

10/6/66

Memorandum 66-64

Subject: Study 55 - Fictitious Business Names

The staff has given considerable thought to this topic in light of the various matters brought out at the September meeting and the decisions made by the Commission at that meeting.

We have concluded that it will not be possible to prepare a research study and a recommendation on this topic for the 1967 legislative session. We will need to completely rewrite the research study. More important, we will be able to develop a worthwhile recommendation on this subject only in consultation with the county clerks and other interested persons. There is not sufficient time before the 1967 session to prepare the study, consult with the interested persons, prepare a recommendation, and have our report printed within a reasonable time after the session commences.

We believe that the other recommendations we are preparing for the 1967 session will occupy all of the staff and Commission time. Accordingly, if the Commission approves, we plan to commence preparation of a new research study as soon as we have available staff time and to work this topic into our program for the 1969 legislative session. We have in mind a system for California based on the system used in Oregon. Under this system, the filings of fictitious business name statements would be made with the Secretary of State, but the original statements would be sent to the county clerks to be processed generally in the same manner as under existing law. The Secretary of State would retain an index basically like the one we originally contemplated and would retain a copy of the statement for his files. This system should meet the approval of the county clerks. We also plan to consider the effect of our recommendation on suit by or against unincorporated associations if that recommendation meets legislative approval.

Respectfully submitted,

John H. DeMouly
Executive Secretary