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APPROVED MINUTES OF MEETING
CALIFORNIA LAW REVISION COMMISSION
JANUARY 30, 2020
Sacramento

A meeting of the California Law Revision Commission was held in Sacramento on January 30, 2020.

Commission:

Present: Victor King, Chairperson
Crystal Miller-O'Brien, Vice-Chairperson
David A. Carrillo
Ana Cubas
Jane McAllister
Richard Simpson

Absent: Diane Boyer-Vine, Legislative Counsel
Assembly Member Ed Chau
Senator Richard D. Roth
Richard Rubin

Staff:

Present: Brian Hebert, Executive Director
Barbara Gaal, Chief Deputy Counsel
Kristin Burford, Staff Counsel
Steve Cohen, Staff Counsel

Other Persons:

John Andersen, Executive Committee, Trusts and Estates Section, California Lawyers Association

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APPROVAL OF ACTIONS TAKEN

Unless otherwise indicated, the Commission decisions noted in these Minutes were approved by all members present at the meeting. If a member who was present at the meeting voted against a particular decision, abstained from voting, or was not present when the decision was made, that fact will be noted below.

MINUTES

The Commission considered Memorandum 2020-1, presenting draft Minutes for the November 21, 2019, meeting.

The Commission approved the Minutes with the following change:

On page 1, line 11, insert the middle initial “A.” in Commissioner Carrillo’s name.

ADMINISTRATIVE MATTERS

Report of Executive Director

The Executive Director reported that the Committee on Revision of the Penal Code held its first meeting on January 24, 2020. Its membership consists of Michael Romano, (Chair), Hon. John Burton, Hon. Peter Espinoza, Assembly Member Sydney Kamlager, Hon. Carlos Moreno, L. Song Richardson, and Senator Nancy Skinner.

Commissioner Suggestions

No Commissioner suggestions were made.

1 **Open Government Laws**

2 The Commission considered Memorandum 2020-2, summarizing “open
3 government” laws applicable to the Commission. No Commission action was
4 required or taken.

5 2020 LEGISLATIVE PROGRAM

6 The Commission considered Memorandum 2020-3 and its First Supplement,
7 discussing the Commission’s 2020 Legislative Program.

8 The Commission made the following decisions:

- 9 • The pre-print recommendations that would be implemented by
10 legislation in 2020 should be revised to conform to the text of the bill
11 drafts that were prepared for the introduction of that legislation.
12 • A subordination clause should be added to legislation that would
13 implement the Commission’s recommendations on trial court
14 restructuring.

15 STUDY E-200 — RECODIFICATION OF TOXIC SUBSTANCE STATUTES

16 The Commission considered Memorandum 2020-8 and its First Supplement,
17 presenting draft tentative recommendations for the recodification of Chapter 6.8
18 of Division 20 of the Health and Safety Code and the associated conforming
19 revisions.

20 The Commission approved the drafts, without change, as tentative
21 recommendations to be circulated for public comment.

22 STUDY EM-560 — EMINENT DOMAIN: PRE-CONDEMNATION ACTIVITIES

23 The Commission considered Memorandum 2020-7, relating to the statutory
24 procedure for compensating a property owner for pre-condemnation harm
25 pursuant to Code of Civil Procedure Section 1245.060.

26 The Commission directed the staff to prepare a draft of a revised tentative
27 recommendation, based on the decisions that have previously been made in this
28 study and the following decisions that were made at the January meeting:

- 29 • The proposed law should not expressly address compensation for
30 prospective loss.
31 • Existing law should be revised to expressly permit a property
32 owner to seek compensation for precondemnation harm in a

1 subsequent condemnation action. Such a claim should be made in
2 the property owner’s answer, rather than in a cross-complaint.

- 3 • Existing law should be revised to make clear that “Klopping
4 damages” sought in a condemnation action should be claimed in
5 the property owner’s answer, rather than in a cross-complaint.

6 STUDY J-1405.5 — STATUTES MADE OBSOLETE BY TRIAL COURT RESTRUCTURING:
7 CONSOLIDATION AND COORDINATION OF CIVIL CASES

8 The Commission considered Memorandum 2020-6, which examines whether
9 the statutes that govern consolidation and coordination of civil cases require
10 further revisions to reflect trial court unification. The Commission decided not to
11 do any more work on the topic at this time, because such work does not appear
12 necessary. The Commission might reopen this matter if, at any time, it receives
13 input revealing a problem with the consolidation and/or coordination statutes
14 that relates to trial court restructuring.

15 STUDY L-3032.5 — STOCK COOPERATIVES AND
16 UNIFORM TOD SECURITY REGISTRATION ACT

17 The Commission considered Memorandum 2020-5, introducing a study of the
18 use of the Uniform TOD Security Registration Act (Probate Code Sections 5500-
19 5512) to transfer an owner’s interest in a stock cooperative on death, outside of
20 probate. The Commission approved the approach to the study that is described in
21 the memorandum.

22 STUDY L-4130.3 — DISPOSITION OF ESTATE WITHOUT ADMINISTRATION

23 The Commission considered Memorandum 2020-4 and its First Supplement,
24 discussing public comment on the Tentative Recommendation on *Disposition of*
25 *Estate Without Administration: Liability* (July 2019).

26 The Commission directed the staff to prepare a draft recommendation based
27 on the tentative recommendation, with the following changes:

- 28 • Throughout the proposed law, the term “transferee” will be used in
29 place of “designated successor.”
- 30 • Proposed Probate Code Sections 13109.5(b)(2) and 13204.5(b)(2) will
31 be deleted.

- 1 • The rules on “net income” in Probate Code Sections 13110(a)(2) and
2 13205(a)(2) will be replaced with language along the lines of
3 proposed Probate Code Sections 13112(b)(2) and 13207(b)(2).
- 4 • The proposed law on a transferee’s liability for the unsecured debts
5 of a deceased transferor will be expanded to include liability for
6 funeral expenses, expenses of last illness, and wage claims.
- 7 • Probate Code Sections 13111(b) and 13206(b) will be revised to
8 provide that a treble damage award should first be used to pay the
9 estate’s expenses in bringing an action under those sections, with
10 the remainder awarded to the person with a superior right claim.
- 11 • In the proposed law, Probate Code Sections 13110.5, 13111, 13205.5,
12 and 13206 will be revised to expressly state that property returned
13 to the estate under those provisions should be included in the total
14 value of the estate for the purposes of calculating administration
15 fees that depend on that value. The memorandum that presents the
16 draft recommendation will specifically call the Commission’s
17 attention to those revisions.
- 18 • Probate Code Sections 13111(d) and 13206(e) will be revised to
19 delete their second sentences.
- 20 • Proposed Sections 13112 and 13207 will be renumbered to avoid
21 reusing the numbers of sections that are proposed for repeal.