

**LEGISLATIVE SERVICES AGENCY
200 W. Washington St., Ste 302
Indianapolis, Indiana 46204-2789
(317) 232-9861**

**MINUTES OF THE
INDIANA CODE REVISION COMMISSION**

Tuesday, June 5, 2001
10 a.m.
Room 156A, State House
Indianapolis, IN 46204

MEMBERS PRESENT: Senator Luke Kenley, Chairman; Senator Anita Bowser; Senator Sue Landske; Representative Robert Behning; Representative Ralph Foley; Representative John Frenz; Ms. Heather Sewell, representing Secretary of State Sue Ann Gilroy; Ms. Jennifer Thuma, representing Attorney General Steve Carter; Mr. Fred Biesecker, Counsel to the Governor; Mr. Dave Remondini, representing Chief Justice Randall T. Shepard, Indiana Supreme Court; Chief Judge John T. Sharpnack, Indiana Court of Appeals; Mr. Steve Shockley, Attorney at Law.

MEMBERS ABSENT: Senator Samuel Smith; Representative Robert Kuzman; Ms. Cynthia Baker, IU School of Law - Indianapolis.

STAFF PRESENT: Mr. John Stieff, Director, Office of Code Revision; Mr. Craig Mortell, Deputy Director, Office of Code Revision; Ms. Rebecca Mortell, Deputy Director, Office of Code Revision; Mr. Tim Tyler, Senior Staff Attorney, Office of Bill Drafting and Research; Mr. Dick Sheets, Editorial Assistant, Office of Code Revision.

I. CALL TO ORDER

The meeting was called to order at 10 a.m. by Senator Kenley.

II. INTRODUCTORY REMARKS

Mr. John Stieff, Director of the Office of Code Revision of the Legislative Services Agency, reported significant savings were achieved during the 2001 session by the Legislative Services Agency, including an estimated \$330,000 from the in-house printing of legislative bills. Mr. Stieff noted the success of the new procedure to distribute the enrolled acts to county clerks on CD-ROM. A survey of the county clerks indicated 64 of the 92 county clerks preferred the CD-ROM. This resulted in a savings of over \$5,000 by reducing printing, delivery, and transportation costs. Legislators, agencies, and subscribers also were polled for their preferences in receiving the Acts of Indiana. As a result, 320 sets will be distributed on CD-ROM at a savings of \$19,200. A reduction in the press run will save an additional \$6,405. Total savings for the publication of the 2001 Acts of Indiana is more than \$25,600. Senator Luke Kenley asked that Mr. Stieff prepare a letter for the Legislative Council detailing the savings.

Mr. Stieff said two major projects are being undertaken during the interim. The first, he said, is preparation of the technical corrections bill, which will be larger than normal because of the number of unresolved conflicts that resulted because of the large number of bills pending on the last day of the session. Mr. Stieff said the second major project is the recodification of Title 32 (property law), which is being prepared under the direction of Senior Staff Attorney Tim Tyler. Mr. Stieff asked that the Code Revision Commission approve the organizational scheme of the Title 32 recodification.

III. REVIEW OF MINUTES

The Commission approved by consent the minutes of the Commission's last meeting on September 6, 2000.

IV. PROPOSED TECHNICAL CORRECTIONS BILL

Mr. Craig Mortell, Deputy Director, Office of Code Revision, discussed the proposed technical corrections bill (PD 4467).

At the beginning of the discussion of the technical corrections bill, Senator Kenley asked whether a version of the bill would be ready for introduction in the 2001 technical session, which was scheduled for June 12. Mr. Stieff answered that a version would be ready.

Craig Mortell, Deputy Director of the Office of Code Revision, discussed the draft of the technical corrections bill. Directing the attention of the Commission members to the draft and to an outline of the draft's provisions (copies of which had been distributed to Commission members), Mr. Mortell explained that the draft deals with the following types of technical problems:

- (1) Technical errors (such as grammatical errors, stylistic errors, and errors in the numbering of sections within a chapter or tabulated elements within a section) that have been recognized in the 2001 acts and in the Indiana Code.
- (2) Conflicts between the different versions of Code sections that resulted where two or three 2001 acts amended the same section of the Indiana Code without recognizing each other.

Mr. Mortell offered examples of each type of technical problem and explained the process for the resolution of conflicts. He characterized the draft as a work in progress, saying that OCR was still receiving information on technical problems needing correction and that the draft did not address all of the problems for which technical corrections would be prepared during the summer of 2001.

Senator Kenley made the point that the technical session, as authorized by IC 2-2.1-1-2.5, was intended to allow errors in bills enacted during the regular session to be corrected before the standard effective date of July 1 so that, in many cases, the errors would be corrected before the bills became law. Senator Kenley proposed:

- that the technical corrections draft, as presented to the Commission at this meeting, should be prepared for introduction during the 2001 technical session, so that the draft's corrections of errors in 2001 acts could be acted upon in technical session; and
- that technical corrections provisions not included in the draft should be prepared and presented to the Commission in a second technical corrections draft, which would be considered by the Commission at a meeting later in the summer of 2001.

John Stieff asked whether the technical corrections bill prepared for introduction during the 2001 technical session could also include provisions necessary to undo certain Joint Rule 20 motions. These Joint Rule 20 motions, he explained, were adopted during the 2001 regular session to make the text of certain bills consistent with the text of other bills that were later vetoed by the governor.

A short discussion ensued. Senator Bowser asked for an explanation of the Joint Rule 20 correction process. Representative Foley spoke in favor of undoing the Joint Rule 20 motions even though the bills that were vetoed by the governor might eventually become law through the overriding of the governor's vetoes. The technical corrections bill, he suggested, "needs to deal with the reality of today." A representative of the Indiana Trial Lawyers Association expressed concern about the effect that undoing the Joint Rule 20 motions would have if the veto of the bill increasing judges' salaries should be overridden.

Senator Kenley agreed with Representative Foley's proposal to include the undoing of the Joint Rule 20 motions in the technical corrections draft before the Commission. A motion was made for the Commission to approve the draft as presented, with this inclusion, so that the digest of the technical session bill based on the draft would bear a statement indicating that the draft was approved by the Code Revision Commission. This motion was adopted by consent.

V. TITLE 32 RECODIFICATION

LSA Senior Staff Attorney Tim Tyler, Office of Bill Drafting and Research, discussed proposed changes to the Title 32 Recodification outline that was distributed to Commission members in April. He stated that the April outline had been sent to over 100 potential interested parties and the proposed changes were based on suggestions made by interested parties and after an analysis by the LSA staff.

Proposed changes in the organizational scheme of Title 32 included the following:

1. Removing the Definitions Article from the beginning of the title.
2. Moving the chapter concerning "Limitations on Possibility of Reverter or Rights of Entry for a Breach of a Condition Subsequent" from the Article concerning conveyance limitations of real property to the Article concerning interests in property.
3. Placing a new chapter concerning tax sale surplus disclosure added to Title 32 by HEA 1846-2001 in the Article concerning conveyance procedures of real property.
4. Placing a cross-reference to IC 13-25-3, the Responsible Property Transfer Law, in the Article concerning conveyance procedures of real property as an aid to practitioners.
5. Placing language concerning corporate employee's liens and common law liens in the Article concerning liens on real property and in the Article concerning liens on personal property since both can apply to real property and personal property.
6. Placing a new chapter concerning mortgage releases by title companies added to Title 32 by HEA 1636-2001 in the Article concerning mortgages.
7. Placing a cross-reference to the law concerning the duty to satisfy the record after the release or discharge of liens in the Article concerning mortgages and in the Article concerning liens on personal property as an aid to practitioners.
8. Moving provisions concerning time shares and camping clubs from IC 24-5-9 to Title 32.
9. Moving the chapter concerning ambulance liens from Chapter 17 to Chapter 6 in the Article concerning liens on personal property so it will follow the chapter concerning hospital liens.
10. Placing a new chapter concerning sale of abandoned watercraft added to Title 32 by SEA 344-2001 in the Article concerning lost or unclaimed property.
11. Possibly adding an Article listing statutes outside of Title 32 that create liens as an aid to practitioners.

Mr. Tyler stated that OBDAR attorneys are making technical and stylistic changes to the current language in Title 32 and should be finished by June 15. After that date, he said, a Preliminary Draft of the recodified Title 32 would be prepared for the Commission to examine.

Senator Kenley stated that careful consideration needed to be given to adding too many provisions to Title 32 that would only serve as aids to practitioners.

Representative Foley suggested that the chapter concerning easements by necessity be made the third chapter instead of the fifth chapter in the Article concerning conveyance of property interests less than fee simple.

Mr. Stieff then commended Ms. Dori Wood, an intern from the Indiana University School of Law-Indianapolis, for her contribution to the recodification outline.

A motion was then made and seconded to approve the proposed changes to the Title 32 recodification outline as revised, including Representative Foley's suggestion. The Commission adopted the changes by consent.

VI. ADJOURNMENT

The Chairman thanked the Commission members and staff for their work on the Commission. The meeting was then adjourned by the Chairman at 11:45 a.m.

Attachments