

Memorandum 2011-2

2011 Legislative Program: Status Report

There are six Commission recommendations that we hope to have introduced as bills in 2011:

- *Statutory Clarification and Simplification of CID Law* (2011)
- *Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation* (2011)
- *Mechanics Lien Law: Clean-Up Legislation* (2011)
- *Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Part 1)* (2010)
- *Marketable Record Title: Notice of Option* (2010)
- *Obsolete Cross-References to Former Code of Civil Procedure Section 116.780(d)* (2010)

The status of each of those recommendations is discussed briefly below.

Statutory Clarification and Simplification of CID Law

The Commission's recommendation on *Statutory Clarification and Simplification of CID Law* is pending approval at the February 2011 meeting. See Memorandum 2011-5.

Implementing legislation will be introduced by Assembly Member Norma Torres, Chair of the Assembly Committee on Housing and Community Development.

We intend to divide the proposed legislation into two bills, to simplify the legislative process. The first will contain the repeal of the existing Davis-Stirling Common Interest Development Act and the addition of its reorganized successor Act. The second will contain the numerous "conforming revisions" that will need to be made to correct statutory cross-references to provisions of the Davis-Stirling Act, to properly reflect section renumbering.

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

The bills are expected to proceed as two-year bills, to provide plenty of time for analysis of the proposed law by legislators, their staffs, and members of the public.

Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation

The Commission's recommendation on *Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation* is pending approval at the February 2011 meeting. See Memorandum 2011-3.

We are hopeful that implementing legislation will be introduced by the Senate Committee on Public Safety.

Mechanics Lien Law: Clean-Up Legislation

The Commission's recommendation on *Mechanics Lien Law: Clean-Up Legislation* is pending approval at the February 2011 meeting. See Memorandum 2011-4.

Implementing legislation has been introduced by Senator Alan Lowenthal, as Senate Bill 190.

Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Part 1)

In December, the Commission approved a final recommendation on *Trial Court Restructuring: Rights and Responsibilities of the County as Compared to the Superior Court (Part 1)*. We have not yet located an author to introduce implementing legislation for this recommendation.

One point requires the Commission's attention at this time. At the December meeting, the Commission decided to remove the amendment of Government Code Section 24352 from its proposal. See Minutes (Dec. 2010), p. 12. There were no objections to that amendment, but the amendment would have affected the authority of the Controller as opposed to the Judicial Council in overseeing the accounting system for the trial courts (see footnote 26 of the tentative recommendation). Los Angeles County Superior Court ("LASC") had objected to other amendments in the tentative recommendation that involved responsibility for the accounting system. It thus seemed likely that LASC would object to this amendment too, but accidentally overlooked it. In addition, an employee of the Administrative Office of the Courts had informed the Commission that the accounting system for the trial courts would be examined in the next couple of

years and statutory reforms were likely. Consequently, it seemed safest to remove the amendment of Section 24352 from the Commission's proposal, and revisit the matter later.

That decision still makes sense. In implementing it, however, the staff became aware of a complication. Specifically, another reform in the tentative recommendation (the repeal of Government Code Section 72004) was premised on several of the Commission's proposed amendments, including the amendment of Section 24352. See the proposed Comment to Section 72004; see also footnote 43 of the tentative recommendation. It would not make sense to proceed with the repeal of Government Code Section 72004 if the amendment of Section 24352 were removed.

For that reason, the staff did not include the repeal of Section 72004 in the pre-print recommendation for this study, or the bill draft we submitted to the Office of Legislative Counsel. That is essentially a conforming change necessitated by the Commission's decision to remove the amendment of Section 24352. **Is the change acceptable to the Commission?**

Marketable Record Title: Notice of Option)

Implementing legislation will be introduced by Senator Tom Harman.

**Obsolete Cross-References to Former Code of Civil Procedure Section
116.780(d)**

We have submitted this recommendation for consideration as part of the annual Judiciary Committee Civil Omnibus bill. It is likely, but not certain, that it will be included in that bill.

Respectfully submitted,

Brian Hebert
Executive Director