

Memorandum 2013-5

2013 Legislative Program (Status Report)

The staff expects that three bills will be introduced in 2013 to implement the following Commission recommendations:

- *Commercial and Industrial Common Interest Developments*, 42 Cal. L. Revision Comm'n Reports 1 (2012).
- *Third Decennial Review of Exemptions from Enforcement of Money Judgments*, 42 Cal. L. Revision Comm'n Reports 293 (2012)
- *Statutory Clarification and Simplification of CID Law (Clean-Up Legislation)*, 42 Cal. L. Revision Comm'n Reports 307 (2012).

The staff has also made inquiries about including some provisions in the annual Maintenance of the Codes bill, to implement technical revisions proposed in *Nonsubstantive Reorganization of Deadly Weapon Statutes: Clean-Up Legislation*, 41 Cal. L. Revision Comm'n Reports 135 (2011).

Further information is provided below.

Commercial and Industrial Common Interest Developments

A member of the Senate has agreed to introduce a bill to implement this recommendation. The staff has submitted the recommended language to the Legislative Counsel, for the preparation of a bill draft.

The Legislative Counsel attorney assigned to the matter, Jack Zolman, noted three numbering errors in the proposed legislation. The staff has confirmed that Mr. Zolman is correct. We appreciate his assistance.

Under the Commission's current Handbook of Practices and Procedures, Rule 2.7.4, the staff is authorized to make revisions to a recommendation before it is printed, as necessary "to conform to the Commission's policy decisions or correct technical defects." Acting under that authority, the staff instructed Mr. Zolman to correct the errors in the bill draft that he is preparing. The staff will also make

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 corrections in the Commission's recommendation, which has not yet been printed.

Third Decennial Review of Exemptions from Enforcement of Money Judgment

Assembly Member Donald Wagner has agreed to introduce a bill to implement the Commission's recommendation on this topic. The staff has submitted the recommended language to the Legislative Counsel, for the preparation of a bill draft.

The Legislative Counsel attorney assigned to the matter, David Judson, proposed two technical changes to the Commission's language, which the staff believes have merit. The staff appreciates his assistance.

After reviewing Mr. Judson's suggestions, the staff consulted with the Commission's Chair to request provisional approval of those changes. That approval was given, with the understanding that the changes would be presented for the review of the full Commission at its February meeting. On the basis of that provisional approval, the staff directed Mr. Judson to implement the suggested changes in the bill draft that he is preparing. The suggested changes are described below.

The Commission's recommendation would amend Code of Civil Procedure Section 703.120 as follows:

~~703.120. (a) Ten years following the operative date of this title and every 10 years thereafter, the California Law Revision Commission shall review the exempt amounts provided in this chapter and in other statutes and recommend to the Governor and the Legislature any changes in exempt amounts that appear proper.~~

~~(b) Nothing in this section precludes the commission from making recommendations concerning exempt amounts more frequently than required by subdivision (a) or from making recommendations concerning any other aspect of this title, and the commission~~ The California Law Revision Commission is authorized to maintain a continuing review of and submit recommendations concerning enforcement of judgments.

Mr. Judson pointed out that Section 703.120 is located in a chapter entitled "Exemptions," which contains exemption-related provisions. That was a logical location for the section when it specifically addressed the Commission's duty to review exemption amounts every 10 years. If, however, the section is amended to remove the exemption review duty, leaving only the language establishing the

Commission's authority to study the enforcement of judgments law *generally*, that location would make less sense.

Mr. Judson suggests that Section 703.120 be repealed entirely, and the general review authority relocated. He suggests that it be added as a new section in the chapter containing general provisions for the Enforcement of Judgments Law as a whole. On a related point, Mr. Judson also suggested that the preserved language be adjusted slightly, to better reflect its current context.

The proposed changes would add the following new section (with italics showing the language that would be added to preserve context):

681.035. The California Law Revision Commission is authorized to maintain a continuing review of and submit recommendations *to the Governor and the Legislature* concerning enforcement of judgments.

While neither change is strictly necessary, the staff believes that both would be improvements and recommends that they be made.

If the Commission agrees, the changes could also be made in the Commission's recommendation, which has not yet been sent to print. That would entail revising the proposed Comment to Section 703.120 and drafting a new Comment for proposed Section 681.035, thus:

Comment. Section 703.120 is amended to delete the requirement that the Law Revision Commission conduct a decennial review of exemption amounts. The Commission's general authority language generally authorizing the Commission to review the Enforcement of Judgments Law would be preserved is continued in Section 681.035.

Comment. Section 681.035 continues the last clause of former Section 703.120(b), without substantive change.

Are those proposed revisions acceptable?

Statutory Clarification and Simplification of CID Law (Clean-Up Legislation)

The Senate Committee on Transportation and Housing has agreed to include this recommendation in its annual housing omnibus bill (which has not yet been introduced). As is usually the case with committee bills, any opposition from any member of the committee would likely be sufficient to have a provision removed from the bill.

That is unlikely to be a problem, given how technical and uncontroversial the recommended revisions appear to be.

The Commission's recommended language has been provided to committee staff, for drafting and introduction.

Respectfully submitted,

Brian Hebert
Executive Director