

Memorandum 2011-20

2011 Legislative Program: Status Report

The attached table summarizes the status of the Commission's 2011 legislative program. The staff will supplement that information orally, if necessary, at the June meeting.

The remainder of this memorandum discusses an issue relating to Assembly Bill 805 (Torres).

AB 805 (TORRES) — STATUTORY CLARIFICATION AND SIMPLIFICATION OF CID
LAW

Assembly Bill 805 (Torres) would implement the Commission's recommendation to recodify the Davis-Stirling Common Interest Development Act. That recommendation was the product of years of effort, involving extensive public input from a wide range of organizations and individuals. In preparing the recommendation, the Commission adopted a conservative drafting approach. Substantive changes were generally not included in the recommendation unless they were plainly beneficial and uncontroversial. Technical changes were not made to existing language unless they were clearly required to standardize terminology or correct a plain defect.

Because of its broad scope and significant impact, AB 805 is proceeding as a two-year bill. It has already been approved by the Assembly (without any no votes) and is now in the Senate. Senate Committees will begin hearing the bill next year.

While that bill is working its way through the Legislature, the Commission is also working on a separate but closely related project, the study of commercial and industrial CIDs. In that study, the Commission is considering the extent to which the legislative policies underlying Civil Code Section 1373 — which exempts exclusively commercial and industrial CIDs from portions of the Davis-

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.

Stirling Common Interest Development Act — should be extrapolated to apply to subsequent additions to the Davis-Stirling Act.

Thus, the Commission is focused on determining which provisions of the existing Davis-Stirling Act should apply to a commercial or industrial CID. The Commission is not developing new law to regulate such CIDs. Nor is the Commission looking at ways to modify existing elements of CID law to make them more suitable for commercial and industrial CIDs. The study is about identifying appropriate *exemptions*. Consequently, where the Commission has concluded that an existing provision should remain applicable to a commercial or industrial CID, the Commission has not looked beyond that decision. The provision would continue to apply without change, preserving the status quo with respect to that provision.

In preparing the draft language on commercial and industrial CIDs, the Commission decided to parallel the language and organization that is in AB 805. That way, if both proposals are eventually enacted, the provisions that are common to both will be identical in wording and structure. This approach has the following benefits:

- (1) It will be clear that prior court decisions construing common language should continue to be considered in both contexts.
- (2) It will make clear that there is no intention that the two bodies of law be interpreted differently with respect to their common provisions.
- (3) It will incorporate all of the improvements made in the recodification recommendation into the language on commercial and industrial CIDs.

The Commission has received extensive comment on the commercial and industrial CID proposal, from a stakeholder group of attorneys and commercial property managers. That comment will be discussed in Memorandum 2011-21.

Many of the comments received in connection with that study raise technical issues regarding language that is common to both proposals. In a meeting with representatives of the stakeholder group, the staff emphasized that such issues are issues relating to CID law *generally*, rather than issues *specific* to commercial and industrial CIDs. As such, they would need to be addressed as proposed amendments to AB 805, rather than as revisions to the commercial and industrial CID proposals. Otherwise, the two bodies of law would be inconsistent, which would be problematic for the reasons explained above.

The staff discussed the possibility of conducting a follow-up study, to consider proposed changes to both proposals. That could occur in 2012, while AB 805 is still pending in the Legislature; in 2013, during the one-year period of deferred operation of AB 805; or later.

If the Commission is interested in the possibility of such a follow-up study, it might be best to include the matter in the memorandum on New Topics and Priorities that will be presented at the October or December meeting. That would permit a fuller description of the scope of the possible follow-up study, and would allow the matter to be considered in the context of other demands on the Commission's resources.

How does the Commission wish to handle this?

Respectfully submitted,

Brian Hebert
Executive Director

Status of 2011 Commission Legislative Program

As of May 25, 2011

		AB 805	AB 806	AB 1402		SB 190	SB 284	SB 647			
Introduced Last Amended		2/17/11	2/17/11	3/2/11		2/8/11	2/14/11	2/18/11			
				3/30/11		3/16/01	3/29/11	4/25/11			
First House	Policy Committee	4/6/11	4/6/11	4/12/11		3/29/11	3/29/11	5/3/11			
	Second Committee	4/26/11	4/26/11	—		—	—	—			
	Passed House	5/2/11	5/2/11	4/28/11		4/7/11	4/7/11				
Second House	Policy Committee			<i>6/7/11</i>			<i>6/7/11</i>				
	Second Committee										
	Passed House										
Concurrence											
Governor	Received										
	Approved										
Secretary of State	Date										
	Chapter #										

Bill List: AB 805 (Torres): Statutory Clarification and Simplification of CID Law
 AB 806 (Torres): Statutory Clarification and Simplification of CID Law (Conforming Revisions)
 AB 1402 (Committee on Public Safety): Deadly Weapons: Clean-Up Legislation
 SB 190 (Lowenthal): Mechanics Lien Law: Clean-Up Legislation
 SB 284 (Harman): Marketable Record Title: Notice of Option
 SB 647 (Committee on Judiciary): Obsolete Cross-References to former Code Civ. Proc. § 116.780(d)

Also of Interest:

AB 269 (Ma): Charter School Health and Safety
 AB 360 (Brownley): Charter Schools and Open Government Laws
 AB 699 (Wagner): Revocable Transfer on Death Deed
 AB 810 (Wagner): Translation/Interpretation for Courts and Counties (Trial Court Restructuring: Part 5)
 AB 817 (Gatto): Vehicle Rental Contracts
 AB 1331 (Davis): Operative Date for Nonsubstantive Reorganization of Deadly Weapon Statutes
 SB 77 (Committee on Budget & Fiscal Review): Redevelopment Act Cleanup
 SB 273 (Harman): Ownership of Amounts Withdrawn from Joint Account

KEY

Italics: Future or speculative

“—”: Not applicable

*: Double referral, not fiscal

[date]: Deadline