

MEMORANDUM

TO: Appointment and Powers of Real Estate Receivers Drafting Committee, Advisors and Observers

CC: Michael Houghton, Harriett Lansing, Richard Cassidy, Pamela Winston Bertani, and John Sebert

FROM: Thomas S. Hemmendinger

DATE: February 25, 2013

RE: Summary of February 21, 2013 Conference Call of the MAPRER Drafting Committee

The Drafting Committee on a Model Act on the Appointment and Powers of Real Estate Receivers held a conference call on February 21, 2013. Those attending included Committee members Thomas Hemmendinger (Chair), Stephen Cawood, Ellen Dyke, Thomas Edmonds, Pat Fry, Donald Mielke, Fred Miller, Gay Taylor-Jones, and Pamela Winston Bertani (Division Chair); Reporter R. Wilson Freyermuth; ABA Advisor John Trott; ABA Section Advisors Jeffrey Allen, and James Schwartz; Observers June Basden, Ken Jannen, Bev McFarland, Grant Nelson, and Scott Sackett; and Executive Director John Sebert and Staff Liaison Ben Orzeske; and Megan Keane, monitoring the call for Mark Sandlin. Commissioners John Burton, Rosemary Sackett, and Mark Sandlin, and Observer Cheryl Kelly, could not attend.

After introductions, the meeting went as follows:

- 1) The Chairperson and the Reporter briefed the group on plans for our first in-person meeting on April 19 and 20, 2013. The Committee is not scheduled to have a first reading until the 2014 annual meeting. The main goals for this meeting will be:
 - a) Decide on what approach the Committee should take to drafting the Act.
 - b) Give direction to the Reporter on preparing the first draft for an anticipated Fall 2013 Drafting Committee meeting. This will include making tentative decisions on:
 - i) Points where the Committee is ready for the Reporter to draft statutory language to a particular position.
 - ii) Points on which the Committee wants the Reporter to draft multiple versions, whether because the Committee is uncertain or because the Committee wishes to consider statutory language on alternatives.
 - iii) Points on which the Committee will need additional materials to consider the first draft at the Fall 2013 meeting.
- 2) We then discussed the materials planned for the April 2013 meeting.

- a) The Chair and the Reporter described these materials:
 - i) Narrative report, as an executive summary for the other materials, and following up on the January 2012 Issues Memorandum by the Study Committee.
 - ii) State-by-state narrative on existing receivership laws. The group discussed samples from the current draft, and overall felt that the narrative covered the necessary points.
 - iii) State-by-state compilation of receivership statutes.
 - iv) State-by-state tabulation on how the States address various issues.
 - v) General outline of an Act. The question was raised whether we should have a discussion draft of an Act to consider at the April meeting. Given the breadth of issues, however, it was thought better to examine and work through the materials, including the various models of existing State laws, before the Reporter begins a comprehensive draft Act. Further, in his materials the Reporter will highlight useful potentially appropriate examples of the different statutory approaches the States have taken.
 - vi) Uniform Assignment of Rents Act.
 - b) Group members suggested additional materials that could be useful, including materials from the study process, the TriGild manual, articles and other resources on the California Receivers Forum, and materials from Miller Starr & Regalia. Several observers offered to investigate options for making these materials widely available to the group.
- 3) We discussed the draft questionnaire to practitioners in the States.
- a) A subcommittee (Pat Fry – Chair, Fred Miller, Mark Sandlin, Cheryl Kelly, and John Trott) will report back to the Chairperson by the end of March on essentially the following:
 - i) Would the type of information sought in the December 2012 draft (practice realities, observer identification, and enactability issues) be useful to the full group? If so what changes should be made to the form, both as to the subject matter and as to ease of answering?
 - ii) To whom should it go? How best to circulate? What level of response should we aim for?
 - b) The Committee will consider and act on the Subcommittee's recommendation at the April meeting.
- 4) Next steps:
- a) Anyone with further suggestions for background materials will email them to the Chairperson and Reporter.
 - b) The Questionnaire Subcommittee will report to the Chairperson by the end of March.
 - c) The Reporter will have materials circulated at least two weeks before the April meeting.