

DELAWARE STATE BAR ASSOCIATION
REAL AND PERSONAL PROPERTY SECTION MEETING

Minutes from January 9, 2019 Section Meeting

The January 2019 meeting of the Real and Personal Property Section was held at 4:00p.m. on January 9, 2019 in Brian Funk's law office located at 24 Polly Drummond Hill Rd, Newark, DE 19711.

Attendees:

- a. On location: Brian Funk, Stephen A. Spence, Scott Matthews, Rob Krapf.
- b. By phone: Virginia Zrake, Tim Rafferty, Lisa Cartwright, Melanie Thompson, Sara Auerbach, Ping Xu, Ken Feaster, Chad Toms, Jim Harker, Dave Matlusky, Etta Mayers, Brian Riggan, Valerie Carr, Shawn McKernan, Sara Toner, Peter Kirsch, Billy Scott, Bill Brady.

(1) Approval of Minutes: The Minutes for the December 2018 meeting were approved.

(2) New Business:

- (a) The Section discussed a draft amendment to DUCIOA regarding resale certificates, the agency relationship between Council and a management company, and the authorization of punitive damages as a remedy. Several section members commented on the amendment. All comments were critical of the amendment as drafted. Members were not for including punitive damages remedy in DUCIOA. Members were unsure of the purpose of the language regarding the agency relationship of management companies. The Section discussed the stated purpose of the legislation – addressing problems with resale certificates – and believe there may be other approaches or amendments available. Chad Toms reached out to sponsor Rep. Ruth Briggs-King to discuss amendment and certain concerns. Steve Spence is going to contact Chad Toms to discuss further and explore what Section can add to discussion with the Representative.
- (b) The ABA Business Law Section is seeking Section support and approval of the Statement of Opinion Practices jointly sponsored by the ABA Business Law Section's Legal Opinion Committee and the Working Group on Legal Opinions Foundation. The Section discussed the Statement and its merits. Rob Krapf and Jim Harker spoke in support of Statement. Following a motion and second, the Section voted in favor of supporting and approving the Statement.

(3) Old Business:

- (a) Steve Spence asked the Section for input or updates on the revised Form 5403 implementation. No comments were provided.
- (b) A sub-committee has been formed to discuss the issue of fraudulent deeds and possible measures to reduce that risk. That sub-committee will report back.

(4) Other Matters.

(a) Virginia Zrake shared a concern with the Section about the lack of online access to UCC filings with the Delaware Secretary of State. It was noted that neighboring states allow this.

(b) Shawn McKernan shared with the Section his recent experience with increased requests to his title company from various attorneys for letters of indemnification related to real estate transfer while the estate claims period is still open. The Section discussed whether that issue is an underwriting matter or a title matter.

There being no further business, the meeting was adjourned.

Respectfully submitted,
Thomas P. Carney
Secretary