

LOUISIANA STATE LAW INSTITUTE

THE MEETING OF THE COUNCIL

August 12-13, 2016

Friday, August 12, 2016

Persons Present:

Adams, Marguerite (Peggy) L.
Bergstedt, Thomas
Braun, Jessica
Breard, L. Kent
Crawford, William E.
Crigler, James C.
Cromwell, L. David
Curry, Kevin C.
Curry, Robert L., III
Davidson, James J., III
Dimos, Jimmy N.
Domingue, Billy J.
Garrett, J. David
Griffin, Piper D.
Hamilton, Leo C.
Hayes, Thomas M., III
Hebert, Christopher B.
Hogan, Lila T.
Hogan, Thomas
Holdridge, Guy
Jewell, John Wayne
Kostelka, Robert "Bob" W.
Lavergne, Luke
Levy, H. Mark

Little, F. A., Jr.
McIntyre, Edwin R., Jr.
Miller, Gregory A.
Norman, Rick J.
Odiinet, Christopher
Opotowsky, Randy
Pohorelsky, Peter
Riviere, Christopher H.
Robert, Deidre D.
Scardulla, Anna "Annie" F.
Sole, Emmett C.
Stuckey, James A.
Suprenant, Monica T.
Talley, Susan G.
Tate, George J.
Title, Peter S.
Tucker, Zelda
Waller, Mallory Chatelain
Weems, Charles S., III
White, H. Aubrey, III
Wilson, Evelyn L.
Ziober, John David
Zucker, Erika

President John David Ziober opened the Friday session of the August 2016 Council meeting at 10:00 AM on August 12, 2016 at the Monteleone Hotel in New Orleans, LA. During today's session, Professor Luz Molina represented the Unpaid Wages Committee and presented a Revision of Louisiana's Wage Payment Act.

Unpaid Wages

Revision of Louisiana's Wage Payment Act:

1. The Reporter began by reminding the Council of the directive in House Concurrent Resolution No. 76 of the 2012 Regular Session of the Legislature which asked the Law Institute to study all options and make recommendations for legislation to provide an effective remedy for unpaid wages without requiring expensive litigation.

2. The Reporter turned the Council's attention to proposed R.S. 23:631 and the definition of "employee." At the Council meeting in December of 2015 the Reporter and fellow Committee members informed the Council that independent contractors do not need a special carve out in this proposal because that type of relationship is a defense to the Louisiana Wage Payment Act. Independent contractor is not defined in statutory law, but the federal government has a definition and the courts have jurisprudentially defined it. However, many Council members thought it would be best to add language to the definition of "employee" to be clear that these proposals do not apply to that unique relationship. Therefore, lines 13-17 on page 5 were added by the Committee. The Reporter explained that this test was borrowed from R.S. 23:1472(12)(E) in the unemployment statutes. After a few comments, the Council adopted the following:

"Employee" means any natural person who performs services for wages or under any contract of employment, written or oral, express or implied, unless (a) the person has been and will continue to be free from any control or direction over the performance of such services both under a contract and in fact, (b) such service is either outside the usual course of the business for which such service is performed, or such service is performed outside of all the places of business of the enterprise for which such service is performed, and (c) the person is customarily engaged in an independently established trade, occupation, profession or business."

3. The Reporter directed the Council to proposed R.S. 23:631(E) on page 9 of the materials. At the meeting in December, the Council voted to recommit Subsection E back to the Committee for further discussion regarding preserving present R.S. 23:633(B) and (C) which requires certain types of employees to be paid at least twice a month. The Reporter explained that the Committee simply added back in present law and the Council adopted Subsection E.

4. However, the discussion of Subsection E regarding frequency and when payment must be made was thought to possibly extend to independent contractors through the use of the term "indirectly" in the definition of "employer". A member explained that because the definition includes the term "directly or indirectly", Subsection E(1) perhaps places a new burden to ensure wages due are paid on a regular payday to individuals such as independent contractors, and not just employees. The Reporter and Committee members argued that "directly or indirectly" is a term of art used in other statutes and federal law and the jurisprudential coverage is excellent. However, the Council voted to recommit this definition back to the Committee in light of these concerns.

5. In an effort to finish the definition section, the Reporter moved to "termination" which was adopted without discussion. The definition of "wages" was discussed at length due to concerns over its all-encompassing language and commissions. The Council mentioned providing an exception for commissions which are covered in Title 51 of the Revised Statutes, but eventually voted to just recommit this definition back to the Committee.

6. Moving to proposed R.S. 23:631(G) on page 10, the Reporter explained the use of the broader term "termination" and the Council approved without discussion. The Reporter next introduced Subsection H on page 11. This provision protects employers from ambiguous disputes and it protects employees who are not told why their pay is being withheld. The Council questioned the methods for payment and the determination of which requests are reasonable. The Reporter and Committee members explained to the Council that flexibility is needed in these cases due to relocations, closing

accounts, violent behavior, and its relation to the good faith defense. However, the Council recommitted for clarification that an employer is not required to meet an employee's unreasonable demand.

7. Moving to proposed R.S. 23:631(I), the Reporter explained that this is not a change in the law, but just a modernization of the language. The Council approved.

8. The final Subsection presented was R.S. 23:631(J). The Reporter informed the Council that this provision was suggested by the Workforce Commission because without a labor department, the onus is on the employee to collect his wages. The goal is to eliminate the "he said, she said" due to the failure to keep the required records. The Council still seems concerned with placing these requirements on people who hire a neighbor to cut their grass or wash their windows. The Council was also concerned with the fact that the provision does not require proof of intent and it precludes the application of a good faith defense. The Reporter explained that the law already requires maintaining records, but it doesn't have any teeth. This is needed to scare employers into following the law! The Reporter pointed out that federal law also requires maintenance of these records. The Council suggested moving this Subsection to the end of proposed R.S. 23:631 and the Reporter agreed. The Council finally recommitted the provision to the Committee to clarify whether the penalty is per violation, per record, or a one-time assessment, and intervention by the Workforce Commission, and the creation of a class action.

The Council broke for lunch at 11:55 AM.

LUNCH

President David Ziober then called on Mr. Stephen G. Sklamba, Reporter of the Tax Sales Committee, to present the Committee's proposed revisions to Article VII, Section 25 of the Louisiana Constitution.

Tax Sales

The Reporter began his presentation by reminding the Council that he had previously presented a draft revision to Article VII, Section 25 of the Louisiana Constitution at the Council's May 2015 meeting. The Reporter explained that over the past year and a half, the Committee worked to alleviate the concerns expressed by the Council, including eliminating inconsistencies as well as the current method of bidding, introducing the concept of a premium, and using more general language in the Constitution, saving the specifics for the Revised Statutes. The Reporter also provided the Council with brief background information concerning the history of the tax sales provision in the Constitution and the issues apparent in current law due to inconsistencies resulting from the 2008 revision. Before delving into the more specific amendments to the Constitutional provision, the Reporter also explained the Committee's addition of an exception for the loss of the homestead exemption, basis for changing "tax sale" to "tax auction" throughout the provision, since ownership of the property is not being transferred at this stage, and suggested requirement of a mandatory suit to quiet title.

The Reporter then directed the Council's attention to the proposed amendments to Section 25(A)(1)(a), on page 1 of the materials. It was moved and seconded to adopt Section 25(A)(1)(a). When one Council member questioned what is considered a "premium as defined by law," a great deal of discussion ensued concerning the definition of premium, the purpose of having a

premium, whether the premium would be refundable, who gets to determine the amount of the premium, and where the premium will ultimately be paid. The Reporter explained that a premium is defined in the proposed amendments to the Revised Statutes as the amount bid at a tax auction plus any interest, costs, and statutory impositions. He also explained that a bidder would set the premium for the purposes of winning the auction and acquiring the tax certificate to the property, at which time a Council member pointed out that the problem with adding a premium in any amount is that if the tax debtor redeems the property, he does not have to pay the amount of the premium at redemption. A guest at the Council meeting then expressed his desire for the current mechanism of bidding down the interest rather than requiring the addition of a premium, which he viewed as a hidden tax on investors. The Reporter explained that the Committee's intent was for the bidder to assume the risk of setting a higher premium to win the auction, which may ultimately be lost if the property is redeemed, as a trade-off for receiving the interest and penalty on the property for which he acquires the tax certificate.

One Council member pointed out that if a bidder sets a premium at a certain amount in order to win a tax auction, it does not affect the tax debtor or the public at all; instead, the premium bid should simply be viewed as the bidder's risk with respect to the return on his investment in order to secure the tax certificate to the property. When other Council members questioned the difference between setting a premium and simply increasing the bid, the Reporter explained that the Committee's use of the term "premium" was intended to make it easier to determine what is required to be repaid by the tax debtor in order to redeem a property sold at auction. In other words, the tax debtor must pay an amount equal to the taxes owed, interest, and costs, but not any additional amount that was bid at the tax auction. More discussion ensued concerning the benefits of this method of adding a premium rather than the current method of bidding down the interest, with the majority of the Council members expressing their preference for the proposal as simpler and easier for taxpayers to understand. Another guest suggested replacing "premium as defined by law" with the concept that the tax auction shall be a premium bid auction with a minimum bid of the amount of taxes, interest, and costs and the highest bidder winning. Some Council members suggested eliminating the concept of premium from the Constitution, while others suggested specifically defining the concept in the Constitution itself to eliminate confusion.

At this time, a Council member moved to call the question with respect to adopting Section 25(A)(1)(a) as presented, which failed by a vote of 14 in favor and 24 opposed. The Council then returned to its debate over whether to include the concept of premium in the Constitution. One Council member moved to amend the provision by replacing "a premium as defined by law" on line 14 of page 1 with "in whole dollars," and this motion was seconded. Another Council member suggested deleting the sentences that appear on lines 13 and 14 of page 1 and replacing them with the following: "The minimum bid at auction shall be the amount of taxes, interest, and costs. Higher bids shall be submitted in increments of whole dollars. If the highest bid exceeds the minimum bid, the excess shall be a premium and shall be disposed of as provided by law." The motion to amend was then amended to reflect the addition of this language in place of the two sentences on lines 13 and 14 of page 1, and the motion passed with one objection. It was then moved and seconded to adopt Section 25(A)(1)(a) as amended. When one Council member suggested changing "the name" to "favor" on line 16 of page 1, "establish" to "be secured by" on line 18 of the same page, and "any" to "all" on line 19 of that page, the Reporter accepted all of these changes. The motion to adopt Section 25(A)(1)(a) as amended then passed over one objection. The adopted proposal reads as follows:

§25. Tax Sales Auction of tax certificates and adjudication of tax title

(A) ~~Tax Sales.~~ (1) Auction of tax certificates. (a) There shall be no forfeiture of property or loss of homestead exemption for nonpayment of taxes. However, at the expiration of the year in which the taxes are due, the collector, ~~without suit, and after giving notice to the delinquent in the manner provided by law, in accordance with procedures established by law,~~ shall advertise for sale auction a tax certificate for the property on which the taxes are due. The ~~advertisement shall be published in the official journal of the parish or municipality, or, if there is no official journal, as provided by law for sheriffs' sales, in the manner provided for judicial sales.~~ On the day of the sale, the collector shall sell the portion of the property which the debtor points out. If the debtor does not point out sufficient property, the collector shall sell immediately the least quantity of property which any bidder will buy for the amount of the taxes, interest, and costs. The opening bid at the auction must be equal to the amount of the taxes, interest, and costs. A bidder may add to the opening bid a premium as defined by law. The minimum bid at auction shall be the amount of taxes, interest, and costs. Higher bids shall be submitted in increments of whole dollars. If the highest bid exceeds the minimum bid, the excess shall be a premium and shall be disposed of as provided by law. The collector shall issue and record in the mortgage records of the parish in which the property is situated a tax certificate in favor of the highest bidder. The sale shall be without appraisalment. A tax deed certificate issued by a tax collector shall be prima facie evidence that a valid sale was made of the debt owed to the highest bidder and shall be secured by a privilege on the immovable property described in the certificate. This privilege shall

have priority over all mortgages, liens, or other privileges encumbering the property.

After taking a brief break, Mr. Sklamba then continued his presentation to the Council by directing its attention to the proposed amendments to Section 25(A)(1)(b), on pages 1 and 2 of the materials. He explained that if there are no bids on a property at the tax auction, the property is adjudicated to the political subdivision unless the tax collector chooses to readvertise the property with no minimum bid. It was moved and seconded to adopt Section 25(A)(1)(b). One Council member questioned whether a demolition lien would fall away with any remaining deficiency in the event that the property is readvertised with no minimum bid, and the Reporter agreed to present this issue to the Committee for possible inclusion in the Revised Statutes. Another Council member questioned when the tax collector would be required to make the choice to readvertise the property with no minimum bid, suggesting that the choice must be made prior to adjudication. The Council member then recommended adding "before adjudication" after "chooses" on line 2 of page 2, and the Reporter accepted the change. Other Council members then discussed the notion that the tax debtor will be absolved of any liability that remains in the case of a subsequent auction with no minimum bid, observing that this is currently the procedure in Orleans and will now be applied statewide. A few Council members expressed concern over the potential for a tax debtor to game the system by redeeming the property after it is auctioned with no minimum bid and the remaining deficiency is eliminated from the tax rolls, but practitioners assured them that the tax debtor would be required to pay the entire amount of the taxes owed plus interest and costs in order to redeem. It was then moved and seconded to adopt Section 25(A)(1)(b) as amended, and the motion passed over one objection. The adopted proposal reads as follows:

~~(2) (b) If property located in a municipality with a population of more than four hundred fifty thousand persons as of the most recent federal decennial census fails to sell for the minimum required bid in the tax sale, the collector may offer the property for sale at a subsequent sale with no minimum required bid. If there are no bids, tax title as defined by law shall be adjudicated to the political subdivision, unless the collector chooses before adjudication to readvertise for a subsequent auction with no minimum bid. The proceeds of the sale subsequent auction shall be applied to the taxes, interest, and costs due on the property, and any remaining deficiency shall be eliminated from the tax rolls.~~

Next, the Council turned to a consideration of the proposed addition of Section 25(A)(1)(c), on page 2 of the materials. The Reporter explained that currently under the Constitution, the tax debtor is permitted to "point out" a portion of the property for tax sale first, and if that portion does not sell, the tax collector is then instructed to sell the least quantity of property for which a bidder will buy. However, the Tax Sales Committee decided to restrict the concept of designating a portion of the property for auction to only those properties that are susceptible to division and partition in kind. It was then moved and seconded to

adopt Section 25(A)(1)(c), at which time several Council members expressed concern over the potential that the portion designated by the tax debtor could trigger enclosed estate issues. Other Council members suggested that a gratuitous servitude of use and right of passage would be created in favor of the tax auction purchaser in the event that the tax debtor designated the back portion of the property. Some Council members even opined that the tax auction purchaser would assume any risk of bidding on a designated portion that would be enclosed but suggested that perhaps there should be some requirement that the property be identified using a plot map or survey in advance of the auction, particularly in the case of a designated portion.

Another Council member pointed out that when a portion of the property is designated and bid upon at auction, and the tax auction purchaser acquires the tax certificate to the designated portion of the property, the tax assessor will need to assess the property separately from that point forward. Council members also questioned whether the tax collector has the discretion to designate a portion of the property and suggested changing "shall" to "may" on line 9 of page 2. However, the Reporter explained that the ability to designate a portion of the property for auction was intended by the Committee to protect the tax debtor and is actually inconvenient for tax collectors, so chances are they would never elect to use this discretion even if it were provided. One Council member then questioned whether the requirement that the property be susceptible to division and partition in kind was actually creating an equal protection issue with respect to owners of urban as opposed to rural properties. However, the Reporter explained that even in the case of rural properties, the property may not be susceptible to division and partition in kind if there is a structure that cannot be equally divided, and other members of the Council agreed. One Council member then suggested adding "divisible" before "portion" on line 7 of page 2, and the Reporter accepted that change. It was then moved and seconded to adopt Section 25(A)(1)(c) as amended, and the motion passed over one objection. The adopted proposal reads as follows:

(c) If the property is susceptible to division and partition in kind, and the tax debtor designates a divisible portion of the property sufficient to satisfy the amount of taxes, interest, and costs, the collector shall first auction a tax certificate to the designated portion. In the event that there are no bids for the designated portion, the collector shall proceed to auction a tax certificate for the entire property.

The Reporter then directed the Council's attention to the proposed amendment of Section 25(A)(2), on page 2 of the materials. The Reporter explained that after the *Mennonite* case was decided, the notice that is required under due process in the context of tax sales has been extremely uncertain. He informed the Council that case after case of conflicting decisions have been decided, particularly with respect to the 2nd and 4th Circuits, and that the Louisiana Supreme Court could potentially rule either way with respect to the requisite notice of a tax auction for due process purposes. For this reason, the Tax Sales Committee decided to leave the requirement of presale notice in the Constitution but provide that lack of presale notice shall not invalidate the tax auction if the requisite notice is provided in a subsequent quiet title action. It was moved and seconded to adopt Section 25(A)(2), at which point several Council members expressed concern over the use of the term "quiet title action" when what is really taking place is a termination of interests and conversion of

ownership of the tax auction property to the tax certificate holder. Other Council members agreed, warning the Reporter that quiet title actions come with a lot of old baggage and therefore do not garner much judicial acceptance. Instead, these Council members suggested replacing "quiet title action" with "termination and conversion action" throughout the provision.

Additionally, one Council member suggested either removing the word "absolute" on line 14 of page 2 or inserting "or relative" after "absolute" on the same line, but the Reporter explained that the Committee wanted to leave open the possibility that the failure to provide presale notice could result in a relative nullity but could not invalidate the auction altogether, provided that the proper post-sale notice is given. The Council member also questioned why a definition of "tax auction parties" was not included in the Constitution for purposes of determining who is entitled to receive notice of a tax auction. After some discussion concerning whether to define "tax auction parties" in Section 25(A)(2) or whether to remove the provision from the Constitution in favor of letting notice be governed by the Revised Statutes, the Reporter accepted a proposal to replace "tax auction parties" on line 12 of page 2 with "persons whose interests in the property would be divested by a quiet title action." A guest then questioned whether there should be some sort of defined standard with respect to what is considered "reasonably ascertainable," but the Reporter informed the Council that the Committee intended to let this standard be determined by the courts. The Council then returned to its earlier discussion with respect to changing the name of the quiet title action to termination and conversion action. Both the Reporter and several Council members expressed concern over calling this action something different, particularly because an action to quiet title is something that is commonly used, but other Council members expressed a preference for more accurately describing the action as one to terminate interests in the tax auction property and convert ownership to the tax certificate holder. Another Council member suggested calling the action an "action to establish title," but a motion was then made and seconded to replace "quiet title action" with "termination and conversion action" and to authorize the Tax Sales Committee to make this change throughout Article VII, Section 25 as applicable. This motion passed over a few objections. It was then moved and seconded to adopt Section 25(A)(2) as amended, and this motion also passed over a few objections. The adopted proposal reads as follows:

(2) Notice of tax auction. The tax collector shall make reasonable efforts prior to an auction to provide notice thereof to all persons whose interests in the property would be divested by a termination and conversion action and whose identities and whereabouts are reasonably ascertainable. Failure to provide notice prior to the tax auction shall not result in an absolute nullity if notice is provided in a subsequent termination and conversion action, or for adjudicated properties, prior to transfer or dedication of tax title by the political subdivision.

At this time, Council members instructed the Reporter and his Committee to consider several issues, including when the prescriptive period in Subsection H begins to run, whether the termination and conversion action is the exclusive means to convert ownership of a tax auction property, and whether to specify that the lien created extends only to the amount of the taxes, interest, and costs

but not the premium. The Friday session of the August 2016 Council meeting was then adjourned.

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Wilson, Evelyn L.
Ziober, John David

President John David Ziober opened the Saturday session of the August 2016 Council meeting at 9:05 AM on August 13, 2016 at the Monteleone Hotel in New Orleans, LA. During today's session, Professor Melissa T. Lonegrass represented the Mineral Law-Unsolicited Offers Committee, and Professor Christopher K. Odinet represented the Common Interest Ownership Regimes Committee and presented the Planned Community Act: Creation, Amendment, and Termination of the Community.

Mineral Law-Unsolicited Offers

Professor Melissa T. Lonegrass began her presentation by reminding the Council that she had presented proposed legislation for the 2016 Regular Session in March of this year, the purpose of which was to protect unsuspecting landowners from predatory unsolicited offers to purchase their interests in mineral rights. She informed the Council that the legislation they had adopted in the spring went through the legislative process virtually unchallenged and was ultimately enacted as Act 179 of the 2016 Regular Session. However, a question was raised during one of the legislative committee hearings regarding the meaning of "third person," particularly in the context of who would be considered a "third person acquiring an interest in mineral rights" under R.S. 9:2991.7. The Reporter explained that it was always the intent of the Committee and the Council that this use of "third person" would include mineral lessees and mortgagees, as well as purchasers and pledgees. Nevertheless, it was suggested that a sentence be added to the end of Comment (b) to R.S. 9:2991.7 expressly stating this very uncontroversial fact. It was then moved and seconded to adopt the proposed addition to the Comment as presented, and the motion passed with no objection. The adopted proposal reads as follows:

2016 Louisiana Comments to R.S. 9:2991.7

* * *

(b) Under this Section, when the instrument evidencing a sale of mineral rights by mail solicitation contains the required disclosure, a third person acquiring an interest in the mineral rights from the transferee does so subject to the right of the original transferor to rescind the agreement, provided that the notice of rescission is filed within ninety days after the date of the filing of the instrument. For all other cases, this Section states an exception to Louisiana Civil Code Article 3339, under which a termination of rights that depends upon the occurrence of a condition is generally effective as to third persons although not evidenced of record. Thus, when the instrument evidencing a sale of mineral rights by mail solicitation contains the required disclosure but a notice of rescission is not filed within ninety days after the date of the filing of the instrument, or when the instrument evidencing a sale of mineral rights by mail solicitation does not contain the required disclosure, third persons who acquire an interest in the mineral rights prior to the recordation of the notice of rescission are protected from the effects of rescission. A third person acquiring an interest in the mineral rights includes a purchaser, mortgagee, pledgee, and mineral lessee.

* * *

At this time, Professor Lonegrass concluded her presentation of materials from the Mineral Law – Unsolicited Offers Committee. The President then called on Professor Christopher K. Odinet to present material on behalf of the Common Interest Ownership Regimes Committee

Common Interest Ownership Regimes

Planned Community Act: Creation, Amendment, and Termination:

1. The Reporter began by introducing the Council to the directive in Senate Concurrent Resolution No. 104 of the 2014 Regular Session of the Legislature which asked the Law Institute to study and make recommendations regarding state laws governing common interest ownership regimes, including but not limited to homeowners associations, condominium developments, townhomes, and real estate cooperatives. He also pointed out a memoranda which recounts the charge, background work of the committee, and highlights the problems in the law which this proposal addresses.
2. The Reporter explained that this project consists of four parts and we will be reviewing just one part today. The Committee is still working on definitions, management, and purchaser protections which will be presented at future meetings. With this in mind, he directed the Council to page 18 of the materials to begin the discussion.
3. The Reporter explained proposed 2.1 and reminded the Council that "planned community" and "declaration" are defined terms of art but this doesn't change present law. He also pointed out the severable language in Subsection B and the supremacy language in Subsection C. The Council was concerned about zoning and building restrictions which already exist on the property and whether the declaration can alter them. The burden on the court to determine consistency and requiring the declaration to be an authentic act

were also discussed. The Reporter explained that the declaration needs to be a flexible document and the planned community should not fail for insubstantial compliance, but ultimately the act will control. After this discussion, the Council approved the following:

2.1 Creation, alteration, and termination of a planned community

A. A planned community is established by the execution of a declaration by the owner of the immovable property to be so affected. The declaration shall be effective against third persons when filed for registry in the conveyance records of the parish in which the immovable property is situated.

B. All provisions of the declaration are severable. The effectiveness of the declaration is not affected by reason of an insubstantial failure of the declaration to comply with this Part.

C. If a conflict exists between the declaration and any other community document, the declaration shall prevail.

4. Moving to proposed 2.2, the Reporter explained that the present homeowners act does not require this information, but the timeshare and condo acts do. The Committee believes it is important to require certain information to be included in the declaration. Proposed 2.2(A)(1) and (2) were adopted with little discussion. Proposed 2.2(A)(3) and (4) relate to identifying the property. Members discussed the terminology "legal description" and "association property" and the need for uniformity in the language. The Council thereafter adopted these proposals without change.


5. With little discussion, proposed 2.2(A)(5) was adopted, but the Council had many questions concerning 2.2(A)(6). The Reporter explained that common expense liabilities are the dues homeowners owe to the association. However, members of the Council questioned the term. They felt that liabilities and expenses are two different concepts. They also wondered if the term included torts as liabilities. Many examples were given and the final resolution was adoption of the proposal with a directive to the Committee to continue to refine the definition of "common expense liabilities".

6. Moving to proposed 2.2(A)(7) and (8), the Reporter explained that these items are consumer protection provisions. Without discussion, the Council approved.

7. The Reporter accepted the suggestion to delete the reference to "organization" which perhaps isn't always the correct term relative to incorporation in proposed 2.2(A)(9). Thereafter, the Council adopted that proposal & 2.2(A)(10) and (11).

8. Proposed 2.2(B) lists items which may be included in the declaration, but are not mandatory. Due to encuing the discussion, the Reporter agreed to delete 2.2(B)(3) and noted that it is already required in proposed 2.2(A). The final Subsection presented was 2.2(C) which was immediately adopted after the Reporter's brief explanation.

Due to the deteriorating weather conditions in the area, the Council adjourned.



Jessica Braun 4-3-17
Date



Mallory Waller 4/3/2017
Date