any questions, concerns, or comments regarding this presentation, please feel free to reach out to the NJLRC office.

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