Senate Concurrent Resolution No. 3

RESOLUTION CHAPTER 102

Senate Concurrent Resolution No. 3—Relative to the California Law Revision Commission.

[Filed with Secretary of State September 12, 1997.]

LEGISLATIVE COUNSEL'S DIGEST

SCR 3, Kopp. California Law Revision Commission: studies.

Under existing law, the California Law Revision Commission is required to study, and is limited to studying, those topics approved for its study by concurrent resolution of the Legislature.

This measure would grant approval to the commission to continue its study of designated topics that the Legislature previously authorized or directed the commission to study, and would delete 3 topics that previously were approved by the Legislature for study by the commission.

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Governor and the Legislature that are thereafter approved for study by concurrent resolution of the Legislature, and topics that have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The commission, in its annual report covering its activities for 1996, recommends continued study of 21 topics, all of which the Legislature has previously authorized or directed the commission to study; and

WHEREAS, The commission, in its annual report covering its activities for 1996, recommends the deletion from its study list of three topics that the Legislature has previously authorized or directed the commission to study; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature approves for continued study by the California Law Revision Commission the topics listed below, all of which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law should be revised that relates to creditors' remedies, including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help repossession of property, and the Commercial Code provisions on repossession of property), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power

of sale in a trust deed or mortgage, possessory and nonpossessory liens, insolvency, and related matters;

(2) Whether the California Probate Code should be revised, including, but not limited to, the issue of whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) Whether the law should be revised that relates to real and personal property, including, but not limited to, a marketable title act, covenants, servitudes, conditions, and restrictions on land use or relating to land, possibilities of reverter, powers of termination, Section 1464 of the Civil Code, escheat of property and the disposition of unclaimed or abandoned property, eminent domain, quiet title actions, abandonment or vacation of public streets and highways, partition, rights and duties attendant upon assignment, subletting, termination, or abandonment of a lease, powers of appointment, and related matters;

(4) Whether the law should be revised that relates to family law, including, but not limited to, community property, the adjudication of child and family civil proceedings, child custody, adoption, guardianship, freedom from parental custody and control, and related matters, including other subjects covered by the Family Code;

(5) Whether the law relating to class actions should be revised;

(6) Whether the law relating to offers of compromise should be revised;

(7) Whether the law relating to discovery in civil cases should be revised;

(8) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for the payment of attorneys' fees to the prevailing party;

(9) Whether the acts governing special assessments for public improvement should be simplified and unified;

(10) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised;

(11) Whether the Evidence Code should be revised;

(12) Whether the law relating to arbitration should be revised;

(13) Whether there should be changes to administrative law;

(14) Whether the law relating to the payment and the shifting of attorney's fees between litigants should be revised;

(15) Whether the Uniform Unincorporated Nonprofit Association Act, or parts of that uniform act, and related provisions should be adopted in California;

(16) Whether the law governing unfair competition litigation under Chapter 5 (commencing with Section 17200) of Part 2 of Division 7 of the Business and Professions Code should be revised to clarify the scope of the chapter and to resolve procedural problems in litigation under the chapter, including the res judicata and

collateral estoppel effect on the public of a judgment between the parties to the litigation, and related matters;

(17) Whether the requirement of paragraph (2) of subdivision (b) of Section 800 of the Corporations Code that the plaintiff in a shareholder's derivative action must allege the plaintiff's efforts to secure board action or the reasons for not making the effort, the standard under Section 309 of the Corporations Code for protection of a director from liability for a good faith business judgment, and related provisions, should be revised;

(18) Recommendations to be reported pertaining to statutory changes that may be necessitated by court unification;

(19) Whether Section 351 of the Code of Civil Procedure, relating to tolling statutes of limitations while the defendant is out of state, and related matters, should be revised;

(20) Whether the California law of contracts should be revised, including the law relating to the effect of electronic communications on the law governing contract formation, the statute of frauds, the parol evidence rule, and related matters;

(21) Whether the laws within various codes relating to environmental quality and natural resources should be reorganized in order to simplify and consolidate relevant statutes, resolve inconsistencies between the statutes, and eliminate obsolete and unnecessarily duplicative statutes; and be it further

Resolved, That the Legislature approves for deletion from the calendar of the California Law Revision Commission the topics listed below, which the Legislature has previously authorized or directed the commission to study:

(1) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised.

(2) Whether the law on injunctions and related matters should be revised.

(3) Whether the decisional, statutory, and constitutional rules should be revised that govern the liability of public entities for inverse condemnation, including, but not limited to, liability for damages resulting from flood control projects, and whether the law relating to the liability of private persons under similar circumstances should be revised; and be it further

Resolved, That the Secretary of the Senate transmit a copy of this resolution to the California Law Revision Commission.

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