

Memorandum 80-17

Subject: Study D-300 - Enforcement of Judgments (Interest Rate on Judgments)

The Commission has previously approved for inclusion in the enforcement of judgments statute a provision to increase the interest rate on judgments from seven to 10 percent. Such a change is possible by virtue of a 1978 constitutional amendment that enables the Legislature to vary the interest rate from the seven percent rate fixed in the Constitution.

The staff believes the economic and political situation is such that the Legislature will act this year to increase the interest rate. Senator Rains (the Senate member of the Commission) last session introduced a bill to provide a variable interest rate based on the Federal Reserve Bank of San Francisco rate on advances to member banks. This bill was defeated due to opposition from the insurance industry. The coming session will see greater pressure to increase the interest rate-- the trial lawyers and the creditors are interested in this.

The staff believes that the Commission should introduce its proposed legislation to increase the interest rate immediately rather than waiting until the 1981 legislative session when the Legislature will already have acted. This will ensure that the Commission's views are before the Legislature and will help prevent enactment of a provision that might present difficulties for the rest of our enforcement of judgments statute.

The staff has excerpted the interest rate on judgments material from the draft of the enforcement of judgments recommendation and prepared it as a separate proposal. A copy is attached. If the Commission approves this proposal, we will have it printed and will submit the bill for introduction. The Senate member of the Commission, Senator Rains, may be interested in carrying the bill.

Respectfully submitted,

Nathaniel Sterling
Assistant Executive Secretary