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9/23/85

#L-1030

First Supplement to Memorandum 85-88

Subject: Study L-1030 - Estates and Trusts Code (Collection or
Transfer of Small Estate Without Administration)

Attached are conforming amendments in the Health and Safety Code and Vehicle Code.

I received a telephone call from the Department of Motor Vehicles asking why Assembly Bill 196 was amended to delete the 40-day delay requirement from the section relating to nonprobate transfer of vehicles. I advised that the Estate Planning, Trust and Probate Law Section had requested that this delay requirement be deleted. The department is concerned, because under Assembly Bill 196 as enacted, a boat trailer can be transferred without delay but the boat itself cannot be transferred for 40 days. The result is that the person must appear twice at the department if the person does not wish to delay transfer of the boat trailer. The department would prefer that either there be a 40-day delay for both the trailer and the boat or that there be no delay for either. Does the Commission wish to deal with this problem in this recommendation.

Respectfully submitted,

John H. DeMouilly
Executive Secretary

CONFORMING CHANGES

Health & Safety Code § 18102 (amended). Transfer of manufactured home, mobilehome, commercial coach, or truck camper without probate

18102. (a) If 40 days have elapsed since the death of a registered or legal owner of a manufactured home, mobilehome, commercial coach, or truck camper registered under this part, without the decedent leaving other property necessitating probate, and irrespective of the value of the manufactured home, mobilehome, commercial coach, or truck camper the following person may secure a transfer of registration of the title or interest of the decedent:

(1) The surviving ~~husband/wife/other heir/in the order named in Section 630~~ spouse of the decedent or, if none, the sole person or all of the persons who succeeded to the property of the decedent under Section 6402 of the Probate Code,, unless the manufactured home, mobilehome, commercial coach, or truck camper is, by will, otherwise bequeathed.

(2) The sole beneficiary ~~and/takes~~ or all of the beneficiaries who succeeded to the manufactured home, mobilehome, commercial coach, or truck camper under the will of the decedent, where the manufactured home, mobilehome, commercial coach, or truck camper is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of title and registration card, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the manufactured home, mobilehome, commercial coach, or truck camper either (i) as the surviving ~~heir or heirs named in Section 630~~ spouse of the decedent or, if none, as the sole person or all of the persons who succeeded to the property of the decedent under Section 6402 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's manufactured home, mobilehome, commercial coach, or truck camper that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

Vehicle Code § 5910 (amended). Transfer of vehicle without probate

5910. (a) Upon the death of an owner or legal owner of a vehicle registered under this code, without the decedent leaving other property necessitating probate, and irrespective of the value of the vehicle, the following person may secure transfer of registration of the title or interest of the decedent:

(1) The surviving ~~husband or wife or other heir in the last named in Section 630~~ spouse of the decedent or, if none, the sole person or all of the persons who succeeded to the property of the decedent under Section 6402 of the Probate Code unless the vehicle is, by will, otherwise bequeathed.

(2) The sole beneficiary ~~and takes~~ or all of the beneficiaries who succeeded to the vehicle under the will of the decedent where the vehicle is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of registration of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and registration card, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) The decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the vehicle either (i) as the surviving ~~heir or beneficiary named in Section 630~~ spouse of the decedent or, if none, as the sole person or all of the persons who succeeded to the property of the decedent under Section 6402 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's vehicle that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

(c) The department may prescribe a combined form for use under this section and Section 9916.

Vehicle Code § 9916 (amended). Transfer of vessel without probate

9916. (a) If 40 days have elapsed since the death of an owner or legal owner of any vessel numbered under this division without the decedent leaving other property necessitating probate, and irrespective of the value of the vessel, the following person may secure a transfer of ownership of the title or interest of the decedent:

(1) The surviving ~~husband or wife or other heir in the order named in Section 630~~ spouse of the decedent or, if none, the sole person or all of the persons who succeeded to the property of the decedent under Section 6402 of the Probate Code unless the vessel is, by will, otherwise bequeathed.

(2) The sole beneficiary ~~who takes~~ or all of the beneficiaries who succeeded to the vessel under the will of the decedent where the vessel is, by will, so bequeathed.

(b) The person authorized by subdivision (a) may secure a transfer of ownership of the title or interest of the decedent upon presenting to the department all of the following:

(1) The appropriate certificate of ownership and certificate of number, if available.

(2) A certificate of the heir or beneficiary under penalty of perjury containing the following statements:

(A) The date and place of the decedent's death.

(B) the decedent left no other property necessitating probate and no probate proceeding is now being or has been conducted in this state for the decedent's estate.

(C) The declarant is entitled to the vessel either (i) as the surviving ~~heir or heirs in the order named in Section 630~~ spouse of the decedent or, if none, as the sole person or all of the persons who succeeded to the property of the decedent under Section 6402 of the Probate Code if the decedent left no will or (ii) as the beneficiary or beneficiaries under the decedent's last will if the decedent left a will, and no one has a right to the decedent's vessel that is superior to that of the declarant.

(D) There are no unsecured creditors of the decedent or, if there are, the unsecured creditors of the decedent have been paid in full or their claims have been otherwise discharged.

(3) If required by the department, a certificate of the death of the decedent.

(4) If required by the department, the names and addresses of any other heirs or beneficiaries.

Note. The Department of Motor Vehicles would like to eliminate the 40 day waiting period so that both a vehicle and the boat could be transferred at the same time.